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Report on Rabbinical Thesis of Israel B. Koller
Entitled

"The Halacha of Rabban Gamaliel II:
Its Significance for the Evolution of Rabbinic Judaism"

Mr. Koller analyzes the halakic endeavours of Gamaliel II as an integral part of his total activities as Nasi of the Jewish People during one of its most crucial periods. He convincingly demonstrates that Gamaliel considered and utilized the Halakah as the principal means of insuring the survival of Judaism. Gamaliel realized that, in order to achieve his goal, Jewish law had to be flexible so that it could be adjusted to an entirely new situation created by the destruction of the Temple. Mr. Koller points out that Gamaliel's methods resulted in a successful transition from a Temple-centered Judaism to a Judaism centered on religious and ethical ideals.

In discussing the totality of Gamaliel's Halakah, his manifold activities and personal qualities, Mr. Koller finds that Gamaliel's chief contributions to the welfare of his people were the preservation of the unity of Rabbinic Judaism, and the filling of the vacuum in Jewish life resulting from the cessation of the sacrificial cult by focusing Jewish life on prayer service in the Synagogue (c.f. particularly the Amidah) and at home (Seder).

Mr. Koller's observations are based mainly on primary sources. These he understands well and analyzes with keen insight. His conclusions are adequately documented, and therefore are sound and plausible. He used secondary literature to a lesser extent and does not discuss it extensively. Mr. Koller's essay shows that the author possesses a very good basic knowledge of Rabbinic literature and sound, independent reasoning ability.

I take great pleasure in recommending the acceptance of Mr. Koller's Thesis.

Alexander Guttmann
Referee

THE HALACHA of RABBAN GAMALIEL II
ITS SIGNIFICANCE for the EVOLUTION of RABBINIC JUDAISM.

Israel S. Koller

THESIS SUBMITTED IN PARTIAL FULFILLMENT of
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DIGEST

In 70 C.E. Rome marched into Jerusalem and put the Temple to flames. The time-honored sacrificial system and priestly cult became, as if over-night, things of the past. The Jew found himself either in exile, as part of the Roman captivity, or in a subjugated Palestine. In either case his basic forms of religious worship were destroyed with the fall of Jerusalem.

Rabbi Jochanan ben Zakkai settled in Jabne. There he established a center for the study and promulgation of the halacha. In time the academy of Jabne became a substitute for the Temple, and its laws (and institutions) took the place of sacrifices and priestly activity. Slowly, yet painfully, the people of Israel found in prayer and halacha successful substitutes for the Temple that now lay in ruins.

Rabban Gamaliel became Patriarch (Nasi) of the Jabne academy after the retirement of Jochanan ben Zakkai. Under his leadership new laws were formulated and old laws were altered. The attempt was always to adapt the Jew to his new and changing conditions. Because of the halachot that issued from Jabne Jews gained the hope of survival, and Judaism grew in spiritual affluence in spite of lack of political independence and national sovereignty.

The halacha of Rabban Gamaliel dealt with every aspect of life: agriculture, marriage, prayer, heresy, burial, holidays and festivals, and even the expected return to an independent Palestine. It unified all Jews into one people, and made possible their existence in the various diasporas of the world.

Rabban Gamaliel, the man, as well as his halacha exerted monumental and lasting influence on the progress and evolution of rabbinic Judaism. His personality is still felt in the prayerbook, the Passover Haggadah, Orthodox ritual, and Jewish history.

Not all scholars at Jabne were fully sympathetic to Gamaliel. Rabbi Joshua ben Chanania was so individualistic that he fought any attempt to formulate a fixed halacha or a systematic liturgy. Eliezer ben Hyrcanus was a dedicated conservative who opposed most new laws - and defended the status quo ante.

Rabban Gamaliel, nevertheless, succeeded in bringing unity and stability into the life of his people. He standardized the content of prayer, initiated the Passover Haggadah, and introduced numerous new laws. In all that he did he expressed the desire to infuse within Judaism that unity and faith making for survival and growth.

CHAPTER I

HISTORIC BACKGROUND

When Jochanan ben Zakkai (יוחנן בן זכאי) died in about 80 C.E., ten years had passed since the destruction of the second Temple at the hands of Roman forces under the leadership of Titus.[1] Even before the destruction Palestine experienced an age of poverty and decline. In Jerusalem, just prior to the tragic defeat "the inhabitants of the city were suffering cruelly from famine, which was sapping their life, obliterating all distinctions between rich and poor, and giving free scope to the lowest passions. Money had lost its value, for it could not purchase bread. Men fought desperately in the streets over the most loathsome and disgusting food, a handful of straw, a piece of leather, or offal thrown to dogs."[2] Mothers devoured their own children, and hundreds died of hunger. "The rapidly increasing number of unburied corpses made the sultry summer air pestilential, and the populace fell a prey to sickness, famine, and the sword."[3] The defenders of Jerusalem, however, fought with incredible valor. Centered in the vicinity of the Temple, they believed that God was on their side and "when all seemed blackest, He would assuredly miraculously intervene to deliver them, as He had done so often in the days of their fathers."[4]

Neither the great suffering nor the steadfast faith in God brought deliverance to the defenders of the Temple. "On the ninth of Ab,[5] almost the exact anniversary of the destruction of

Jerusalem by Nebuchadnezzar, the Temple was stormed and committed to the flames."[6] Jerusalem, at the height of its beauty and valor, fell before the soldiers of Rome. "Never had Jerusalem been so populous, so beautiful, and so strong as at the moment when she was doomed to destruction."[7] And never had Judaism been in greater peril as at the time when the Temple lay in ruins.

Even before the Temple was destroyed, before the Jews were exiled into 'Galut Roma', before Jerusalem was overpowered by Roman legions, far-sighted Jews recognized the inevitability of defeat. They also recognized that the true power of a people lies not in its swords but in the spiritual forces which give it internal unity. The Jewish people would survive this great defeat through adherence to common laws and common religious principles. The destruction of the Temple need not, indeed it can not, mean that an end had come to Jewish survival. Yet, "Judaism was threatened by the greatest danger; deprived, as it was of its support and rallying-point, it appeared in imminent danger of stagnation of falling to pieces. The communities in Syria, Babylon, and Persia, in Asia Minor, Rome, and in Europe Generally had until now turned their eyes to Jerusalem and the Temple, whence they drew their instructions and laws."[8] With the Temple in ruins, "who would step into the breach, and render a continued existence or possibility?"[9]

Before Jerusalem fell, and before the Temple was burned, a new movement of scholars developed in the land of Israel. These

scholars, who expounded the Bible and attracted the lower classes, "had always been looked upon by the people with reverence."[10] Now, with the High Priesthood at an end, there was no one else to lead the people. One of the leading personalities among these scholars was Jochanan ben Zakkai. Before Jerusalem fell, he, aided by his students Eleazar and Joshua managed to escape. With the consent of Titus he settled "with his disciples in Jabneh,"[11] and gathered unto him many of the leading scholars of his generation.

Jochanan recognized that Judaism was not dependent upon the Temple, neither was it dependent on the sacrificial cult. The existence of Judaism was not tied up solely with ritual and other worship. Judaism, as Jochanan conceived it, needed a central place of learning from which all Jews may find a source of unity. The loss of national independence altered the status of the people. Old laws became obsolete, new laws were needed to fortify the people and adapt the new situation to the times.[12]

Jabneh, under Jochanan, was to take the place of Jerusalem.[13] The newly formed Sanhedrin was to replace the ~~Temple~~ old Sanhedrin. "When, therefore, Jochanan dissociated the functions of the Synhedrion from the site of the Temple, and removed it to Jabne, he had actually released Judaism from the observance of the rite of burnt offerings, and rendered it independent. Without any opposition whatsoever, Jabne by this means took the place of Jerusalem, and became the religious national center for the dispersed community."[14] Just as the Temple served to unite all Jews in its

day, so Jabneh was to unite them now. The study of the Torah and the performance of commandments (mitzvot) was to replace the sacrifices and the Temple cult. Although, some reminders of the Temple were left (i.e. priestly benediction, blowing of the shofar), the Jew no longer felt his Judaism confined to the Jerusalem Temple. Through the Torah that came out of Jabneh all Jews could worship the Lord of Israel in unity, strength and joy.

Judaism, at the time that Jochanan moved to Jabne, stood at the crossroads of existence. The Temple Judaism, so familiar to the people, had just been destroyed. Jews, dispersed as they were throughout the world, could no longer look to Jerusalem for the principles of their faith. If Judaism were to continue a complete break had to be made with the Temple oriented past. Yet the break could not be abrupt. It had to be based upon the people's past and its hopes for a reconstructed future.

Jochanan ben Zakkai did not live to see the day when Jabne would indeed become the new center of Judaism. He did not live to see the day when the laws of Jabne would give new meaning and new impetus to Jews all over the globe. The work that Jochanan started reached its height under his successor Gamaliel, Nasi of Jabne.

Soon after the retirement of Jochanan ben Zakkai, the academy appointed Gamaliel Nasi. Although there were other places of learning in Palestine at the time,[15] Jabne was the most important,

and its Nasi was the most influential spokesman within Judaism. But the old disputes between the followers of Hillel and the followers of Shammai continued to plague the people now as they had done so often in the past. Gamaliel, who was a fifth generation Hillelite,[16] tried to unite these forces and prevent disastrous quarrels at a time of national peril.

