

ZVI HIRSCH CHAJES

His views on
JEWISH LAW AND ITS ADAPTABILITY TO LIFE

MEYER PASSOW

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CHAPTER ONE: THE MAN.

Zbi Hirsch Chajes¹, Talmudist, literary historian and rabbi, was born in Brody, Galicia, on November 20, 1805, and died in Lemberg, October 12, 1855. His father, a scion of the famous Hayot family of scholars, was a highly educated banker who lived for fifteen years in Florence, Italy before settling in Brody. He provided a good Jewish as well as secular education for his son, who even at the age of five showed extraordinary talents. In Brody, where it was considered a sin for a Jew to speak German, the boy was taught French, German and Italian by his father, who was himself familiar with six European languages. He also received instruction in Latin, natural sciences and history. But Rabbinical lore was his chief study, his teachers being Zangwill Margoliot of Przemyśl, Ephraim Margoliot and Elazar Landau of Brody². The last two Talmudists, although void of all modern scientific methods, were yet men of critical insight and doubtless had a great influence on Chajes. At the age of twenty-two he received his diploma as a rabbi, and a year later took charge of the important community of Zolkiew, which numbered among its members Nachman Krochmal³. Although dissimilar in character and gifts, the two formed an intimate friendship, which exerted an especially wholesome critical influence on Chajes' knowledge and extraordinarily wide reading. When, in 1846, the law was promulgated in Austria compelling Rabbinical candidates to pass a university examination in the liberal arts and philosophy, Chajes, though already in office, passed his examination in Lemberg, and received the degree of Doctor of Philosophy⁴. After officiating for twenty-four years as Rabbi of Zolkiew, he accepted

a call as Chief Rabbi of Kalisch, Russian Poland, where he remained until shortly before his death, when he returned to Zolkiew. He stayed there for a short time only, and then went for medical treatment to Lemberg, where he died and was buried."

CHAPTER TWO: THE QUESTION.

During Chajes' lifetime a great question, destined to shake Judaism to its very foundations, was raised. The question was raised by those Jews in Germany who felt that the time had come to make certain changes in the religious practises of the Jewish people. And they answered the question in a manner which entirely displeased and profoundly moved Chajes and other orthodox Jews who were aware of what was taking place. Reformism had come forth on the stage of Jewish life with the query:¹

How can a body of laws created centuries ago still serve as our guide today? How can people who lived thousands of years ago presume to legislate for us of the modern era? How can people, living in the nineteenth century, breathing in new, great and world-embracing ideas still feel any allegiance to the Ghettoized sectarianism of the Torah and the Talmud? How can an ossified, rock-bound corpus juris possibly cope with ever-changing, never resting modes of life? New inventions, new conveniences, new thoughts, new vistas, have all combined to make obsolete and outdated those rigid, never-changing laws by which the Jewish people has been guided for millenia. And since Jewish law is incapable of adaptation and adjustment to the demands of a changing life-- it must be changed by external agents in order to suit it to the times.

To this great and terrifying question, as burning today as when first it was raised, Chajes gave an answer which is well worth considering.²

CHAPTER, THREE: THE ANSWER

PART I

Chajes realized very humanly and frankly that life makes demands which we must be ready to satisfy. For the Jew, let it be understood at the very outset, life, of course, meant the process of being and creating with the two Torahs as a guide. Everything the Jew did was guided and regulated by the Written and the Oral Torah. And taking for granted the basic doctrines of Jewish theology as regards the act of Revelation, Chajes goes on to show that Jewish tradition makes ample provision for the exigencies of man's existence, whether they be physical or spiritual. Chajes, incidentally, does not make of us an ascetic, dry-as-dust group; we have our physical and social needs, and they must be met. Chajes does not believe that fasting and prayer will solve the Jewish problem. Sound theory and wise practise are the foundations of Chajes' thought and preachments, showing a fullness and maturity of personality possible only in a great scholar, heart and mind.

We proceed now to a detailed examination of Chajes' views concerning the question of the Jewish law and its adaptation to life through the ages.

Laws, someone has said, were made to be broken. The Jewish view has not been quite so cynical, but it has realized that there are some laws which are incapable of fulfillment, either because they are no longer suited to the times, or were too stringent from their inception. Such laws were permitted to fall into disuse by the Rabbis, and it even became forbidden to publicize a certain prohibition

which was no longer being observed. The motive behind this view was

Better that they should err, and not deliberately sin.¹

In instances where certain laws were neglected or forgotten it came to the point where not only did the authorities not try to reinstitute the observance thereof, but they even made it possible for the people to get around the other injunctions which were known to be ^{too} exacting or unsuited to the times or human nature. In some cases, the laws were not accepted by the people originally, or else the prohibition might have prevailed at one time, and finally was not strictly observed, or else was entirely neglected.² Let us present an example.

According to the law of the Torah, not only must the Jew rest on the Sabbath, but his animals, servants and the non-Jewish sojourners within his gates, also.³ Consequently, just as it is forbidden to work for the Jew, so, too, is it forbidden him to command a non-Jew to do the work for him. Upon this point the Torah and the Oral Law laid great stress, yet do we not see the growth and wide-spread acceptance of the institution of the "Shabbos-Goy"? In the words of Chajes:⁴

We no longer protest against the custom of ordering the Gentile to light the candles on the Sabbath.

Obviously, experience taught the Jew that there were certain things which he himself was not allowed to do on the Sabbath, and yet had to be done. The problem was solved by having a non-Jew perform the necessary tasks, in spite

of the infringement of the law.

Another very important law which in former times had been very strictly observed was the necessity for the absolute physical purity of the priest and all the members of his family at the time that said priest was to officiate in the temple. One of the priestly duties was blessing the people, a function connected with great holiness and sanctity. If one of the female members of the family was in an impure physical condition, the priest was not allowed to bless the people. And yet at the present time, the Rabbis have taken upon themselves the responsibility of not making this law known, because they know that it is impossible of complete fulfillment. The reason for this Rabbinical attitude, according to Chajes, lies in the following:⁶

The reason for all this is, that, although it is the duty of the Beth-Din to remonstrate with the people that they should return to the good (for this is included in the category of positive commandments, namely, Rebuke thy friend) this is said in a case where there is at least a possibility that they may listen to us. But if it is clear to the Beth-Din that all their efforts will be in vain, then they do not have to protest. And there is a lurking danger that if we wish to restrain them from their deeds, they will oppose us with violence. From this, too, did Rabbi Moses Isserles⁶ learn the rule that now it is customary to be lenient and not to protest against those who violate a law.

So far for examples-which could be multiplied very easily-of those laws which were not-or could not be-observed, and the Rabbis had to give their tacit approval to the results of time and the changes brought on its wings. However, Chajes goes on to show that the Torah-Oral and Written-made provision in advance for human nature and its propensity for sin-

fulness, by deliberately opposing the Jewish law against itself:

Not only have they not made it necessary to protest in those matters in which they understood they would not be listened to, but the Sages went even further in such cases wherein they understood that it was difficult to bring back the masses to the proper path. And where there was a suspicion that the people would transgress the prohibition willfully and high-handedly, even though they knew the stringency of the prohibition, the Rabbis smoothed the way for them by finding devious ways and means. Or they permitted the transgression of a minor offense because they knew that if they would not permit them the shorter and easier path, they would take the freer road (i.e., the illegal way), and it is preferable, if absolutely necessary, that they commit a minor offense rather than transgress a stringent prohibition.⁷

Into this category fall two very prominent and important instances, both of which are treated of in the Torah. The first is the case of female captives being taken home by Jewish soldiers as their wives.⁸ If, in a foreign war, a Jewish soldier found a beautiful woman whom he desired, he could take her home, and after she had completed a period of mourning for her family, she would become his wife. Likewise, according to the Pentateuch, if the soldier did not find any further pleasure in his captive maiden, he could send her away, without having to worry about any moral obligations towards her. From any point of view, the latter procedure is definitely not moral or ethical, and absolutely anti-Jewish in its display of irresponsibility; and in the former case little consideration is shown for the feelings of the captive. Likewise, if the Jewish soldier became hungry in service, and sufficient food of a Kosher nature was scarce, it was perfectly permissible, on the field, to eat such victuals which would

otherwise be deemed as revoltingly un-Kosher at home. But- in the words of Maimonides-⁹

Soldiers are permitted to eat all forbidden foods if they become hungry, and cannot find what to eat.