As Nasi Gamaliel dedicated all his energies to unifying the people and bringing to Israel one common law. Differences between Hillelites and followers of Shammai were submitted to arbitration and to a vote, in which majority opinion was binding (אחרי רבים להטות). The laws that were promulgated in Jabne were quickly spread throughout the land, and their effect was to unify the people behind a single set of laws. Gamaliel travelled throughout the land, and to foreign countries as well, teaching the halacha as it was interpreted and formed in Jabne.[17]

Gamaliel's efforts to unite all Israelites behind one "universally binding" set of enactments did not go unchallenged. His two primary opponents were Joshua ben Chanania and Eliezer ben Hyrcanus. Joshua was a poor needle worker who was known for his brilliant scholarship and his "calm disposition."[18] Eliezer was Gamaliel's brother-in-law, and a man of unmistakeably conservative opinions who stood on guard against any new laws or any changes in the status-quo ante.[19] These two members of the Jabne Academy, through their opposition to Gamaliel, disrupted the Nasi's efforts to unite all Jews. "The Patriarch, therefore,

endeavored to keep down contests by the use of excommunication (Nidui), which he employed with great energy, and with that entire disregard of consequences which arises from deeply rooted convictions."[20] He even excommunicated his brother-in-law Eliezer, who challenged Gamaliel's Hillelite tendencies.[21] Gamaliel also dealt severely with Joshua, and caused him much public humiliation. The same desire to keep Israel united that led Gamaliel to deal harshly with his opponents also caused him to deal severely with his students. Because he was anxious to preserve the internal unity of Jabne, the Nasi attempted to safeguard the student body from unsavory groups, especially Jewish sectarians and members of the new Christian group, whose leader, Paul, had just published some letters concerning his experiences.[22] Gamaliel placed a watchman at the entrance, and ordered that "only such persons should be admitted to the school-house whose uprightness had been proved."[23] Each student underwent a rigorous and thorough investigation to determine whether his actions were true representations of his innermost thoughts.

These severe measures were not utilized to preserve Gamaliel's personal position. Rather were they implemented to fortify and safeguard the Academy, and shade it from the scorching flames of dissent and sectarian dispute. Referring to the excommunication of Eliezer Gamaliel exclaims, "Sovereign of the Universe! Thou knowest well that I have not acted for my honor nor for the honor of my paternal house, but for Thine, so that strife may not multiply in Israel."[24] His personal integrity notwithstanding, the

zeal with which Gamaliel carried out his plans, and the limitations placed on students by posting a guard at the entrance increased the opposition to the Patriarch. "The opposition party took courage, and gave utterance to their dissatisfaction. The school was turned into a tribunal, and the college deposed Gamaliel on the spot from the dignity of Patriarch."[25] The day upon which Gamaliel was deposed came to be known as "that day" (אותו היום). On "that day" Elazar ben Azariah, only sixteen years of age at the time, was chosen as Nasi. The watchman was removed, and over 300 students were added to the school.

Rabban Gamaliel " remained impeached for only a short time."[26] During this time he participated in discussions and did not "feel a desire, from petty revenge, to retire from his office of teacher."[27] He was also convinced that undue severity on his part alienated the other scholars from him. A man of humility and tenderness, Gamaliel believed that "he who has compassion upon others will receive compassion from heaven",[28] and he hoped for a reconciliation with his opponents. His activities , and his selfless devotion to strengthening Judaism at a time of national catastrophe, his positive attitude and judicious behavior even after "that day" gained for him new and greater respect among his colleagues in Jabne. Through the efforts of Rabbi Akiva a conciliation was affected between Gamaliel and Joshua, and the latter worked for the Nasi's reinstatement. "Rabban Gamaliel was thus returned to his office and Elazar ben Azariah was made

head of the court."[29]

For forty years Gamaliel served as Nasi of Jabne. Throughout this long time he had been the most influential man in Palestine.[30] Under him Jabne gained new stature, its scholars attained lasting fame, and its laws served to unify a people whose religion and very life were almost destroyed with the burning of the Temple. More than any man in the long history of our people, Gamaliel infused his generation, and generations that followed, with a new will to live, a will based on the laws of Gamaliel which replaced the lost Temple with a way of life confined to no single territorial place and to no particular time in history. Jews, in all climates and in all centuries, could look forward to the rebuilding of the Temple, but live, in the meantime, a meaningful Jewish life that derived its very existence from the laws under present consideration. No wonder, then, that Gamaliel "was mourned by the whole people who called him 'father' and his wife 'mother'."[31]

CHAPTER II

THE HALACHA of RABBAN GAMALIEL

Rabban Gamaliel, who inherited the position of Nasi from Jochanan ben Zakkai at a time of great and eventful transition, believed in halachic progress. In his endeavors to strengthen Judaism and to invest it with the ability to survive the difficult changes brought upon the people of Israel by the destruction of the Temple, Gamaliel was firmly convinced that "just as the months are renewed so will Israel be renewed and sanctified in the days that be."[32] The halacha was the means through which Israel could be sanctified and fortified. In all his endeavors Gamaliel was constantly conscious of this premise.[33]

Rabban Gamaliel's legal opinions were prompted by two main considerations. He wanted to make Jabne the leading place of halacha, and he wished to unite all Israel behind a common set of religious practices. A kind and gentle man, respected for his generosity and honored for his humility, Rabban Gamaliel desired to have his charitable point of view as the dominant one in Jabne. Just as he was kind and generous so must be the laws that come out of the academy in Jabne. Gamaliel's disposition is easily derived from his attitudes to various human problems. It is related[34] that when he was informed of a woman who lost her only son Gamaliel not only hurried to be with the woman but remained with her for a long time, and empathized with her by crying all night until his eyes were red from tears. Gamaliel's humility is easily seen from an incident at a party. Rabban Gamaliel served food and

drink to his guests. Rabbi Eliezer asked Rabbi Joshua in great surprise: "How is it that we sit while Gamaliel serves us?" Gamaliel responded: "Greater men than I have served, Abraham for example."[35] Another story, concerning the same event, states: "When Rabban Gamaliel prepared a banquet for the wise, and they were at table with him, Rabban Gamaliel stood and served them. They said, 'We are not worthy that he should wait on us.' Then Rabbi Joshua said to them, 'Permit him to wait on us, for we find that a greater than Rabban Gamaliel waited on the creatures.' They said, 'Who was this?' He said, 'Abraham, our father, the greatest in the world, who waited on the angels, but he thought that they were men, Arabs, idolaters.'"[36]

Although a great scholar, Gamaliel recognized the scholarship of others and often realized his own limitations. Thus he recognized Jose ben Gilai as an authority in one field and other scholars were recognized by him as authorities in other fields.[37] Rabban Gamaliel maintained a profound respect for people and their feelings, as can be seen from his statement that: "A man should never enter a friend's house without previous warning. This we learn from God who stood at the entrance to the Garden of Eden and 'the Lord God called unto the man, and said unto him: Where art thou?'"[38] In his various attempts to unite the people, and in his often turbulent disputes with his opponents, both Jewish and non-Jewish, Gamaliel never lost this sense of respect for the individual's feelings.

Gamaliel wanted to infuse Judaism with unity. This was his primary task in all he said and in all he did. He endeavored to

raise the position of those who found themselves at the bottom of the social and economic ladder. Gamaliel wanted to make all Jews feel that in the halacha there is no distinction between rich and poor; between the members of upper classes and those of the lower classes. All Israelites were to be united behind, and governed by, one legally binding code.[39]

Women, in the days of Rabban Gamaliel, constituted a group that was not treated equally with men in terms of halacha. Rabban Gamaliel attempted to modify and liberalize the laws pertaining to women, especially as they concerned marriage. To safeguard a woman from arbitrary divorce he ruled that if, after marriage, a husband, finding no signs of virginity in his wife, accuses her of pre-marital relations, and she claims: "I was injured by a piece of wood", the woman is to be believed.[40] In another, yet quite similar case, Gamaliel came into dispute with Rabbi Joshua. If a man married a woman and found her to be devoid of virginity, and his wife claims that her virginity was lost through a forced sexual relationship after the betrothal, but the husband insists that it happened prior to betrothal, Gamaliel ruled that the woman is to be believed. Rabbi Joshua, however, insisted that the husband's claim is to be accepted.[41]

To place limitations upon divorce, and to make it more difficult and more equitable, as well as to protect the woman, Gamaliel ruled that the bearer of a bill of divorcement from a husband in a foreign country must testify that the bill of divorcement was written and properly signed in his presence.[42] He also ruled that witnesses to a divorce should always affix their full

signatures, thus avoiding abuses and allowing for quicker identification of the witnesses' location.[43] In another dispute with Rabbi Joshua, Gamaliel ruled that a woman is to be believed when she claims to be pregnant by a "cohen". This can refer either to "a priestly" man or to one of standing in the community. In any event, Rabban Gamaliel considered the woman and the child fit for marriage with a priest. Rabbi Joshua, of course, disagreed and expressed the opinion that we do not believe the woman's charge.

Rabban Gamaliel's concern for the position of various elements within the Jewish people included the orphans. He attempted to correct some of the injustices that were practices vis-a-vis the orphans. He issued the proclamation that: "Rabban Gamaliel and his Beth Din are the parents of orphans", hence orphans no longer needed a prosbul.[44] Gamaliel also tried to amend the laws against the Samaritans. He believed that a lenient policy would result in bringing the Samaritans back into the fold of Judaism. He was influenced in this respect by Rabbi Joshua and by the Samaritan cooperation with the Jews in their fight against Rome. He declared animals slaughtered by Samaritans as "kosher", and accepted as valid bills of divorcement in which both witnesses were Samaritans.[45] The previous custom had been to accept one Samaritan witness if his signature was followed by that of a Jew.[46] He also ruled that the produce of Samaritan farmers is to be considered Demai (suspected of being not tithed) rather than Vadai (certainly untithed). This placed the Samaritan in the same category as the Jewish Am Haaretz.

Gamaliel's attitude toward Samaritans did not lead him to be equally lenient in his contacts with other non-Jews living in Palestine. The Samaritans had once been Jews, and even after the break with Judaism they continued practices reminiscent of their Hebrew past. A policy of leniency and friendship, Gamaliel believed, would perhaps serve to re-unite these Samaritans with the Jewish people. Other non-Jewish inhabitants of Palestine, however, shared no common history with the Jews, and their modus vivendi did not come out of a Jewish heritage. A policy of leniency would, in their case, serve no particularly beneficial purpose. On occasions it might even serve to endanger Jewish unity and well-being.

Rabban Gamaliel's unfavorable attitude toward the non-Jews, other than Samaritans, can be seen from his disputes with Joshua ben Chanania. The dispute arose in connection with an Ammonite who showed a desire to marry a Jewish woman. Deuteronomy 23:4 states that: "An Ammonite or a Moabite shall not enter into the assembly of the Lord; even to the tenth generation shall none of them enter into the assembly of the Lord for ever." On the basis of this Biblical verse Gamaliel turned the Ammonite convert aside. Rabbi Joshua, however, accepted the Ammonite convert and granted him permission to marry a Jewish woman. His argument was that the nations had been admixed by the exploits of Sennacherib, and no pure Ammonite lineage is to be assumed any longer.[47] Rabbi Joshua's opinion was accepted by the majority, and Gamaliel suffered defeat in his attempt to safeguard Jewish purity and unity from even the remotest possibility of danger and defilement.

Rabban Gamaliel was a very wealthy man. His riches included fields and slaves. His unfavorable attitude towards the Ammonite convert did not extend itself to all non-Jews. There were those non-Jews whom Gamaliel considered worthy of being Jews, and whom he treated with respect and friendship. Outstanding in this respect was his slave Tabi, whom Gamaliel considered to be wise and scholarly.[48] Tabi was permitted to wear phylacteries, and was accorded other privileges reserved for Jews.[49] Gamaliel wished to free Tabi, but remained unsuccessful in his effort. When once he accidently blinded Tabi in one eye, "Rabban Gamaliel was overjoyed, for this would give him an opportunity to free the slave according to the rule of the Torah. But when he told this to Rabbi Joshua he was informed that he could not do so because the slave had no witnesses."[50] When Tabi died Rabban Gamaliel considered it a personal loss and mourned after Tabi as one mourns after a dear friend.[51]

Attitudes of friendship and kindness similar to those exhibited by Gamaliel toward his slave Tabi could also be discerned in his relationships with the poor and illiterate of Israel. In his desire to form a truly unified people, Gamaliel attempted to integrate these groups into the very fiber of the community. In this effort he met with considerable opposition from Joshua and Akiba. Joshua, although an impoverished man himself, exhibited a most unfavorable position vis a vis the poor and simple. Akiba, once a poor and uneducated shepherd who later attained great fame as a pious scholar, held the uneducated in contempt and referred to them in the most obvious terms of derision.[52] Against these views

Rabban Gamaliel offered the lower classes a more conciliatory point of view. He attempted to ease their life through liberalizing the halacha and creating a favorable mood towards them in the general community as well as among the scholar class at the academy. It became an official custom that orphans did not need a prosbul because Rabban Gamaliel "and his Beth Din are the parents of orphans."[53] He also ruled that the poor may come into the fields to gather grain three times a day. The owner of the field is obligated to be present during these times for the purpose of supervising the collection and gathering of the produce.[54]

The three specified times when the poor may collect the produce of the land are, according to Rabban Gamaliel, morning, noon, and evening. The morning is most convenient for women whose very young children are still asleep. Noon is most convenient for children who are no longer sleeping. Evening is the time reserved for the older members of the community whose movements are restricted because of age and physical difficulties, thus they reach the fields later in the day. Both Rabban Gamaliel and Rabbi Akiba agree that this is the actual situation. Their respective attitudes vis-a-vis the poor, however, can be discerned from their reasoning. Rabban Gamaliel says that the three times are set down as a minimum, and the poor may visit the fields in greater frequency but not less that the number of times specified. Rabbi Akiba, on the other hand, reasons that the number was initiated against the poor lest they come into the fields indiscriminately. Thus the specified number is to be regarded as a maximum,

not a minimum, and the poor may avail themselves of fewer opportunities to visit the fields but may not, under any circumstances, exceed or otherwise abuse the specified number.[55] Other differences of opinion between Rabban Gamaliel and Rabbi Akiba and Rabbi Joshua in connection with the treatment of the uneducated and illiterate will be seen when we discuss their respective attitudes vis-a-vis the Am ha-Aretz.

Burial traditions, in the days of Rabban Gamaliel, as indeed in generations before, demanded that the departed be clothed in expensive garb and that they be interred in these garments of great cost. This custom placed great hardship upon the poor, and many left their dead unburied because poverty prevented the purchase of necessary garments. To ameliorate this situation, and to prevent the corpses from being abandoned in public, Rabban Gamaliel set out to establish a precedent. He instructed his sons to bury him in inexpensive garments. "Rabban Gamaliel came and adopted a simple style and they carried him out in garments of linen, and all the people followed his example and carried out the dead in garments of inexpensive linen."[56]

Rabban Gamaliel's attitude vis-a-vis the poor can also be seen from his personal dealings with his workers and tenant farmers. Being a very rich and an exceedingly busy man, Gamaliel rented out his estates to tenants. "If a tenant lacked the money to buy seed, Rabban Gamaliel loaned him the money or the seed which was to be repaid after the harvest. But when harvest came he always reckoned the debt according to the lower price. Thus

if the price of the seed was lower at harvest time than it was at the time that the seed was loaned, he asked to be repaid the harvest price; similarly if the price went up, he asked for the lower price at the time that the seed was loaned."[57]

It was Rabban Gamaliel's custom, as well, to give to his workers Demai (grains or fruits bought from an Am ha-Aretz concerning which there is a doubt whether they have been properly tithed). Although this activity was to Gamaliel's financial advantage it, nevertheless, helped the poor workers as well.[58] Rabban Gamaliel ruled that laborers who are hired for a wage may be exempt from reciting the full prayers and may recite shortened forms of the prayers. On the other hand laborers whose services are rewarded by room and board rather than by wages must recite the full Shema service and all of the Eighteen Benedictions. The reasoning behind this ruling was undoubtedly, motivated by a desire to leave more time for work to the laborer whose wages depend upon the amount of working hours. In case of the laborer who is rewarded by an annual guarantee of room and board, participation in full prayers would have no adverse effect upon the economic position of the worker involved.[59]

Women, orphans and the poor were not the only members of Palestinian society to find themselves at the very bottom of the social pyramid. These groups were joined in their social position by the Am ha-Aretz, the uneducated and uninstructed, who constituted the very opposite of the scholar class of Jabne. As so frequently is the case, these Amey ha-Aretz were also the most poverty stricken among the populace.

The typical Am ha-Aretz was a farmer of much poverty and little education. In the realm of culture there was little in common between him and the scholar class. The members of the educated class owed their allegiance to the 'Haverim', the post-Temple name for the Pharisaic movement. The Amey ha-Aretz, however, did not belong to this group and were not obliged at all times to follow the decisions of learned rabbis. They were unaffiliated rabbinic Jews whose ignorance and poverty often combined into a somewhat less than strict observance of all the Law. Although the Am ha-Aretz was observant in most matters religious, the few matters which he regarded lightly set a wedge between him and the 'haverim'. The scholar classes came to distrust the Am ha-Aretz and the Am ha-Aretz looked with suspicion upon the members of the academies and their various schemes to affiliate him with their group.

As a general rule both groups lived side by side in amity and concord. Each regarded the other as being a member of the people of Israel, although the 'Haverim' often wished that the Amey ha-Aretz would see the light and join their ranks. There were, as there are always bound to be, some scholars who referred to the Am ha-Aretz with a distinctive look of overflowing love. These cultured members of the scholar class regarded themselves as respectable citizens; pillars of the community. The uneducated and uninstructed Am ha-Aretz was, to them, a boorish individual who failed to practice the Law properly. Some went so far as to set up barriers between these two groups. One argued that to give a daughter in marriage to an Am ha-Aretz is comparable to

throwing her into a den of lions. Another opinion stated that an Am ha-Aretz was unfit to be a witness or a guardian of children or even a keeper of charity money. Some claimed that it is unsafe to be with an Am ha-Aretz when no one else is present.[60]

In contradistinction to those who expressed the opinion that the Am ha-Aretz is not to be extended the social amenities and communal civilities hitherto preserved for and accorded to the higher classes exclusively, we find those who regard him in a favorable manner. It was especially important to befriend the Am ha-Aretz, argued some scholars, because of the growth of Christianity. The Pauline doctrine, in particular, preached love for the uneducated and for the mistreated.[61] Paul had brought the hope for salvation to the lowly and uncultured. To gain entry into the 'Olam Haba' the masses no longer needed to follow the laws of the scholars, but they could simply believe in the power of Messiah. A perpetuation of division between the 'Haverim' and the Am ha-Aretz contained within it a danger to the unity and survival of Judaism.