And we must understand that there is a very important explanation for these two promiscuties. Maimonides says:¹⁰

The reason for this is that the Torah completely understood human nature, and realized that the greed of sexual desire during war-time, and the overpowering hunger during battle-when lust is burning within him-make it almost an impossibility for a man to control himself and be master of his deeds. Therefore, the Torah permitted such cases by considering them as being emergencies.

One can see quite clearly that the Law, in such cases, recognized the demands of life, and was quite willing-and able-to cope with them. Asceticism, monastic rigidity, does not determine the course of red-blooded virility and healthy stomachs which demand satisfaction; but a living, dynamic and humane Law is here the determinant. And no one can possibly accuse the Torah of failing to meet life in this respect-nor does it fail in many others. We proceed now to further examples of the adjustment of the rational Jewish law to the exigencies of irrational life.

One of the most important and unusual laws promulgated by the Jews was that of the She'mitah (~~Subsidiary~~ ^{Sabbatical} Year).¹¹ Few laws have ever been inspired by so strong an ethical motive as this one, and not much investigation is necessary to see that it bespeaks only humaneness and a desire for the equalization of material comforts. We know very well how highly the laws of the Written Torah were regarded; how great their sanctity in the eyes of the Rabbis. And it would certainly appear

to us that of all the laws to be kept and fondly protected, this one would take precedence over all others. But to cancel all debts, free all slaves, and in the fiftieth Jubilee year to have all property revert to the original owners, is a bit on the impractical side. The growing demands of business, and the necessary expansion of credit and the honoring thereof by those who had obtained it, made these beautiful rulings fall below the level of feasibility. They died, and we can see how the Prozbul of Hillel was promulgated to help business and credit,¹² whereas the original observance would have stifled them. However, Chajes makes a very important remark in connection with the disappearance of the observance of the She'mitah. And that is—That the disappearance of the She'mitah was not even honored with the gesture of a legal fiction. His exact words follow:

In those instances where they did not find a basis for permission by means of a legal ~~basis~~ fiction, they permitted the matter to take its natural course, as is explained in the Choshen Mishpat, Chapter 67, # 1, that the law of the She'mita has become obsolete in our midst, and no reason was found for this.¹³

As late as the fourteenth century, one of the greatest legalists was complaining very bitterly about the laxness of the people in the observance of the Sabbatical Year. Rabbenu Asher,¹⁴ upon his arrival in Spain from Germany, could not believe his eyes, and his rigorously legalistic mind was at first at a loss as to how to proceed in handing down decisions, but in the end he gave in. The words of Asheri are reported by his son Jacob¹⁷ in the Choshen Mishpat, Chapter¹⁴

67, # 1:

From the day of his coming to Spain he screamed like a crane, and no one paid attention to him, "because everybody was already accustomed to neglect the She'mita, and it is impossible to nullify their evil custom, I therefore left them to their habits."

A rationalization for discarding the Sabbatical year possibly could not be found, but a very good motive was present. It follows:

However the important thing is that we must consider only trade and credit, and there is no greater obstacle in the face of borrowers than this (i.e., the She'mita), and they (the Sages) understood that they could accomplish nothing with their chastisement, therefore they permitted them to follow their custom.¹⁵

The Law was great enough, elastic enough, and humane enough to realize that economics had to conquer theology, and if society were to flourish, certain oppressive observances, no matter how sanctimonious, had to fall by the way.

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We come now to that great instrument of legalistic reform of the Rabbis, that device which has smoothed out many a road made rough by juristic difficulty-the device which is equal to any occasion demanding rectification and adaptation, if a healthy, normal growth is expected, or if abnormal conditions exist, which make the true observance an impossibility. That device is the Legal Fiction. We cannot, in the all too narrow confines of this paper, begin to enumerate the uses to which this device has been put, but suffice it to say that it is one of the most important instruments of reform and compromise in the hands of the Rabbis-and they have not hesitated to use it. We will bring here a few ex-

amples which Chajes quotes, in order to illustrate this point. The holiest day in the Jewish calendar, the Sabbath, is replete with laws which are discreetly and legally violated by means of the Legal Fiction. After all, the Sabbath does come every week, and very often it is a business and economic hindrance, especially in the lands of the Diaspora. Chajes tell us that

Many things were permitted on the Sabbath because of financial loss.¹⁸

By means of the Legal Fiction actions which are palpably business dealings are countenanced. For instance, the author of the commentary Turei Zahab¹⁹, on the laws of Passover, Chapter 450, wonders that

'the custom has become widespread that the millstone of a Jew grinds on the Sabbath and the Jew receives his compensation accordingly, even though it is not an actual sale, since it is not a tangible product. However, the reason, in all these cases, is that in order that he should not violate a very strict prohibition, he is permitted to transgress this injunction which is of a minor nature, for a man is usually very concerned about his money, and the sages sought an easier way so that he should not have to deliberately and wilfully transgress the law.²⁰

The famous example of the Mishnah also falls into this category. There we are told;²¹

If it became dark Sabbath eve while one was traveling on the road, he gives his money to a Gentile.

If other monetary contingencies befall one who is overtaken by the Sabbath while on the road, they are also met by the Rabbis. They understood very, very well that a man's hard-earned money was as dear as his life, and law or no law, he would carry it with him until he reached a safe spot.

We have an even more startling example of the liberality of the law where money losses are involved. We are told the following in the laws of Yom Kippur, Chapter 613,²² [REDACTED]:

If one goes to watch his crops on Yom Kippur he is allowed to cross a body of water on his way, because of the financial loss which might be involved.²³

After reading such a statement no one can ever accuse the Jewish law of being hard and illiberal; even its holiest possessions are sacrificed on the altar of economic necessity. Another instance follows.

Time has brought us to the point where we have almost forgotten completely the holiness and importance of another oft-recurring occasion-Rosh Chodesh(the beginning of the month.)

As Chajes quotes:

It is forbidden to work on the New Moon, according to the Torah, since a sacrificial offering has to be made just as on Passover.²⁴

Such a statement should be sufficient to make us realize its importance. And yet

because of financial losses there is no restriction.²⁵

Even the most orthodox among us today, and for many years past already, no longer attach the same importance to the New Moon as we do to Passover. And we are even more surprised to learn that the only reason for which the observance thereof has fallen off is a purely economic one. X

Are we still entitled to say that our law is inelastic and inhumanly rigid?

We come now to some instances in which the Legal Fiction has been used as a means of helping the Jewish people adjust

itself to newly-arising circumstances, rather than relieving them in a case where an old-established law bound them disadvantageously.

The holiday next in importance to the Sabbath as far as complexity and intricacy of law are concerned, is Passover. Here, too, we find a classic example of the application of the Legal Fiction, employed to ease matters for the observant Jew. One of the important preliminaries in the preparation for the arrival of the holiday is the disposal of all utensils which have been used in the home during the year. Often, some food articles remain in a quantity sufficiently great to warrant their preservation during Passover, rather than being dumped out. But what is the law-observing Jew to do? Give his utensils-and food-products-away? Sell them as second-hand merchandise and then have to buy new ones? Such a procedure, to be repeated yearly, would indeed be very expensive for the poor, slaving Jew, barely earning his bread in the hostile atmosphere of the Diaspora. For this purpose the instrument known as The Selling of the Chametz was devised, and by its use all emergencies are met-and overcome. The whole procedure is a purely artificial one, but the money of the Jew is dear in the eyes of the Lord, and ways must be found to spare it. As Chajes says:²⁶

The later legal-arbiters... permitted us the use of the Legal Fiction in connection with the selling of the Chametz, in order to dispose of it for the Passover holidays, to a Gentile. And the sage, who was the author of the book *Te'vuoth Shor*,²⁷ commented already at the beginning of Chapter 2 of the Tractate *Pesachim*, that this whole matter is a Legal Fiction pure and simple, because we know that the Gentile who buys the Chametz, does not usually buy so great a quantity. Likewise, the owners usually do not sell on credit; yet we

do it since all our dealings today in the Diaspora are done in a business-like manner. If we will not permit them to do it legally, then the fear is very great that they may deliberately disobey the law, since a man cannot restrain himself when it concerns his money. So they permitted it by means of a Legal Fiction.