Raoban Gamaliel was the leader of those scholars who adopted a conciliatory policy vis-a-vis the Am ha-Aretz. Once again his opponent was Rabbi Joshua ben Chanania. We find here that the rich Rabban Gamaliel takes the side of the poor farmers while the poor Rabbi Joshua opposes them. The differences of opinion between these two great scholars can be seen from an incident involving a priestly problem. It happened one day that a member of the priestly family, Zadok by name, approached Rabbi Joshua with a first-born animal which had been injured and suffered a deformity

of the lip. Zadok inquired of Rabbi Joshua: "Is there a distinction between the testimony of a priest who is an Am ha-Aretz and between a priest who is not?" The question involved a complex problem. Far more important than the status of the animal involved was the question whether an Am ha-Aretz is to be believed when he claims that a first-born animal suffered a defect inadvertently. The possibility always presented itself, certainly to Joshua, that a blemish would be inflicted by a priest belonging to the Amey ha-Aretz with the expressed purpose of making the animal ineligible for sacrifice. According to post-Temple law a first-born animal, suffering no defects, was to be kept alive until either the reconstruction of the altar in Jerusalem or the death of the animal. The possibility always existed, however, that a priest might make use of a first-born animal by inflicting upon it a disqualifying blemish.

The question addressed to Rabbi Joshua concerned the legal position of the Am ha-Aretz within the community for it implied a distinction between the testimony of a priest who is an Am ha-Aretz and the priest who is a 'Haver'. Through his answer Joshua becomes the spokesman for the forces opposed to Gamaliel and for the scholars actively engaged in the perpetuation of the social disparity between the Am ha-Aretz and the 'Haverim'. Rabbi Joshua replied that: we certainly do make a distinction between the testimony of an Am ha-Aretz and one who is not of this class. Rabban Gamaliel, who recognized immediately that such attitudes drove the lower classes into the traps set by heretics and Gnostics, answered that: there is absolutely no distinction between the testimony of

two priests simply on the basis that one is an Am ha-Aretz. An Am ha-Aretz, said Gamaliel, is not assumed to be guilty until proven innocent. The Mishnah, dealing with the same question, solved it by placing the Am ha-Aretz priest and the scholar priest in the same category. The Mishnah, however, unlike Gamaliel, completely negates the testimony of a priest regardless of his community status. "All blemishes that may be inflicted by the hand of man, if an Israelite shepherd testifies that such a blemish is accidental he is believed; a shepherd of priestly descend is not believed."[62] Hence we return in the Mishnah to the basic belief of Rabban Gamaliel, who attempted to diminish strife within Israel because of membership in one or another of the socio-economic classes.[63]

Inherent in the halacha developed under the leadership of Rabban Gamaliel was the conscious and planned attempt to unite all Jews, rich and poor, scholarly and uninstructed, men and women, into one family. This family was to derive its oneness from a single and unifying set of laws, universally binding and universally acceptable. But to be maximally effective halacha, as Gamaliel saw it, cannot be oppressive or unreasonable in its demands. Jabne, under Gamaliel, was charged with the momentous task of modifying old laws and innovating new ones. The condition of the populace and the time in which it lived necessitated revisions and alterations in the laws which came down, by and large, as an inheritance from the days of the Temple and the sacrificial cult. The new laws promulgated and enacted in Jabne took into consideration the problems and difficulties that arose since the

great and terrifying destruction of the Temple. Rabban Gamaliel, the main force behind these laws, always saw them as a way to unite the people behind an authoritative halacha which transformed the harsh realities of life into a less burdensome and less awesome experience. When Rabban Gamaliel declared that "we do not ordain a fast on the New Moon nor on Hannukah and Purim,"[64] he entertained the idea of making the halacha easier to observe. In this case, as in most, Rabban Gamaliel followed the school of Hillel in adopting a lenient point of view.[65] Only in a few minor and insignificant cases did Rabban Gamaliel follow the opinions of the School of Shammai.[66]

Roman conquest brought with it not only the destruction of the Temple and 'Galut Roma', but it further aggravated the impoverished condition of the people. The old halacha, with pre-destruction days as its frame of reference, often contained demands resulting in severe economic suffering. To alleviate somewhat the poverty of the people Rabban Gamaliel proceeded to modify the laws dealing with Shemitah (the Biblical prohibition against cultivating the land during the seventh year). The practical question was asked as to how long may one cultivate his field on the sixth year. The school of Shammai said: as long as such activity is beneficial to the crops of the sixth year. The school of Hillel said: one may cultivate his field until time of 'Atzeret' (Shavuot). After 'Atzeret' the crops derive no benefit from further cultivation. Since the school of Shammai issued an indefinite limitation, it seemed to be compatible with the view of the followers of the school of Hillel.

The Shemitah year thus commenced immediately after Pentacost in the sixth year.

Rabban Gamaliel recognized that this ancient law placed undue hardship upon a people suffering the pangs of severe economic depression. In accordance with the needs of the time Gamaliel reinterpreted the laws pertaining to Shemitah. The Biblical passage upon which this law is an elaboration reads: "But in the seventh year shall be a sabbath of solemn rest for the land, a sabbath unto the Lord; thou shalt neither sow thy field, nor prune thy vineyard."[67] Using one of the hermeneutic principles developed by the school of Hillel, Rabban Gamaliel equated the meaning of the word "sabbath" in this verse with the meaning of "sabbath" as it refers to the seventh day. Both refer to rest; the first refers to the abstention from agricultural work in the seventh year while the second is a command to refrain from work on the seventh day. Just as it is permissible to work directly prior to and immediately after the sabbath day so it is equally proper, reasoned Gamaliel, to cultivate the soil immediately prior to and immediately after the sabbath year. The result of this ruling was that the people were now allowed to work in the fields until the very first day of the seventh year. The extra time available for cultivation gave to the land a greater productivity poten tial.[68]

Laws concerning Passover bread and the disposition of 'hametz' were also questions involving economics and finances. Rabban Gamaliel ruled, in reference to unleavened bread for Passover, that three women may knead dough at the same time and

bake it in one and the same oven, even though each must wait her turn. Other scholars disagreed. If three women knead dough at the same time, they argued, the dough of two will leaven as they wait for the third one to finish baking her unleavened bread.[69] Rabban Gamaliel, in opposing this view, recognized the economic difficulties facing the people. It is of interest, however, that he was not consistant at all times. He expressed the opinion, for example, that dough for Passover bread must not be kneaded with wine, oil, or honey. If one had already prepared dough in this manner she must burn it immediately. The other scholars, however, expressed the more lenient opinion that she must bake it before it leavens.

Generally, however, Rabban Gamaliel was lenient in his attitude to the laws of Passover. He ruled that 'hametz' in so small an amount that a dog cannot locate it is to be considered as having been properly disposed of by burning. This served to introduce some leniency into the institution of 'Biur Hametz'.[70] Related to Rabban Gamaliel's opinion concerning the disposal of 'hametz' is his ruling regarding 'Halah'. The amount of 'halah', dough set aside at the time of kneading, depends upon the purpose for which it is set aside. If it is dough set aside as a priestly donation, then, said Gamaliel, it must be in the required amount. However, ifthe 'halah' is to be burned the amount may be of a nominal, or minimal, nature.[71] This ruling, combined with the rulings dealing with 'Shemitah' and 'Biur Hametz', constituted a conscious effort on the part of Gamaliel to alleviate the poverty of the people. And it was part of his general attempt to make the the halacha more palatable to the times and

conditions.

No aspect of Jewish life escaped the watchful eyes of Rabban Gamaliel. Laws concerning festivals were carefully studied and modified. He permitted the use of fish even if they be delivered by a gentile on the festival day.[72] Concerning another aspect of food, namely the collecting of pulse on a festival Gamaliel accepted a lenient point of view. The school of Shammai had ruled that one is allowed to select only the edible, and must consume it immediately on the spot. The school of Hillel had taught that one may collect both the edible and the refuse, and may separate them for purposes of food. Rabban Gamaliel added that one may also rinse the pulse in water and skin off the refuse.[73] In other aspects of life during the festival, minor aspects to be sure, Rabban Gamaliel adopted a harsher policy. He ruled, for example, that one may not sweep a room on a festival, nor may one cook warm water in preparation for the Sabbath when it follows a festival. One may not pick up a fallen candlestick, for according to Rabban Gamaliel it was considered labor. He also prohibited the baking of large loaves of bread on a festival, considering such activity as being the result of excessive exertion.[74]

There is one more outstanding incident showing Gamaliel's tendency to be stringent in certain matters. The incident involves his opinions concerning the specifications for the construction of an acceptable booth (Sukkah). A booth, he ruled, must be constructed like a permanent abode.[75] In opposition to Rabbi Akiba, who opposed him in this ruling, Gamaliel stated

that a booth constructed onship's deck is in reality not an acceptable sukkah since it cannot successfully withstand a normal sea breeze. He admitted, however, that a sukkah may be built on a ship if proper precautions are maintained to safeguard it from ocean winds. In connection with the commandment to dwell in booths during the festival of Booths (Sukkot), Gamaliel decided that one must dwell in it as he would in his house. He who sleeps under a bed in a booth, ruled Gamaliel, fails to fulfill his obligation of dwelling in a sukkah since he voluntarily introduces a separation between him and the roof.[75] To prove his point Gamaliel used his servant Tabi. Tabi, who was not a Jew but a non-Jewish slave, slept under the bed in Gamaliel's sukkah, emphasizing the point that only those exempt from the obligation of sukkah may conduct themselves in a similar manner.[76]

As we have had occasion to observe before, Rabban Gamaliel's strict legal decisions in only a few cases. Generally he initiated the lenient point of view. This can readily be seen from the various halachot dealing with the Sabbath. He ruled, for example, that if a non-Jew makes a gangway on the Sabbath the Jew may use it to get off a boat on the rest day. However, if the gangway was constructed by a non-Jew for the specific and exclusive use by a Jew then it is forbidden to be of any use on the Sabbath.[77] This, and similar rulings, opened the way for the institution to become famous centuries later as the "shabbes goy".

Another Sabbath halacha involved a dispute between Rabban Gamaliel and his perennial opponent, Rabbi Joshua. Rabbi Joshua claimed that, without all the necessary previous arrangements,

a man may move about on the Sabbath only within four cubits square. This Rabbi Joshua applied to all Jews without exception. It even applied, as far as he was concerned, to a Jew who found himself, after being kidnapped by non-Jews, in a place beyond any Sabbath limit (Techum Shabat). It applied even to the Jew who was transported on the Sabbath against his will in a cattle-pen or a cattle-fold. Even if placed in confinement by his captors or kidnappers the Jew was restricted in his movements on the Sabbath to four cubits square. Such was the halacha of Rabbi Joshua as it pertained to the Sabbath.

In opposition to the unbending strictness of Rabbi Joshua, Rabban Gamaliel ruled that one may move about during the Sabbath within the full limits of his confinement, regardless of whether a techum shabat applies to the area in question. It happened one day that Rabbi Joshua and Rabban Gamaliel were on board ship. This was on the Sabbath. Joshua, as if to express his point of view, did not move beyond four cubits in any direction, whereas Rabban Gamaliel walked all over the deck of the ship.[78]

Rabban Gamaliel believed that all rabbinically ordained halachot must be flexible and readily adaptable to the changing conditions of all ages. This viewpoint is illustrated by a story about his donkey. "It happened one Sabbath that Gamaliel's ass was laden with honey, but he would not unload it until the termination of the Sabbath. On the termination of the Sabbath it died."[79] He used this episode as an example to show that the prohibition against cruelty to animals, noble though it be, is a rabbinic ordinance (midrabanan). Rabbinic ordinances do not

warrant the desecration of the Sabbath, which is a Biblically ordained law (mideoraita). In this particular incident the suffering donkey did not fall within the category of those subjects for which we may desecrate the Sabbath (Pikuach Nefesh).

Gamaliel's attitude towards dumb animals (Tzaar Baale Hayim) expresses his general attitude towards rabbinic halacha. Whereas the Torah is not to be changed speedily and indiscriminately, the halacha must be flexible and changing. Biblical laws must not be transgressed, but rabbinic laws must not remain unchangeable. This philosophy was carried out in deeds. Rabban Gamaliel bathed, for example, on the first night after his wife died while he was still an Onen (in his first stages of mourning). When asked to explain this highly unusual practice he stated the following reasons:

1) "Observance of Aninut during the night is merely a rabbinic ordinance, not a Biblical commandment." The implication being that it is proper, under appropriate circumstances, to abandon practices sanctioned only through laws midrabanan.

2) "The rabbis did not ordain the observance of aninut during the night for delicate persons. And Rabban Gamaliel was a sick and frail man." Again the clear implication is that halachot deriving their authority from rabbinic ruling must be subordinate to mitigating conditions.

3) "Mourning, even the first stages or aninut, is to be observed by day only, as it is written 'And the end thereof as a bitter day'."[80]

Similar incidents can be cited. Gamaliel was observed reciting the Shema on the first day of his honeymoon, a practice contrary to accepted custom exempting the newly-wed man from reciting the prayer during the first night of the honeymoon.[81]

He explained his actions to his students by saying: "If a bridegroom desires to recite the Shema on the first day of his honeymoon he may do so." Once again Gamaliel expressed the opinion that halacha cannot be completely unyielding. It should be noted, however, that this was not Rabban Gamaliel's first wife. The practice of not reciting the Shema on the first night after marriage was designed to focus the husband's complete attention on his new wife. Rabban Gamaliel was not in need of this special consideration.

Rabban Gamaliel was concerned primarily about halacha as it affected the every-day life of the Jew of his day. He was also conscious, however, that the Jew does not live in a private world, isolated, as it were, from all non-Jewish currents. Although Gamaliel believed that the Jew was inherently more righteous than his neighbors he recognized, nevertheless, that some Jews did not always behave in an exemplary manner. It was his intention to save the honor of Israel from the few Jews who gave it a black eye through unsavory behavior.

The Talmud relates that two Roman military officials (stratiotis) enrolled in Jaone to study under Gamaliel. They learned Bible, halacha, and various aspects of the oral tradition. They developed a great admiration for Jaone, its scholars and Rabban Gamaliel. At the conclusion of their studies they remarked to Rabban Gamaliel that the Torah is indeed an excellent revelation, except for one thing. The one thing they disliked was the part which teaches that one is not allowed to enjoy items stolen from an Israelite but is permitted to use items taken

from an idol-worshipper (Gezelat Aku"m). Immediately Rabban Gamaliel issued an order prohibiting the deriving of any benefit from robbing an idol-worshipper. This ruling reversed an old and well-entrenched custom. Rabban Gamaliel issued this opinion because he believed that deriving a benefit from any item improperly taken from a non-Jew "dishonors the Jewish name".[82] It must be added that this decisionby Raoban Gamaliel was initiated primarily for the benefit of clearing the Jewish name. Non-Jews accused the Jews of applying the moral teachings of the Torah only to themselves. Rabban Gamaliel was out to put obstructions in the way of such accusations. The ruling did not materially alter his firm belief that "non-Jews who perform deeds of charity are really committing sin, since they act in a benevolent manner only to brag (Lehityaher)."[83]

Related to Raboan Gamaliel's ruling concerning items stolen from non-Jews was his decree that "an oral agreement is binding."[84] Here was a conscious attempt at combining the legal and the ethical in Judaism. Life, Jewish life, was to be infused with a higher moral and social striving. The halacha of Raboan Gamaliel's day was concerned with all of life's problems: the physical as well as the ethical.

Roman invasion of Palestine and subsequent destruction of the Temple brought an end to an era in which the sacrificial cult reigned supreme. Before the destruction sacrifices dominated the religious life of Israel. They were the unifying factor, bringing all Jews into a similar relationship with their God. In the sacrificial cult each Israelite found his own personal

communion with his God. But the dissolution of the priestly cult and the ruin of the main sanctuary in Israel brought all this to an end. Other means had to be found whereby the people could express their relationship to God. The problem of finding an acceptable substitute for the Temple and sacrificial cult became especially acute for those of Israel who now languished as exiles in the various provinces of the Roman Empire. This problem was, however, of no lesser concern for the population remaining in Palestine. For all of Jewry, in Palestine or in exile, found itself divorced from the traditional and long cherished religious institutions of its past.

It is true, of course, that the sacrificial and priestly cults existed side by side with the institution of public prayer.[85] But in the many years that the Temple flourished in Jerusalem it had always drawn upon primary religious devotion of the people. Public prayers, crude and unsystematic as they were, constituted an addition to sacrifices rather than a challenge to their supremacy. As long as the sacrificial cult was a going concern prayers had to be satisfied in occupying a subsidiary role within the religious framework of Israel. Not until after the destruction of the Temple could prayers assume the primary role in the religious life of Israel.

The institution of public prayer, according to various sources, antedates the second Temple. According to Genesis[86] Abraham instituted the morning service (Shachrit), Isaac originated the afternoon service (Mincha), and Jacob was the originator of the traditional evening service (Maariv). We find that Daniel

prayed thrice daily, although he maintained no definite schedule. King David[88], however, prayedduring the "evening, and morning, and at noonday." According to Halevy, "The Eighteen Benedictions, save the Birchat Haminim, is an ancient possession of Israel dating back to the Elders of the Great Assembly, and was in common use many centuries before Gamaliel."[89] A similar opinion is to be found in the Sifre, "the Elders of the Great Assembly composed the Tefillah (Eighteen Benedictions)."[90] The general assumption is that the prayers found in the Tefillah, or Shemone Esre, were common "even during the days of the Temple. The people would pray in the synagogue after having brought their sacrifices to the Temple."[91] Thus "sacrifices and public prayers went hand-in-hand long before the advent of Rabban Gamaliel."[92]

Although many Israelites participated in public and private prayers when the Temple was still in existence, such prayers were of secondary significance. The sacrificial cult was all-important. Prayer was, by and large, a private matter while the sacrifices were ordained and accepted as being the proper form of public worship. Prayers, at this time, were highly individualistic; without defined form or specific content or formalized language. Each man prayed as he saw fit and when the time seemed appropriate. Definite prayers, to be recited at defined time periods, were not at this time the order of the day.