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The Jewish Law has been able to acclimate itself at all times to all conditions, countries and circumstances, and in many instances we find distinct localisms which one would never think possible in the supposedly universal Jewish Law. And in order to substantiate this point we will quote one of the greatest and most important paragraphs penned by Chajes. In this short section²⁸ he includes a wealth of material, worthy of a more detailed study and analysis. He shows herein the difference between the Sephardic interpretation of the law, and the Ashkenazic. The Sephardim were the "loose constructionists" and the Ashkenazim were the "strict constructionists." The former were consistently the more lenient, and the latter at all times were more strict.²⁹

We discover this contrast quite easily by comparing the decisions of the outstanding representatives of the two divisions; the Sephardim as represented by Joseph Caro,³⁰ and the Ashkenazim as represented by Asheri and his son Jacob. To be more exact, we must put forth as the representative of the Ashkenazim Rabbi Moses Isserles,³¹ who, living at the time of Caro, was able to attack his decisions and substitute for them the Ashkenazic rulings and observances. But Rabbi Moses Isserles was merely making the sentiments of the Asherites contemporaneous with the appearance of Caro's Schulchan Aruch.

We are told by Chajes that³¹

if one will investigate very closely all the laws of slaughtering, examination and forbidden foods, he will always see that the Beth³² Joseph who followed the decisions of the Spanish sages, is practically always more lenient

and

Rabbi Moses Isserles, who follows the decisions of the Ashkenazic Rabbis, is always more severe, and continually ends with the phrases- We must be more strict... This must be considered forbidden... So they are wont to do and we must not deviate.³³

Chajes goes on to tell us that the "excommunicators and forbidders" are the great representatives of the Ashkenazic branch, as, for instance, the Tosafists,³⁴ the Rosh, the Ba'al Ha' Turim, etc., etc. We do not find the name of Maimonides or Alfasi included in the roster of those who sought to institute new observances and laws. The Ashkenazim created rules and regulations even where there was no scriptural or Rabbinical basis for them; they were constantly adding to their great arsenal³⁵ of numerous prohibitions and stringencies.

We have seen that occasionally the Ashkenazim adopt new laws and customs which have no basis in the Talmud or in the decisions of the Sages, (but which stem rather) from the well-known actions of our Rabbi Judah the Pious,³⁶ and many new laws from the Rokeach.³⁷ And all these rulings are new to us; they are not mentioned anywhere, not excepting the Gemara and Agada.³⁸

About the Sephardim, on the other hand, we are told:

The author of the Tur has already stated (Orach Hayyim, Laws of Rosh Hashonah, Sec. 585) that the Ashkenazim are more zealous in the observance of the commandments than the Sephardim-and these are his words: 'There is a certain custom in Germany, that the notables of the city come early in order to be the first to blow the Shofar, something which does

not exist in Spain. There they flee from the observance of the commandments, until it becomes necessary to hire someone from the street (probably to complete the religious quorum-M.P.)³⁶

Rabbenu Asher himself is quoted to show his disdain for the laxness of his Sephardic brethren:³⁷

"Know that I do not eat according to their traditions--that is the Spanish traditions--because I follow our traditions and the doctrine of the Ashkenazic sages, for the Torah was their heritage since the days of the Destruction. So, too, the tradition of the French Rabbis is to be more respected than the Spanish traditions."--It was in Spain that Rabbenu Asher settled down towards the end of his life. So we see that he preferred to follow the customs and tradition of Germany than those of Spain.

The Asherite family, as we know, came to Spain from Germany, so that they were well able to see the difference between the rigorous Ashkenazim and the easy-going Sephardim. And since we have so much proof of the severity of the Ashkenazic Rabbis, we are not surprised that the German Jews became the bearers of Jewish asceticism and piety, whereas Spain was the land of Hebrew poetry and romance. But we mentioned adaptability of the Jewish law to the conditions of a given locality and it is at this point that we come to a startling revelation.

Yet we see that many permanently accepted decisions, which were of a prohibitive nature, decreed by the sages of the Mishnah and Gemara, and which were faithfully followed by the Sephardic Jews, were treated leniently by the Ashkenazim who said that these laws no longer apply in our day.⁴⁰

Let us remember--Laws created by individuals, laws which stem from the ethical treatises of the Rokeach and Judah the Pious--these "laws" were accepted as the norm of religious behavior

among the German Jews. However, the laws of the Rabbis, hallowed and revered, preserved through the centuries and serving as the standard of life for world Jewry, were pushed aside because they were found to be incompatible with the times. We bring a few examples of these startling reforms, and the forces instrumental in bringing them about will be discussed subsequently.

To extinguish a flame on the Sabbath is forbidden. Whether the flame be a little flaring up of a candle or an all consuming conflagration is of no consequence; it is forbidden to extinguish it. Yet ⁴¹

in the matter of permission to extinguish a fire which broke out on the Sabbath, Rabbi Moses Isserles wrote-'In our times, when we live among the Gentiles and we must be careful of all danger, it is permissible to extinguish (the flame) and the more diligent ones are to be praised.'

This paragraph speaks for itself. Furthermore, in the Mishnah Abodah Zarah, Chapter 1, we are told that three days before a Gentile celebration, all intercourse between Jew and non-Jew is to cease. But the German Jews nullified this prohibition.

Likewise it was permitted to do business with the Gentiles on the day of their celebrations, which according to the Mishnah is forbidden. The Tosaphists and the Rosh wrote that in our days it is permitted since we are apprehensive of their enmity. ⁴²

Furthermore, it was permissible ^{by Jewish law} to sell the security of a debtor who was not able to pay back the money he borrowed. Yet,

Rabbi Moses Isserles wrote (Choshen Mishpat, Sec. 73, # 14, and Sec. 369, # 8,) that the one who lends money on a security cannot sell it, except after the passage of a full year, since that is the law of the country.

Another instance. According to Alfasi and Maimonides, speaking in the name of the Gemara,

It is forbidden to domesticate a wild dog.

But in the Choshen Mishpat, Section 409,

Rabbi Moses Isserles concludes in the name of the emendations of Alfasi that now that we live in their midst, in any event, it is now permitted.

And we may very well ask, in the words of Chajes:⁴³

And whence does it come that the Ashkenazim, exacting and strictly observant in every legal detail (of a decision), should be so lenient in those matters, even against the Sages of the Talmud?

Before the answer is given, we wish to say that its contents will show quite clearly the fine grasp which Chajes had of Jewish history—a subject, which was, at that time, undeveloped in the scientific sense—and the understanding he possessed of the various forces entering into Jewish life of the middle ages in Spain and Germany. Graetz had still to produce his works decades later, and Jost had merely laid the foundation in his primitive production. Therefore, much of what Chajes wrote was probably achieved through his own research. And, of course, no other "Rav" of Chajes' type or time or environment⁴⁴ had even an inkling of the conditions of the middle ages, let alone a knowledge such as Chajes presents in his writings. The answer, now, follows in its entirety, both because of its representative style and its great interest:

The reason for this is known to anyone who carefully examines the history of our brethren in the German provinces years ago, in contrast with the position of the Jews in the Spanish provinces. He will see that in Spain, under the Arab rule, our brethren were very numerous, and they were crowned with To-

rah, wisdom and riches. They were important and esteemed in the eyes of the king and the generals, satiated with all things good. They owned property; and some of them were government officials, discharging their duties in the king's palace. Their duties were their chief preoccupation and trade (to them) was incidental. There was no great enmity ^{between} the other peoples and our brethren, and they did not suffer from the well-known accusations of malicious practices. But, rather, they were liked, important and esteemed by them (the Arabs). But the portion of our brethren in Germany was very bitter, and all doors were closed to them. They had no foothold or possession in the land, and they were not permitted to become citizens of the country. They were tortured and laid open to all evil incidents and occurrences, with nothing left to them but commerce and lending money on credit, as is well known.