Formalized, or fixed, prayers first make their appearance with the advent of Rabban Gamaliel. The destruction of the sacrificial cult, hitherto unifying all of Israel, left the people without a central means of religious unity. Rabban Gamaliel,

who always endeavored to unify Israel through halacha, saw in prayer the vehicle through which new strength and renewed vigor could come to Israel. Gamaliel believed that, "Israel will be redeemed only when it forms one single band: hwen all are united, they will receive the presence of the Shechinah."[93] Thus he taught that Hillel's admonition: "Separate not thyself from the community"[94] applies to the one who prays not on his own rather than as a member of a congregation. Prayer is an obligation to be carried out in public, not individually. A similar opinion is expressed in Berachot 8a, where the rabbis make God say, "If a man occupies himself with Torah, practices benevolent acts, and prays with the congregation, I will ascribe it to him as though he had redeemed me and my son (Israel) from exile among the peoples of the world."[94]

Fixed prayer (Tefilat Kevah), fixed both in schedule and in content, was to become a substitute for the former sacrificial system. Rabban Gamaliel pointed out: had not God Himself declared, "Be assiduous in regard to devotion for there is no finer quality than prayer. Prayer is greater than all the sac rifices."[96] The unity which Israel had derived from the Temple was not to flow from a uniform and obligatory liturgy, a liturgy applying with equal authority to all Jews in all parts of Palestine and in all the corners of their dispersion.[97]

The Tefillah, also known as the Amidah and the Shemone Esre, is the most important section in the daily liturgy. This group of prayers, commonly referred to as a unit, has its roots in ancient times. Although the tradition of the Shemone Esre,

in English the Eighteen Benedictions, and in the custom of public prayer dates back to pre-Temple days any attempt to formalize this section of the service was bound to meet with determined opposition.

Rabban Gamaliel was the first to attempt to formalize the content of the Eighteen Benedictions(and standardize their wording). Under his direction Simon Pakoli, also called Simon the Pakulite, arranged the Eighteen Benedictions and set them down in an organized form.[98] This organization by Simon, although acceptable to the people, met with considerable disfavor in the scholarly circles of the Jabne academy.

The most strenuous objection was directed against the effort to enshrine the Eighteen Benedictions in one official text. Rabbi Eliezer ben Hyrcanus, Gamaliel's brother-in-law, stated that a prayer is a supplication to God and cannot, therefore, be made into a fixed task. One must pray, taught Eliezer, "according to the dictates of his heart and in a manner suitable to his needs and a time convenient to him."[99] Basically Rabbi Eliezer objected to any and all formal prayers. His view was that true prayer is a spontaneous outpouring of man's longings for his God.[100] Similar opinions are expressed by Rabbi Simon (ben Yochai) and Rabbi Simon ben Nathaniel in Pirke Aboth. Rabbi Joshua also objected to a fixed text. He taught that not the wording but the content was of prime importance. Even Rabbi Akiba, who sympathized with Gamaliel, believed that a fixed text may be acceptable. However, if a fixed text is too difficult to read or too burdensome to recite, one may substitute

his own words and his meditations.

The scholars opposed Rabban Gamaliel in his attempt to fix the wording of the Tefillah as much as they attacked him for introducing a rigid schedule. Each day, taught Gamaliel, every Israelite is obligated to recite the Tefilla three times.[101] This ruling evoked a storm of protest. Rabbi Joshua claimed that an abbreviated form of the Eighteen Benedictions was sufficient. Nechunia ben Hakanah demonstrated his opposition to Rabban Gamaliel by reciting a short prayer before entering and before leaving the academy. And Rabbi Elazar said, "Always let a man test himself; if he can direct his heart, let him pray; if he cannot, let him not pray."[102] Rabbi Akiba showed open defiance in the following manner: "when he prayed with a congregation he was short in his prayers; when he prayed by himself he would prolong his prayers."[103] And Rabbi Hiyya ben Abba, objecting to the proposed recitation three times each day, ridiculed the whole idea of a fixed time and defined length: "Whoever prolongs his prayer, and calculates on its fulfillment because of its length, will eventually come to pain of heart."

All these strenuous objections notwithstanding, Gamaliel was successful in developing a fixed text for the prayers. He met with equ al success in his endeavor to make the recitation of the Tefillah thrice daily cumpulsory. But his success came about in the face of prodigious opposition. Rabbi Joshua, who never tired of leading the attack on Rabban Gamaliel, took him to task over the issue of the evening prayer. A certain student came to Rabbi Joshua and inquired: "is the recitation of the

of the evening service optional or compulsory?" Rabbi Joshua replied: "it is optional." The same student asked the very same question of Rabban Gamaliel, whoreplied that the recitation of the evening service was indeed an obligation. The student informed Gamaiel of Joshua's opinion. When a short time later t he academy met in full session Rabban Gamaliel used the occasion to publicly chastize Joshua.[104]

The humiliation of Joshua did not end disputes. Rabban Gamaliel came into dispute with other scholars concerning the proper time of the recitation of the evening Shema. Rabbi Eliezer taught that one may recite it "until the first watch", i.e. nine or ten p.m. Other sages taught that one may recite the evening Shema until midnight (Hatzot). Rabbi Gamaliel, on the other hand, believed that it may be recited until dawn (Ad Alot Hashachar). Eventually the Talmud resolves the difference of opinion between Gamaliel and the sages. Both agree that one may recite the evening Shema until dawn. The sages adopted a seemingly more stringent attitude to "keep a man from transgression." Rabban Gamaliel's opinion is related in a story. It happened one morning, the Talmud relates, that the sons of Rabban Gamaliel returned from a wedding. They said to Gamaliel: "Behold, we have not yet recited the Shema." Since the morning star had not yet appeared Gamaliel urged them to recite the Shema.[105] The opinion generally accepted is that we ought to follow Rabban Gamaliel in facilitating the observance of all Commandments and halachot.

Although, as we have had ample occasion to notice, Rabban Gamaliel met with extensive opposition he was successful in his attempt to standardize the content of prayer and to make their recitation compulsory. These prayers were now the official substitute for the sacrificial cult. Jews in all lands and under diverse conditions found in them a common pattern for the expression of their hopes and aspirations. The prayers served to imbue Israel with inspiration and strength.

Although the prayers were substitutes for the Temple cult, memory of the Temple itself remained dear to the people. Rabban Gamaliel, therefore, included various prayers designed to keep alive the memory of the Temple and revive Jewish anticipation of future independence and restoration. These prayers, commonly referred to as 'Zecher Lamikdash', gave the people greater hope for a better future, at the same time fortifying their nostalgia for the past. Among these prayers are the priestly benediction, the sounding of the shofar, and the 'Boneh Yerushalaim' of the grace after meals. The latter is a prayer for the restoration of Jerusalem, included in the liturgy to appease the nationalist beliefs of Rabbi Akiba, who probably exerted pressure upon Gamaliel on behalf of its present position.

The standardization of the Tefillah and the 'Zecher Lamikdash' prayers were accompanied by other innovations in the realm of prayer and worship. At the request of Rabban Gamaliel Samuel the Younger (hakatan) composed the special prayer against sectarians. This prayer, greatly altered by force of censorship, is now an integral part of the Eighteen Benedictions. The traditional name of Eighteen Benedictions remains in spite of its

content, which is composed of nineteen benedictions.[106]

Originally the prayer of Samuel probably read:

> "And for apostates let there be no hope, and let all sectarians perish in a moment."[107]

Or even more correctly:

> "And for(Christians)let there be no hope, and let all sectarians perish in a moment."

Our version, changed by censors, reads:

> "And for slanderers let there be no hope, and let all wickedness perish in a moment; let all thine enemies be speedily cut off, and the dominion of arrogance do thou uproot and crush, cast down and humble speedily in our days. Blessed art thou, O Lord, who breakest the enemies and humblest the arrogant."

The Birchat Haminim, written by Samuel, was directed against defectors from traditional Judaism. There is dispute among scholars as to what form these defections took. Various opinions equate 'minim' with Sadducees, anti-Hasmoneans, or just sectarians in general. Maimonides writes, in Hilchot Tefillah 2:1, "In the days of Rabban Gamaliel the heretics multiplied in Israel and enticed the people away from God. Rabban Gamaliel recognized them as the leading and most dangerous problem of his day."

Arthur Marmorstein, in his scholarly work on Jewish theology, claims that the 'minim' were "Jewish Gnostics, not early Christians."[108] Other scholars dispute Marmorstein. According to the notes of Baer, in his Abodath Israel, the sectarians in question were early Christians who "consciously and knowingly denied their people by removing from themselves the obligations of the commandments."[109] Ismar Elbogen, in

his scholarly work on Jewish worship, agrees with Baer. He writes, "Through the prayer against sectarians Rabban Gamaliel intended to effect a separation of the Christians from the synagogue. In ancient times the composition did not begin with 'slanderers' (Lamalshinim) but with 'sectaries' (minim) and 'apostates' (meshumadim). At that time the designation 'Christian' (notzri) probably also occured."

Dr. Elbogen explains the reason for the prayer as follows: "The synagogues were favorite places for missionary activity. They offered occasions for the discussion of questions touching on religious beliefs and thus afforded an opportunity to introduce propaganda. Christian Jews belonged to the most eager visitors, and they also acted as readers."[110]

The Birchat Haminim was designed to keep the early Jewish Christians out of the community. "A Jewish Christian could not speak this prayer as ammessenger of the congregation for he would have condemned himself and would have caused the congregation to say Amen. Neither could a Jewish Christian be among the worshippers and listen to the plea for the destruction of his group and be a part of a congregation that affirmed this r equest by the communal Amen. Thus the Birchat Haminim became a test for the presence of Jewish Christians in the synagogue. Because ofit they stayed away, and that was the original intention."[111]

In all probability Dr. Elbogen's contention is the correct one. The Birchat Haminim was the favorite prayer of Christian censors. It is they who altered it. Had it originally referred to Gnostics the Church might have been less zealous in its attack

upon the prayers against sectarians. But it could tolerate no Jewish plea to God for the de struction of its flock. The Church, through its censors, therefore changed references to apostates and Christians with such nebulous terms as "slanderers" and "wickedness". Certainly for the latter categories it harbored no love either.