And as necessity cannot be contemned, they were forced to take the shortest path open to them, even though they were thus violating the law. And when our Sages saw how evil the portion of their brethren was, and how inferior their status, they permitted their customs to persist because of the fear that the people would permit themselves to do more, since a man is usually very concerned about his money. In the Tur (Yoreh Deah, Section 159, in the name of the Tosaphists) we read: 'Nowadays it is permitted to lend money to the Gentile population on interest since all our business with them today is only on credit.' And one who examines the history of the Jewish people in the times of the Tosaphists and the Rosh and the Tur will easily understand the reason for this legalization, because nothing else was left for us except lending on credit. Also the sages permitted many things which were contrary to the law, because of the apprehensiveness of enmity and distrust on the part of the Gentiles. The Sephardim left the laws of the Gemara intact because they found no necessity to conduct themselves in a manner contrary to the rulings of tradition.

We challenge the wide world to cite a better example of a supposedly inelastic and ossified law adapting itself to necessity and circumstance.

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We turn now to another phase of Jewish Law, which speaks volumes for the adaptability and elasticity of the Jewish legal code-and that is, the place of Custom in our legal system. We can only begin to realize the reverence which Custom commands when we read such statements as

The custom of Israel is to be considered as a law of the Torah.⁴⁵

And we can begin to appreciate the power it wields when we see such statements as this:⁴⁶

Even if it opposes a permanent ruling of the Talmud, we say that the custom of Israel is to be considered as a law of the Torah, provided that this custom has some basis in the books of the Agadah.

It is surprising to see how many laws have been violated, changed and revitalized under the aegis of Custom, which has provided an almost immeasurable latitude for the spread of new observances and rulings. In short, the custom is the very breath of Jewish legal life; it is the most striking sign of the spontaneity of Jewish social development or legal self-discipline. Custom through the ages has bound the Jew, as well as liberated him. And although it very often has only a fragile traditional basis, if at all, it has dared to strike-successfully-at the mighty pillars of Bible and Talmud. The flux of life refused to be bound by the covers of legal tomes, and it took the law into its own hands-with startling results. We pass now to an examination of some authoritative opinions concerning Custom, and its reformatory activities, plus concrete examples of the abstract theory.

Rabbi Moses Isserles writes (Orach Chayyim, Section 690):

One must not mock any custom or abolish it, for it was not accepted without reason.

Joseph Karo writes:⁴⁷

We have seen that as far as a custom is concerned, if Elijah the prophet and his Beth Din were to come and teach us to follow the points of the law as against the accepted custom, we would not pay attention to him, since the custom is the important thing.

In the Talmud, Rosh Hashonnah, 15b, we find the question:

If a custom is observed in opposition to a given prohibition, how can we permit it?

To which Chajes, quoting the Tosaphists, brings the answer:

The idea of the Tosaphists there is, that as long as there is a suspicion of a violation in observing a certain custom, we nullify that custom since it is illegal. That is, we nullify it if we are able to object to the misdeed, for if not, we say 'It is better that they err, rather than sin deliberately.'

As early as those times it was already evident that Custom was an opponent of the Law which could not be easily worsted.

In order to show more clearly how Custom shackled and liberated,

Chajes has the following three paragraphs, which we cite in

their entirety:⁴⁸

- 1) Where the people has taken upon itself a more stringent observance, our sages, even though they know that certain leniencies are permissible, forbid publicizing them among the masses, where there is a fear that by doing so, the people would desecrate the essential part of the law, and would begin instituting their own reforms, thus making the words of our sages merely empty talk.
- 2) Concerning accepted prohibitions, in which no relaxation is at all possible, and towards which the people has adopted a lenient attitude for a long time, it is forbidden to

publicize their stringency. That is, in a case where there is a danger that the people will not hearken to the voice of their teachers, and the sages can avail nought with their chastisement. In such instances it is better that they err, rather than sin deliberately.

3) There are cases where the public is accustomed to acting leniently in the face of a prohibition, and the sages are able to protest against this. But at the same time, however, there is an individual opinion supporting the custom of the people, even though the majority opinion opposed their custom. In such a case the masters do not show any leniency in the law, yet do not protest either, but permit them their usual way of conducting themselves as they have in the past. This is because there is an opinion which supports this custom; possibly the custom was established on the basis of this opinion, as the Mor-decai¹ wrote in the name of the Or Zarua² at the beginning of the chapter, 'The Workmen'. We recognize only a custom which was established according to the local sages, as we have the statement in the Tractate 'Sopherim'--No law is established before the custom, and that only according to a sage.'

It is necessary to digress for a moment in order to say a few words about the phrase "individual opinion." Chajes discusses at length, from an historical point of view, the procedure by which laws were adopted or rejected. A majority vote in the time of the formation of the Mishnah passed a law, and minority opinions were discarded. However, if the legal expressions of a certain individual rabbi were pleasing to Rabbi Judah the Prince, the redactor of the Mishnah, he incorporated them in the Mishnah, but they were ruled out of existence by the sages of the Gemara. And we are to understand quite clearly that the minority opinions expressed had absolutely no validity, and no importance

was attached to those laws which were voted down. However,⁵²

if an individual opinion has not been completely obliterated, it still has enough validity and power to bolster up and support the custom in the given instance, since we do not nullify a custom and we permit it to remain without protest, not saying whether it is forbidden or permitted. See the Pri Chodosh,⁵³ who also voiced a definite opinion on this basis, i.e., 'If a custom has only an individual opinion, which confirms and supports it, we permit the people their custom even in opposition to the majority opinion, and it is forbidden to nullify it under any condition.'

Now, we mentioned above, that the legal opinion expressed by an individual rabbi, which was ruled out, had no force, and no legal validity. However, the Rabbis of a later date were so willing to give their sanction to new customs in order to protect their authoritativeness, that they accepted as valid any individual opinion which could be regarded as a basis for an accepted custom. In other words----

The legal authorities of the Jewish people of later centuries were willing to contravene the entire legal and historical procedure of the Jewish law-making bodies of previous centuries, no matter how revered and sanctified their work may have been, in order to sanction and validate the products of social necessity and change induced by circumstance. Incidentally, if there arises the question of "prevention of marriage",⁵⁴ or "pain and loss",⁵⁵ and the Rabbi can be of help only if he is to accept the opinion of an individual authority, then, by all means, he must do so, even if the majority opinion does not favor such a procedure. We quote the paragraph:

Besides, you must know that these rejected individual opinions, which are used as a basis for supporting an accepted custom, may be used by a rabbi for assistance at the necessary time in the case of the prevention of marriage and in a case of pain or financial loss. Even though we do not publicize these opinions among the masses, still as far as a rabbi or a writer is concerned, or if one is engaged in a thorough examination of the law, there is no prohibition upon him, in the course of his discussion, which prevents him from quoting all the opinions which were said, either by an early sage or a later one.⁵⁶

To go back to the question of the precedence of Custom over Law. We have now the following remarks to take into consideration. The Beth-Joseph (the commentary of Joseph Karo to the Tur of Jacob ben Asher) and Rabbi Moses Isserles, those two pillars of legal authority and judgment, and Chajes' guides, reckoned with Custom so much that they gave it preference over an opposing law. As Chajes Says:⁵⁷

I have found that they (Karo and Isserles) did not deviate from their support of a custom which they found widespread in their days, even if it opposed a law.