At a time when Rabban Gamaliel attempted to unite Israel into one cohesive group, and fortify the spirit of those who had escaped the Roman sword, others within Palestine promulgated insidious heresies aimed at the destruction of the people and its faith. Samuel's composition was by no means the only prayer directed at these heretical enemies of Israel. Other scholars too recognized the danger. And some composed prayers against heretics and sectarians in language no more favorable to them than that of Samuel the Younger.

One of these compositions, by Rabbi Pedat, asked for a preventive, as it were, rather than a cure. He prayed, "May it be thy will, O Lord my God and God of my fathers, that no hatred against any man come into our hearts, and no hatred against us come into the hearts of any man, and may none be jealous of us, and may we not be jealous of any, and may thy law be our labor all the days of our lives."[112] If Rabbi Pedat's language is mild that of Mar bar Rabina is less so. "O my God! Guard my tongue from evil and my lips from speaking guile, and to such as curse me le t my soul be dumb, yea, let my soul be unto all as dust. Open my heart to the Torah, and let my soul pursue thy commandments. If any design evil against me, speedily

make their counsel of none effect, and frustrate their designs."[113]

These prayers, like that of Samuel against the sectarians, were composed with the hope that they would serve to unify Israel in the face of growing and ever more militant heresy. At least, some believed, heretics, especially the new Christians within the Israelite community, would be kept out of the synagogue. As we have had occasion to see no heretic would be a member of any congregation which so devotedly prayed for his destruction at the hands of God.

Just as the prayers, especially the Eighteen Benedictions, were ordained to serve as substitutes for the sacrificial service so the Haggadah for Passover was to replace the traditional pre-Temple destruction Pascal offering. It is important that Rabban Gamaliel, and rabbinic tradition in general, never repudiated the sacrificial cult. It was hoped that the Temple together with the priestly cult would soon be restored, and sacrifices would once again take their honored place in the religious life of the people. The prayers, and the Haggadah, were temporary substitutes designed to unite the people until the rebuilding of the Temple.

The Haggadah, therefore, was to be a temporary substitute for the Pascal sacrifice (Korban Pesach). No longer being able to bring the proper offering to the Temple each man must, nevertheless, "busy himself all night with the laws of Passover, even if he be alone."[114] Rabban Gamaliel believed that each Israelite must look upon Passover as the season of personal redemption from slavery to freedom. The Haggadah, in its early stages, was

largely the work of Gamaliel and his school; it is the book declaring the great miracles which God performed for His people, not only during the first Passover, but during every Passover since. Every Jew must constantly remind himself, and those about him, of the meaning of Passover. "he did not fulfill the Passover requirements who has not recited concerning Pascal offering, matza, and the bitter herb."[115] It is through a consideration of the meanings of these ingredients of every Passover seder that every Jew can properly consider himself as having been freed from Egypt.

Passover thus became, largely through Rabban Gamaliel's efforts on behalf of the Haggadah, a personal involvement in the great exodus from Egypt. Reciting the Haggadah each Jew stood at Mount Sinai partaking of that momentous event in the history of mankind. To Rabban Gamaliel the Haggadah was much more than a substitute for the former Passover sacrifice. Through it, and in it, each Jew was to see the freedom granted him at the Red Sea. It was a book of hopeful prayer. At the seder, commemorating his freedom, the Jew thanked God for the past and prayed for a new redemption that was yet to come.[116]

The various halachot of Rabban Gamaliel were combined with a strict control of the calendar, whereby he could successfully control and centralize Jewish life. The people of Israel, Gamaliel was convinced, could be unified through a legally binding halacha only when they pledged allegiance to a common calendar. To determine the calendar and the proper time of holidays and new moons Gamaliel used his extensive knowledge

of mathematics and astronomy.[117] Rabban Gamaliel was a scholar who combined Jewish and secular knowledge in an effort to solidify the position of his people.[118] In addition to scientific calculations and astronomic instruments Gamaliel also resorted to messengers who would determine the calendar by observing the appearance of the new moon. The messengers were used by Gamaliel mainly because they were tradition. It was prohibited at that time to decide on the day of the new month without the testimony of witnesses who saw the new moon. Rabban Gamaliel would test the accuracy of these witnesses by having them identify pictures of the moon in its various forms. This was made necessary by frequent attempts to disorganize Jewish life through false testimony on the part of sectarians and heretics.[119]

On the basis of testimony brought by messengers Rabban Gamaliel once determined the day of the new year and of all the other holidays of the month of Tishre. But even as the witnesses were testifying to having observed the new moon, Rabbi Joshua felt, as is the opinion of Graetz, that their testimony was false. He told Gamaliel that he was wrong in setting the date of the holidays on the basis of such testimony. Rabbi Joshua's suspicion was also supported by other leading scholars, especially Jochanan ben Nuri and Dosa ben Harchinas.[120] Rabban Gamaliel, however, became adamant and refused to alter his decision. Believing Joshua's opinion to constitute an infringement upon the perogative to control the calendar, he turned to Joshua and said, "If you have another calculation of the holidays, then I command you to appear before me carrying your cane and wallet

in your hand and your bag on your shoulders on the day which you consider to be the right Day of Atonement."[121] Once again Rabban Gamaliel was forced to use harsh measures to subdue opposition within Jaone and promote the unity of Israel. And once again he met with the same opponents: Rabbi Joshua, individualistic and democratic to the core; Rabbi Eliezer, reactionary and uncompromising; and Rabbi Akiba, dedicated, wise, and pious.

As against these opponents, Rabbi Gamaliel represented the hope of Jewish survival. He was impatient in his desire to forge the various elements of his people into One Israel. He dedicated his energies to the cause of Jewish unity and survival. And more than any man of his time he infused the people of Israel with a will to grow and live. More than anything else it was the halacha of his school that served as the vehicle and the means for Jewish progress and survival.

CONCLUSION and EVALUATION

The age of Rabban Gamaliel made Judaism alive and dynamic. Something new and necessary was brought to birth. It was an important chapter in Jewish history, of absorbing interest. For the age of Gamaliel opened new vistas for the future of Israel.

The destruction of the Temple destroyed the Judaism of sacrifices and priestly dominance, bringing to life the Judaism of prayer and deeds (mitzvot). Through a steadily growing halacha the people united into one band. Prayers and deeds took over where the Temple had left off. But even in the substitute of prayer the Jew found an open, rich, onward vision, an effective inspiration for truly modern living.

Rabban Gamaliel, morethan any man in the immediate post-destruction era, dedicated his entire energies to the thesis t hat Jews couls survive even without the benefit of home and country. Through prayer and deeds the Jew found a true relationship with his God. But Rabban Gamaliel recognized also that deep within the conscience of each Jew dwelled a desire for national independence.

It is perhaps right that we should remind ourselves that the world of Rabban Gamaliel was of massive certainties, without the bewildering complexity of the twentieth century. Judaism was then unitary rather than dual, in the religious-secular fashion of our society. It was impossible for Jewish society to conceive of change without overtly involving religion.

It was not the aim of Rabban Gamaliel to perpetuate Jewish exile, only to make it bearable. He recognized that a return to an independent Palestine will mean not isolation but renewed internal strength and a growing Jewish religious spirit. To take the view that Jews must forever remain in the diaspora, guarding their newly altered faith with a fanatic's zeal, would signify that Judaism is irrelevant to the kind of world in which Rabban Gamaliel found himself. For to him a faith that was alive was a faith for men and societies deeply involved in the facts of life.

The halacha of Gamaliel, th e prayers he introduced and standardized, the innovations in Jewish life that were born under his patriarchate, were to apply Jewish moral imperatives to day-to-day living. Rabban Gamaliel wed the ultimate meaning of life to the society in which one participates.

Classical rabbinic Judaism, commencing with Gamaliel, adopted the rationalistic tradition of Greek philosophy and science up to a limited point, but refused altogether the out and out philosophic tradition. It rejected the affirmation that God Himself can best be known in a human embodiment. The relation between man and God depended not so much on the act of animal sacrifice as on the quiet thoughts residing dee p within the human heart.

To Rabban Gamaliel the spiritual welfare of Jews - as well as their cont inuity as a people - depended upon a spiritually strong and morally vital Judaism, and the recognition that love and duty demand a deep aspiration for this on the part of each

Jew. The reality of Rabban Gamaliel's world was ultimately God and man's relation to Him and His universe. The halacha was a mere device, then, to bring to man the justice and love of God which He weaves into the lives of His individual faithful.

Transcending the tragedy of the destruction of the Temple, Rabban Gamaliel at the same time transcended the dependence upon intermediary sacrificial practices. Man, then as now, felt a basic inadequacy when confronting God. In the sacrifices he had found a convenient intermediary. Rabban Gamaliel made it possible for Jews to confront God on the personal and individual level, directly through halacha and prayer.

Roman conquest of Palestine and the subsequent burning of the Temple destroyed Jewish political independence. The halacha of Rabban Gamaliel, which followed immediatelt, unified the people into a spiritual unit existing supernationally throughout the world. Such existence, however, was to be temporary. Until the return of the Jew to an independent Palestine, the lack of political sovereignty and the absence of a common territory was substituted by a unifying law and a publicly ordained mode of worship. Even without country and self-government the Jews were forged into a nationally religious unit permeated by personal and individual devotion to a halacha and a system of systematic worship.

Gamaliel believed that Jews were free to carry out religious desires. In religious matters Jews were free to handle their faith as they saw fit. It is a simple fact of observation that

Jewish doctrines, institutions, and attitudes do have a history. There is development; there is flexibility. At the time of Rabban Gamaliel the flexibility was great. Under his leadership scholars developed great religious innovations, bringing vitality and boldness to bear upon new challenges.

Rabban Gamaliel's Judaism, as a developing process, is that point at which the Jew faces the realities of life. The development of the rest of the Jewish historical process is closely intertwined with the very heart of Gamaliel's halacha.

The halacha of Rabban Gamaliel emphasized, consciously and advertantly, the thesis that man, Jews especially, begins to be adequately religious only when he discovers that God is greater and more important than any sacrificial or priestly cult. He is limited to neither time nor space, and can be worshipped through prayer, observance of law, and a "contrite heart." The development of rabbinic Judaism is engaged in the life of each man in a direct relation to that man. The forms and institutions evolved by the scholars of Jabne emphatically expressed the truth of this belief.

The part played by Gamaliel in the development of Judaism was major. His was charged with the task of hearing God's message; discerning its meaning and interpreting it. In a difficult and distracting and constantly changing world, Gamaliel endeavored to form a binding halacha of universal Jewish value. Whether mor e or less adequate, the rabbinic Judaism of later generations is partially the handiwork of Jabne. For the halacha produced there was not simply the elaboration of practices and doctrines and

forms, but rather the vivid and personal summons to individuals to live their lives always in God's presence and to treat fellow men always under His judgement.

FOOTNOTES and BIBLIOGRAPHY

1) Aaron Hyman. Sefer Toldot Tanaim Veamoraim, Vol.I, p.310.
Shimon Dubnow. Die Yiddische Geschichte (Chaim Lieberman Translation), Vol.II, p.112.

2) Heinrich Graetz. History of the Jews, Vol.II, p.306.

3) Ibid., p.306.
Op. Cit., p.103.

4) Cecil Roth. A Bird's-Eye View of Jewish History, p.110.

5) There is some dispute as to the exact date of the burning of the Temple. Graetz gives us the date as the 10th of Ab.

6) Op. Cit., p.110.
Dubnow, Vol.II, p.104.

7) Graetz, Vol.II, p.292.

8) Ibid., Vol.II, p.322.

9) Ibid., Vol.II, p.322.

10) Roth, p.112.

11) Op. Cit., p.324.

11a) Heinrich Graetz. Divre Yeme Israel (ed. Rabbinowitz), Vol.II, p.158.

11b) The traditional view is that Jochanan recieved Jabne as a favor from Rome. Gedaliahu Alon, the Israeli scholar, maintains that the Center in Jabne was created not by the free choice of Jochanan but rather by the Roman desire to maintain it as a prison camp for the scholar class. See: G.Alon. Studies in Jewish History, Vol.I, pp.219-50.

12) Graetz, Vol.II, p.324.
Isaac H.Weiss. Dor, Dor Vedorshav, Vol.II, p.40.

13) Shlomo Berman. Migiborei Haumah, Part 7, p.21.
Graetz (Rabbinowitz), Vol.II, p.160.

14) Graetz, Vol.II, p.325.

15) Op. Cit., Vol.II, p.160 & p.170.
Weiss, Vol.II, p.37.
Sanhedrin 32 a&b.

16) Gershom Bader. Unsere Geistige Riesen, Vol.I, p.165.
Graetz. Divre Yeme Israel (Rabbinowitz), Vol.II, p.170 states that he was "A fourth generation Hillelite", whereas in M.D.Gross, Avot Hadorot, and elsewhere, he is claimed as "a fifth generation Hillelite". It all depends on whether we begin the count with Hillel of his son. See: Gross, p.77.
Dubnow, Vol.II, p.112.

17) For an enumeration of his travels see:
Berachot 27, Sabbath 115, Erubin 101, Erubin 64 & 72, Avoda Zara 32, Gitin 10, P. Negayim 4:7, Sabbath 122.
Also: Hyman, Vol.I, p.311.
Graetz (Rabbinowitz), Vol.II, p.171.
Gross, p.83.

18) Graetz, Vol.II, p.337.

19) Eliezer ben Hyrcanus was so conservative that people called him the "sealed cistern" and "Sinai". See: Graetz (Rabbinowitz), Vol.II, p.181-2.

20) Op. Cit., p.337.

21) Weiss, Vol.II, pp.82-84.

22) Berman, section 6, p.28.

23) Graetz, Vol.II, p.338.
Graetz (Rabbinowitz), Vol.II, p.173.
The story is reminiscent of Hillel's experiences with the school of Shmaiah and Abtalion. However, there is no evidence that Gamaliel attempted to discriminate against the poor students.

24) Graetz (Rabbinowitz), Vol.II, p.174.
Baba Mezia, 59b.

25) Graetz, Vol.II, p.342.
Dubnow (Lieberman), Vol.II, p.114.
Berachot 28a.
A.M. Rosenstein. Hatannaim Umishtanam, Vol.I, p.104.

26) Bader, Jewish Spiritual Heroes, Vol.I, p.205.

27) Graetz, Vol.II, p.344.

28) P.Peah, 6:2.
Sabbath 151.
Tosefta Kelaim, 6:3.

29) Bader, Jewish Spiritual Heroes, Vol.I, p.206.
Graetz (Rabbinowitz), Vol.II, p.179.

30) Bader, Unzere Geistige Giborim, Vol.I, p.167.
Isaak Halevy. Dorot Harishonim, Vol.I, p.83-88.

31) Bader, Jewish Spiritual Heroes, Vol.I, p.211.

32) Pirke de Rabbi Eliezer, 51.

33) See: Weiss, Vol.II, p.69.

34) Sanhedrin 104b.

35) Kiddushin 32b.
Gross, p.78.
J.G. Montefiore and H. Loewe. A Rabbinic Anthology, p.473.

36) Montefiore & Loewe, p.473.

37) Rosenstein, Vol.I, p.133.
Tosefta Kilaim, 3.

38) Derech Eretz Rabba, Ch.5.
Rosenstein, Vol.I, p.145.
Genesis 3:9.

39) Weiss, Vol.II, p.72.

40) Ketubot 11b

41) Ibid., 12b, 14b, 15a.

42) Gitin 2a.

43) Ibid., 36a.

44) Ibid., 36b-37a.

45) Hyman, Vol.I, p.315.

46) Op. Cit., 10a.
M.Gitin, 1:5.
Hyman, Vol.I, p.316.
Weiss, Vol.II, p.74.

47) Berachot 28a.
Rosenstein, Vol.I, p.140.

48) Berachot 16b.

49) Mekilta Bo, 12.

50) Baba Kama, 74a & b.

51) Berachot 16b.
Graetz, Vol.II, p.336.

52) Graetz, Vol.II, p.336.
Weiss, Vol.II, p.110-112.

53) Gitin 36b-37a.

54) Deuteronomy 24:19.

55) M.Pean 4:5.

56) Moed Katan 27b.
Ketubot 8b-9a.
Tosefta Nida 89.

57) Baba Mezia 72-74b.

58) M.Demai, 3:1.

59) Berachot 16a.

60) Graetz (Rabbinowitz),.Vol.II, p.202.

61) Epistle to the Hebrews 13:16-20.

62) Berachot 35a.

63) Berachot 36a.
Rosenstein, Vol.I, p.137.
Albert Katz. Baale Trisin, p.76-79.

64) Erubin 41a.
M.Taanit, 1:3.
Hyman, Vol.I, p.316.

65) M.Maaser Sheni 2:7.
Erubin 13b.
Tosefta Berachot, 84.

66) Berachot 43b, 53a.

67) Leviticus 25:4.

68) Moed Katan 3b-4a.
P. Shebiith, 1:1.

69) Pesachim 48b.

70) Ibid., 74-75a.
P.Pesachim 1:5.

71) Hallah 48.

72) P. Bezah 3:2.

73) Bezah, 14b.

74) Ibid., 22b.

75) Sukkah 20b.

76) Ibid., 21b.

77) Sabbath 122a.

78) Erubin 41b-43a.

79) Op. Cit., 154a.

80) Berachot 16b.

81) P.Berachot 2:5.

82) P.Baba Kama 4:3.
Baba Kama 38a.
Weiss, Vol.II, p.74.
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83) Baba Batra 10a.

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Hyman, Vol.I, p.316.

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95) Isaiah 1:11-17.

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Weiss, Vol.II, p.73.

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100) Berachot 24b.
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101) P.Berachot 4:1
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102) Berachot 20b.

103) Tosefta Berachot 3:7.

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105) M.Berachot 1:1.
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107) I.Seligman Baer. Seder Abodat Israel, pp.93-94.

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111) Ibid., p.64.

112) P.Berachot 4:2.

113) Berachot 17a.

114) Tosefta Pesachim 10.

115) Pesachim 116b.

116) Weiss, Vol.II, p.74.

117) Rosh Hashana 24a
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