As is well known, Rabbi Moses Isserles was one of the leading protagonists of Custom and its role in Jewish Law, and there are many, many examples in which we find him handing down decisions in favor of Custom, and at the same time disregarding completely the accepted law. Occupying the position of arbiter in legal matters in his time, it can easily be seen that his decisions almost amounted to the creation of new laws, and his defense of Custom made it an impregnable fastness against the pilpulistic attacks of

recognized law. He realized that some laws "are, not suited to the time and place"; or that

conditions have changed and with the disappearance of the cause, the effect goes with it. Therefore there was no protest made on his part.⁵⁸

In other words, Rabbi Moses Isserles was possessed of a legal mind great enough to understand that life, if not aided by law, will overwhelm it and make it obsolete. In his own times, mighty achievements in the field of law were being made. The great codes of Jewish law were at that time being written; great minds were devoting their entire lives to assembling, clarifying, purifying and crystallizing the extensive and confusing Jewish corpus juris. All who were engaged in that work were giants. It is enough to mention such men as Karo,⁵⁹ Heller,⁶⁰ Sirkis,⁶¹ Falk,⁶² Jaffa,⁶³ Samuel Edels⁶⁴ and Meyer of Lublin;⁶⁵ and then we can first appreciate the importance of Isserles when we learn that in the matter of legal judgment he tops them all. He was broad-minded enough to understand that Judaism to live, must have a dynamic body of laws to govern it; it must change, discard and revise its laws. Judaism must keep in tune with the times, otherwise it will become fossilized and forgotten. Consequently, his strong, positive stand in dealing with the place of custom in the life of the Jew. And so we see that many of the laws of mourning,⁶⁶ for instance, were changed; the Talmudical prohibition of a father bathing with his sons was wiped away.⁶⁷ Likewise,

in our day all laws of danger, pairs and evil spirits have been abolished.⁶⁷

Let us remember that even though there was a Talmudical prohibition against eating food products in pairs, Chajes states that

still all these laws have been nullified in our day because the danger has disappeared.⁶⁸

Formerly, wine which had been left uncovered was forbidden to be used; but

since in our times snakes are not so frequent and in our country the snakes are not poisonous, the beverages which were left uncovered are permissible.⁶⁹

We are all acquainted with the strong Jewish fear of eating fish and flesh at the same time; yet Chajes states that the Magen Abraham,⁷⁰ one of the greatest Jewish legal minds,

wanted, at the present time, to be lenient as far as the danger of eating fish and meat is concerned.⁷¹

To go a step further, Chajes shows us an even more startling examples of Custom's victory over Law. The Law absolutely forbade a woman to marry a third time if her two previous husbands had died. Such a woman was known as a "murderess". However, the time came when this strict prohibition was relaxed, and its violation became an accepted fact. In the words of Chajes:

There is no law more stringent than that concerning the danger of a "murderess", a woman whose first two husbands have died. Still we have seen quite explicitly (Eben Ha'Ezer, Section 9, Isserles' emendation) that many authorities are lenient in the matter of a murderess and there is no cause to protest.⁷²

The reason given for this relaxation is that now conditions have changed.⁷³

Does this not sound very much like our own phrase "Times have changed" ?

Lighting a fire on the Sabbath is, of course, forbidden,⁷⁴ since it is considered one of the primary forms of labor which, if committed, are grounds for the death of the person performing them. The Jew is not permitted to light a fire on the Sabbath, and neither, strictly speaking, is a Gentile allowed to do it for the Jew. It is understood, therefore, that the Jew may not command his Gentile servant to make a fire for him on the Sabbath. However, what does Custom have to say in this matter ?

Since the cold is very strong during the fall and winter in our country, and every one becomes ill with colds, the rabbis are lenient in permitting the lighting of the stove on the Sabbath by a Gentile.⁷⁵

Likewise, Isserles was lenient in the matter of sleeping in the Succah because of the Fall weather, terming such a procedure "שוכן" (Orach Chayyim, Section 639). So, too, we find him taking a very radical step when he considered such beverages as beer and whiskey as "שכר גמור", thus making it possible for them to serve in place of wine for Kiddush and other occasions.⁷⁶

The horror of our rabbis in the matter of "כוסות" and "כלי" is very well known, and we also know how stringent they were in prohibiting their use by Jews. Chajes, however, tells us that

since the status and position of our brethren has changed now, and the standards and ideas of our hosts have also changed, since it is an accepted fact that the Christians in our times are not pagans, our arbiters have, therefore, permitted us many things which the Gemara formerly forbade us, and Rabbi Moses Isserles (Yoreh Deah, Section 114)

showed no objection against the use of their bread and beverage.⁷⁷

Isserles also permitted Jews to deal in the sale of non-Jewish wines and

gave permission to benefit in other ways from Gentile wine.⁷⁸

We mentioned above that the Mishnaic prohibition of business dealings with Gentiles three days before their celebrations had become entirely neglected; Isserles not only accepted this state of affairs, but went even further. He permitted the Jews to deal in the religious articles of the Gentiles.

Even with those objects which they hang on their necks⁷⁹

could the Jews deal with. In general, as Chajes says, many things are today permitted which formerly were strictly forbidden

for fear of their (i.e., the Gentiles') enmity, and because we live today among the nations, whose dominion is over us.⁸⁰

The Jewish fear of ridicule was also taken into account by the legal authorities, and we find such statements as the following:

On Tisha B'Ab one is allowed to go with his shoes on through streets inhabited by Gentiles, for fear that they may jeer at us. (Isserles, Orach Chayyim, Section 554, #27).

Likewise, we have the following provision in the Magen Abraham, Laws of Tephilin, #205:

In an instance where Gentiles reside on a certain street, one does not have to wear his prayer-shawl in passing that street.

The Talmudical injunction that the top of the synagogue must be higher than any other building in the town was also per-

mitted to lapse. Joel Sirkis writes:

We reside in the midst of the various nations and we are apprehensive of their enmity. And because of this there is no necessity today to make the synagogue higher than the other edifices, even though this is a law of the Gemara, and deduced from the Bible. See Shabbos, 11a.

To the interested reader, chapters three and four of the Darke Ha'Horaah will be a mine of information concerning changes in old laws, creation of new ones, and modifications of accepted ones. It is impossible, in the confines of this short thesis, to enumerate all the changes which resulted from the clash of Custom with Law; suffice it to say, they are legion. The few examples we have brought here are sufficient, we hope, to give the reader a firm basis for the realization that the Jewish legalists were very far from "sleeping at the switch"; the current of the times never passed along without them. Where changes were necessary, they did not hesitate to create them-if they were not in existence already. If they were-then these self-created modifications were accepted as a matter of course. We have seen that through the ages Jewish legal authority did all in its power to meet life and its demands. Beginning with the Torah down through the Schulchan Aruch, we notice a constant recognition on the part of the Jewish legal mind of the necessity of adapting the nation's laws to its new surroundings and environment. Very often, laws of the two most sacred codes-Bible and Talmud-of the Jewish legal system had to be violated; we can be quite certain that it was not done with relish and zest. But where life had to be ac-

comadated, law had to make way, even if said law was held to be divinely given. We have seen how the greatest spiritual possessions of the Jew were sacrificed on the altar of necessity; the Sabbath in many ways, the New Moon completely, Chol Ha'Moed in many cases--all being violated in order to ease the economic burden of poor, oppressed, suffering Israel. So great a gift to the world of ethics as the Sabbatical Year was also consigned to oblivion, because life was too hard and brutal a garden in which to plant so fragile a blossom. It is, therefore, very unfair to say that Judaism has lived by creating around itself a shell of legalism which life could not pierce. From all indications, it would seem that through the ages, Jewish law has been shedding its skins, and thus kept itself elastic and warm, pulsating and alive, rather than ossifying and becoming hard and cold. No, indeed not; Jewish law has been the first sign of Jewish life. To realize and appreciate the vitality of the Jewish people, one need only study its laws. They will show him that the Jewish body is as alive today as it was when it was born at the beginning of history....

* * * * *

Besides treating of the more important laws and their modification and of customs which were instituted illegally, so to speak, Chajes also deals with the question of certain observances which have come to be considered as law, or immutable custom. It is truly surprising to find how reverently these religious practises are observed, even though they have no basis either in Scripture or Talmud. And yet if they

were to be abolished, a hue and cry would be raised which would cause one to believe that a dastardly crime was being committed.⁸¹

Taschlich, of course, is not more than a custom. Going to the cemeteries and lying prostrate on the graves of the Zaddikim was something which Chajes deprecated very strongly. One must remember that this was a procedure which was very strictly observed in Galicia, and we must admire Chajes' courage in speaking out so openly and strongly against it. Kaporos, too, was a custom against which Chajes brings the opinion of the Beth Joseph (Joseph Karo), Nachmanides,⁸² and Rabbi Solomon Ben Adret.⁸³ These three, we are told,

complained bitterly about this and wanted to abolish it, because it is reminiscent of pagan conduct.⁸⁴

Likewise, it was customary until quite recent times, to add a great many Piyutim and Yotzroth (Liturgical Poems) to the morning prayer;⁸⁵ these additions were inserted in the Blessings of the She'ma and the Amidah. Chajes brings numerous authorities who violently oppose this, because, according to the law, it is forbidden to interrupt the prayer at these points for any reason at all. Chajes immediately shows us that these interpolations have no basis whatsoever, and the formidable array of Rabbis who opposed it is enough to convince us that eventually this custom would be eliminated, as, indeed, it has been. However, we wish to quote one authority's words, with which Chajes concludes the paragraph treating of this matter:⁸⁶

And above all you will see that the Pri Chodosh, commenting on Orach Chayyim, Section

112, was most vociferous in his objection to the practise of wasting time in saying the Piyyutim, and he concludes with the words: 'He who listens to me and shortens his prayers wherever possible, God will prolong his days and his years in happiness.'

Another institution which at one time was widely accepted, and now partly retained, is the selling of the "Mitzvoth." Formerly, it was done on the Sabbath and all holidays; in many cases it has remained as part of the service of the more important holidays. Even though this custom was a widespread one, legally, as Chajes shows, it was wrong. Many authorities opposed it, and its disappearance was not regretted. Selling "Mitzvoth" during the service certainly did not enhance the beauty and decorum of the ritual, and Chajes was quick to realize this.

In concluding the first part²⁷ of his Darke Ha'Horaah, Chajes very strongly attacks certain customs, which he leaves to the imagination, and calls them throwbacks to magic, pagan worship and childish stupidity, fostered by old grandmothers. A large section of the chapter is an appeal to the rabbis to uproot these customs and beliefs wherever possible, since he feels that they "hasten the destruction of the nation, (and) the corruption of pure thought and the precious, chaste ethical qualities." Chasidic Galicia was never the home of enlightened thought, and the slightest criticism of the most inane custom was sufficient provocation to ostracize the critic, if not, indeed, to harm him more seriously. That Chajes spoke at such length, and so courageously of these matters, is a tribute to his own courage and a mark of his intellectual

honesty. For the greater part, the mass of Galician Jewry neither knew what he said, nor cared to know.

May it be His will that Orthodox Jewry throughout the entire world may yet repair the great loss which it has incurred through its neglect of its greatest product of the last two centuries....

THE ANSWER

PART TWO

The great religious movement which came into bloom during Chajes' lifetime was the reform movement in Jewry, with Germany as the locale. Since the last decade of the eighteenth century, this movement had been trying to make headway among the Jewish masses with little success. At first its destinies were directed by laymen, such as Jacob Beer,⁸⁸ Israel Jacobson⁸⁹ and David Friedlander,⁹⁰ but after the first quarter of the nineteenth century, the Rabbis began to think seriously of Reform and its possibilities. To speak in detail of the Reform movement and its vicissitudes here is unnecessary, since they are too well-known to have to be rehearsed. Suffice it to say, that, when the leaders of the German Reform movement felt themselves sufficiently strong, numerically and qualitatively, they planned and held their first ^{important} assembly. It was held in Brunswick, from June 12-19, 1844,⁹¹ and the impression it created in Jewish circles was a deep one. To many observers in Galicia and elsewhere this assembly came as a shock, since no previous news of the activities of the Reform group had come to their ears. True, Moses Sofer of Hungary,⁹² and Mordecai Benet of Moravia,⁹³ to name the most prominent ones, had already attacked the movement--but not systematically and logically. Bernays,⁹⁴ the chief Rabbi of Hamburg, and the three other rabbis of the same city had also entered the lists against this new wing in Jewish life. But all these attacks smacked too much of fanaticism; they were not the answers of cultured men like Chajes. In background and temperament they were too one-sided; and above all, they were not constructive in their criticism.

Chajes went further than they did. He was not surprised by this assembly. It came, rather, as a signal for open combat on his part against this group, with which he had already been familiar for some years. Chajes had the advantage over his fellow-Rabbis of eastern Europe in this respect: knowing European languages, he was able to follow carefully all that was going on in other countries--especially in Germany. Consequently, he was well-informed of happenings in the Jewish circles in Germany, mainly through the medium of a periodical, "The Orient", to which he himself often contributed. Among the contributors were also Geiger and Phillipson; Chajes, therefore, was able to know from first hand sources what the opponents of orthodox Jewry thought and did. With his remarkable acumen, and great foresight, Chajes understood that a war to the finish had been declared on traditional Judaism, and it was the duty of the orthodox Rabbinate to protect their heritage from the onslaught of these wilfull, arbitrary men, who sought to change in a few years that which the millenia had wrought. And Chajes understood what these men would accomplish by their activity; he understood that only one result could issue from any arbitrary and prejudiced reform--Chaos. As shown in the first part of this essay, Chajes did not oppose reform which was gradual and of an evolutionary nature. He knew that time must take its toll; it forces change and adaptation upon law and its ramifications. No, he was not a reactionary; nor, on the other hand, a revolutionary. Reform, to him, meant another stumbling block in the path of a blundering, divided Jewry. He understood very well that the

Jewish people had little to bind them and preserve the feeling of unity which lived among them only in a miraculous manner. With no allegiance to a central authority, with no moral suasion to keep them bound to a government of any sort; with only their own groping, undefined love of the Jewish ritual and its observance acting as their life-preserver--a reform of the dimensions proposed by the German wing of Jewry would mean obliteration of the Jewish identity.

Reform, ^{as he saw it,} had to go hand in hand with the quiet, steady pace of human unreasonableness; a reform from above to the masses below would have no effect at all except a disintegrating and destructive one. The masses, not knowing the difference between one custom and another, would drop them all. Consequently, nothing would be left. Chajes remarks that to many people these customs and observances are as holy as the Torah itself, and their abolition would bring about a cleavage between those who would fight to retain everything, and those who would feel that if partial reforms can be made by the Rabbinical authorities, total reforms can be made by themselves.⁹⁵ Thus, no foundation would be left upon which to erect another edifice of any sort whatsoever. The very foundations of Jewish law and life would be wrecked, and there would be but one path left for the Jewish people to tread--the road to assimilation and obliteration. His idea as to what shape reform should assume can be best represented by the following passage:⁹⁶

Certainly, in itself the abolition of these customs can do no harm, but let us turn our attention to the great arguments and strife which the abolition of these phases (of our religion) in Germany has caused in our times, to the extent that in many congregations the people have been divided into two camps, and were thus compelled to found separate houses of prayer, and the cries of the two warring sides can still be heard.

The Rabbis, in permitting certain undesirable customs to exist, "understood and knew from experience

that the entire matter of reform causes the destruction of communal order and brings about cries of protest and disorderliness. And the principle in these matters has been that it is preferable that the people err, rather than sin deliberately; and they have been permitted to conduct themselves as they had previously. And if, in the course of time, a custom naturally fell into disuse, it is of no consequence. 97

Chajes, in short, understanding the tragic fate of Jewry, and realizing that at the most crucial moments in its history chaos and inner conflict sapped its strength, very much feared that such might be the case in his own times. Given time and patience, the Jewish ceremonial would adjust itself to the times and surroundings; man-made reforms could not accomplish what time could do; ~~it~~^{they} could only rip open another wound in the Jewish body, and leave it raw and gaping. It is for this reason that Chajes so bitterly attacked Geiger and Holdheim, forgetting, in his resentment, his usual gentleness and sweet temper; stooping, we may be sure, to his own regret, to the level of a personal attack upon these two gentlemen and their disciples. Holdheim is described by Chajes as being an

enemy and slanderer against us at all times.⁹⁸

He even compares him to Eisenmenger and other notorious anti-Semitic writers. When we read other descriptions of Holdheim, however, we receive an entirely different impression. Bernfeld writes of him that

he was among the insulted ones and not among the insulting ones.⁹⁹

In another place we find this description of Holdheim:

He was a modest and quiet man, far from vanity and pride, detesting, by nature, all contention.¹⁰⁰

That Chajes could speak so bitterly of him shows how great his resentment of Holdheim and his work must have been. But then we should not be surprised. Holdheim declared that a Jew is not to be believed when he takes an oath,¹⁰¹ and Chajes with his strong love for his people would not accept such an accusation against them with equanimity. Before his very eyes he saw the holiest and most fundamental Jewish traditions being discarded by the fiat of the Reformist leaders, and his pain was correspondingly great. Let it be clearly stated here that Chajes himself favored reforms in the synagogue ritual; reforms which to us, today, may seem very trivial, but which in those days were of world-shaking importance. First of all, a sermon, at the beginning of the nineteenth century, in the language of the country, was an abomination of which orthodoxy would hear nothing. Yet, Chajes, in describing the work of Israel Jacobson, tells of his introduction of the German sermon and comments:¹⁰²

A sermon in the vernacular is in itself perfectly proper.

Customarily, the Eastern European Rabbis delivered only two "sermons" a year; on the Sabbath of Repentance and on the Great Sabbath. And one can scarcely call them sermons. They were long Pilpulim, entirely incomprehensible to the masses, and unnecessary for the learned classes. Chajes realized that this feature of the service could become a valuable asset in the education of those whose knowledge of things Jewish was a faulty one. In this matter, therefore, Chajes was one of the first to appreciate the trend of the times, and we find him perfectly willing to accept this innovation.

There was another matter in which Chajes was among the very first in the orthodox camp to start with the right foot.

This was the question of placing the almemor in the centre of the synagogue floor. As late as 1890, Rabbi Isaac Elchanan Spector,¹⁰³ the distinguished chief Rabbi of Kovno, would not enter a synagogue whose almemor was situated at the very head of the edifice, near the Holy Ark. Chajes, however, quotes Maimonides¹⁰⁴ as saying that the almemor has to be in the center only "in order to facilitate the congregation's hearing of the reading of the Torah." The Kesef Mishneh¹⁰⁵ is quoted as saying¹⁰⁶ "that many congregations were no longer particular about this matter." In general, having the almemor in the center of the floor is only a "custom of the pious",¹⁰⁷ and is not "a basic law."¹⁰⁸ Here, too, we have an example of an intelligent Rabbi's approach to those problems of the day, which could very easily be solved by appreciation of the fact that the elasticity and adaptability of the Jewish law and ritual are still functioning today. An unreasoning

teacher would have excommunicated the innovators of this idea; Chajes gave it legal sanction by showing that it was not a fragile, overly-sanctimonious institution which had to be defended to the last breath.

Another innovation which received Chajes' sanction was that of the choir. Orthodoxy objected to choir-singing in the synagogue because in the church ritual the choir was an indispensable appendage. To introduce a choir into the synagogue would mean accepting a custom of the Gentiles, which, of course, is even too horrible to contemplate. Chajes showed that the reverse is the truth. Choir-singing was adopted by the church-fathers from the service in the Temple, making it, therefore, a Jewish institution, and not a Gentile one.

They adopted this institution from us,
therefore, we need not fear that we
are following their tenets. /o9

The lack of decorum in the synagogue distressed Chajes' sensitive nature, and he praised the efforts made in various congregations to regulate the services, and thus induce a more respectful attitude on the part of the congregants towards the synagogue and the ritual. He approved of an innovation which was at first adopted by the reform congregations, and then gradually was taken up by the orthodox groups. This was the procedure of having all mourners repeat the Kaddish after the cantor, rather than have a Babel of voices competing with each other, trying to see who could finish first. //o

As stated in the first part of this section, ^{///}the saying of additional Piyyutim was also distasteful to him, and he was

highly gratified to observe its disappearance. He felt that these Piyyutim interrupted the continuity of the prayer, taxed the patience of the congregation and were legally wrong.

Decorum,¹¹² prayers of a reasonable length and of traditional importance, a sermon in the language of the country, orderliness and respectfulness were the desires of Chajes' heart as far as the external improvement of the synagogue ritual was concerned.

So we see that in those matters which require only foresight and understanding, rather than theological disputationsness, a way out could easily be found on the basis of traditional sources and authority. Chajes' greatness lay in his ability to find the sources, use—~~them~~—not pervert-them as was necessary, and thus take his place in the front ranks of progress and adjustment.

However, we have shown above what stand Chajes took in those matters which today appear to be of little importance. Now, let us turn our attention to some matters which even today provide the basis for bitter contention among certain factions in Jewish life. One of these points is the saying of prayers in the language of the country. This was one of the vital reforms of the German reform wing, and to them it was a very, very important step in bringing the Jews to a clearer understanding and appreciation of the synagogal ritus. From the layman's point of view it was also a necessary step; many of them did not know enough Hebrew to understand their prayers, and what was more unfortunate, did not make the attempt to learn enough Hebrew to be able to appreciate the prayers. Orthodoxy would not budge from its premise that

every Jew was supposed to learn enough Hebrew in order to understand what he said; at the very most they permitted prayerbooks to be used which had the original Hebrew accompanied by the translation. But to say the prayers in the vernacular was something that could not be permitted. This issue has remained a bone of contention down to this very day. The various attempts made to settle this argument have been legion, and they do not quite enter into the scope of our discussion. Let us, however, turn to an examination of the sentiments of Chajes in this matter, and see how they reflect his ideas of the adaptability of Jewish law to life.

* * * * *

Chajes' statements in this matter can be divided into two categories: legal and nationalistic. He-and through him, other authorities-sanctions the saying of prayers in the vernacular,¹¹³ but his strong love of Jewish tradition, his respect for historical continuity and his fear of chaos in Jewish life prompt him to frown upon the acceptance of this step. Each point will be taken up separately.

Maimonides, in his Code,¹¹⁴ quotes Sotah, 32b, when he says that the reading of the She'ma, the eighteen benedictions and Hallel may be said in every language.

Maimonides¹¹⁵ is also quoted to show that prayers in the vernacular are permitted, on condition that they be said with the same concentration and spirit of reverence as the Hebrew original. And so Chajes proceeds to show that there are many authorities who sanction such a procedure. In some instances there is a reservation to be made:

One may say the eighteen benedictions in any language he understands, that is, if he does not understand Hebrew. But if one knows how to read Hebrew besides another foreign tongue, most arbiters are of the opinion that he cannot discharge his obligations in the matter of prayers in a foreign tongue."⁶

The general tenor of the discussion is that there is no prohibition against prayer in the vernacular. What is to be avoided is a corruption of the language which is substituted for the Hebrew. Chajes' contention is that Hebrew is one of the very, very few tongues which have not become jargonized and adulterated; and German (the first language of Reform) is a combination of Teutonic, French and Latin elements. Now, when the Jews returned from Babylon in the times of Ezra, the same question existed, for it was found that almost everyone had forgotten his Hebrew. It was impossible for the Jews to pray in the Holy Tongue, since their command of it was wholly insufficient for that purpose. (We must remember that prayers at that time were the spontaneous requests of the individual.) Ezra feared that prayers uttered in a Babel ~~of~~ of tongues would lead to religious and social chaos. Consequently

he decreed the saying of the eighteen benedictions in an orderly fashion,

which blessings were to be accepted universally as the prayer-
in Hebrew-of the entire Jewish community. Chajes goes on to
say:⁷

We have seen that the main idea behind the efforts of the Great Synod was to institute a pure, and uncorrupted form of prayer to be said in a single, unjargonized tongue.

To utilize a corrupted tongue for such holy purposes as are required by the synagogue ritual would be a desecration of our holiest possessions, and only a pure, unadulterated tongue can be accepted. So, according to Chajes, even if we assume that the French and Latin terminologies found in German are accepted as part and parcel of the tongue, he does not feel that saying the prayers in German and Hebrew is correct. However, he immediately quotes Maimonides, who

did not forbid the saying of a prayer
in two different languages

on condition that

each language in itself is a clear,
pure tongue. //9

In short, then, we can do no better than to bring to the fore Chajes' conclusions in the matter. We quote his opinion:¹²⁰

In this entire matter of saying the prayers in any language, we are to understand that this is the case only where the worshipper actually says them in the form in which they were decreed by the Great Synod, on condition that the contents are translated letter for letter, or at least that the entire content of the prayer (be preserved) without any addition or subtraction.

The Reformed version of the prayers was for him an unbearable one; no mention of the resurrection of the dead, omitting the imprecation against the Minim, no reference to the coming of the Messiah, the rebuilding of the Temple and the Jew's nationalistic aspirations as expressed in his prayers--all this led Chajes to the conclusion that these men themselves were Minim. The Hebrew language was dear to Chajes, and in his estimation it was one of the very, very few bonds which kept the Jewish people from disappearing as a distinct body. Yet he might

have been willing to forego its usage in order to accomodate those Jews whose faulty Hebrew education prevented them from properly understanding and employing the Holy Tongue for purposes of prayer. But to obliterate all references to the nearest and dearest Jewish hopes--this was the limit of his patience, and he was forced to regard those who omitted these references as traitors to the Jewish tradition.

Chajes' insistence that the prayers, if said in another tongue, be translated "letter for letter", sprang from his realization that individualistic translations would deepen and widen the already existing chaos in Jewish life. Internal strife was the one great fear of his life, and he was very anxious to avoid it whenever there seemed to loom a possibility of it. In this matter, Chajes felt that translations of the prayers would be a stepping-stone for those who sought personal aggrandizement,¹²¹ and would give each translator the opportunity to proclaim himself as having produced the translation of the Hebrew prayers. Furthermore, Chajes felt that certain portions of the prayer service could not adequately be rendered in a tongue other than the Hebrew. Either the translator does not know enough Hebrew to properly translate the text, or else a translation would render the idea ambiguous, and possibly quite misleading. For instance, on Friday evening, after the completion of the Shmoneh Esrai, we say a prayer which begins as follows:

He with His word was a shield to our
forefathers and by His bidding will
quicken the dead, etc. etc.

Later in this prayer we find the following passage:

Him will we serve with fear and awe,
and daily and constantly we will give
thanks unto His name in the fitting
form of Blessings. 122

The underlined phrase is a translation of the words *מִיָּדָה בְּרָכָה*. This phrase, as one instance in Chajes' objection to the translations of his time, is almost impossible to render faithfully. Chajes quotes a translation in which he saw these words rendered as "the source of blessings." The translation betrays both the ignorance of the translator and the impossibility of correct rendering of certain Hebraic phrases and idioms. For, we know, and as Chajes points out, *מִיָּדָה* here does not mean anything else than "kind of", "sort of". In other words, the real meaning is:

We will give thanks unto His name in
a prayer which is a sort of grouped
blessings.

This prayer, as we know, includes all the blessings of the preceding Shmoneh Esrai, in a very abbreviated form, and this is the meaning of the "sort of" or "kind of." Chajes, however, does not spend much time in condemning translations; legally, they are permissible. And if, as shown before, their contents are not modified, there is also no theological objection. Of course, prayers in Hebrew would be better from the nationalistic and traditional point of view, but if the times demand prayers in the vernacular, then provision must-and legally-could be made.

* * * * *

Let us turn our attention now to some other phases of Chajes' views of the reforms necessary in Jewish life; views, which if faithfully adopted, could well prove to be the salvation of the Jewish people. These expressions of opinion which we are now to consider, deal mainly with the social aspects of Jewish life of those days, and they cast a very revealing light on Chajes' understanding and appreciation of the underlying factors which constitute society. They also express quite vigorously the importance of good schools, trade and cultural, for those Jews who lived only on "luft." Then we must consider his views on the rabbis of his day, and what he believes should be the prerequisites of a Rabbi's knowledge as the leader in his community. Let us see first what he has to say about the evil common to all Jewish communities-i.e., the building of magnificent synagogues at the expense of more vital social and cultural structures:¹²³

(So we see that the sages of the Talmud) did not consider the building of synagogues as a very important commandment. On the contrary we have heard that an important commandment is the one of rescuing captives... To squander large sums of money in order to build, is not at all to be considered-in itself-as fulfilling an important religious injunction, if it is necessary to sacrifice for its sake the lives of people, who need to be helped and taught in their time of need. In this manner did I answer a small community, which had difficulty in supplying the conscripted number of men for the army, and consequently was forced to pawn the candlesticks of the synagogue. I permitted this because the redemption of captives is a far more important injunction than beautifying a synagogue... We find in Shabbos 12b that the synagogue is to be taller than all the other edifices. That is, it is to be taller; but that does not mean that

it is to be prettier in order to delight the eye of the observer. It is better to spend the money for healing sick bodies by building hospitals, to obtain freedom for our prisoners, to help our poor, miserable brethren by founding schools in order to teach them Torah and a trade.

The broader aspects of social work, and the work for the improvement of the lot of the unfortunate could be very well guided by this brief yet comprehensive program.

When Chajes began his fight against the Reform movement, he was perplexed to find that very, very few orthodox Rabbis participated in the battle against the Reform movement. And he found that there were three types of Rabbis¹²⁴ to be counted in the orthodox camp. First, those, who knowing of the movement, proclaimed it as being anathema to all faithful adherents of orthodoxy; second, those who were afraid to come out openly against the movement, since they feared that if the machinations of the reformers became known to their congregants, then they--the orthodox congregants--would themselves become adherents of Reformism; third, those who knew nothing of the entire matter. It is against this latter class, especially, that Chajes delivers his sharpest criticism, and speaks of their ignorance with contempt and wonder. That Rabbis--leaders and teachers of communities--should be so woefully oblivious of the great cultural world about them, and totally ignorant of the world-shaking events that were taking place, was to him an unspeakable crime. In his words:¹²⁵

They do not discharge the obligations and duties which their position in the community puts upon them, because their rank demands of them that they do not act like cattle, who rely only upon their senses,

and what they see about them. But it is their duty to learn the history of their people, that is, the ancient period, and especially must they know what is happening at present in the Jewish camp. And Rabbi Jacob Zvi¹⁶ has already written in his book Mor U'ktziah, in the Laws of Sabbath, Sec. 307, on the question of studying books of science on the Sabbath. This is what he wrote: 'Therefore I say that it is obligatory upon every Jewish man to know thoroughly that delightful book, Schebet Judah, and all other books which tell of the history of the Jewish people, so that we may remember the kindnesses of God and His miracles in every generation, which have not ceased in the face of all evil decrees. Incidentally, one will learn from this study the facts necessary for polemizing.'

To the rabbis of our country who do not attempt to perfect themselves in their knowledge of Jewish history, I will not address myself, for I know that with such a background they will be surprised at my desire, saying: 'See the many, idle, vain things which this man has brought to us.' According to them these things are a waste of time, and the entire panorama is a sealed book for them, which they cannot read. For these reasons they will vociferously attack me.

¹²³
Further on, Chajes describes the negligence of the orthodox Rabbinate in regard to communal matters, and their woeful incapability in the face of great problems. He feels very strongly about the fact that the orthodox Rabbinate, by its slothfulness and pusillanimity, has given its opponents an opportunity to belittle and disgrace it in the eyes of the Jewish people. He is in agreement with the leaders of Reformism who accuse the orthodox rabbis of being out of touch with the times due to their cloistered mode of life; that the orthodox Rabbis are not true leaders of the Jewish people. And yet, he wonders, what have the Reform Rabbis to offer? No piety, no deep knowledge or appreciation of Jewish learn-

ing ! They speak well; they possess the social charms. The orators, the men of action are theirs, but Torah is not in their camp. And yet they have captured the fancy of so many of our brethren, and are leading them away from our traditions and heritage. For this state of affairs, for this mass desertion from Orthodox Judaism, the orthodox Rabbis will have to answer and give accounting for. This accusation is more clearly brought out in his own words:

The Rabbis of our country, by their way of life, have given our antagonists and opponents sufficient excuse for attacks against themselves. These latter say: 'Behold, the children of Israel, brought up on the lap of the Talmud, are scattered throughout all the cities, as a flock without a shepherd. They have no masters who have it within their power to understand the needs of the times and the spirit of the age which prevails today over humanity in general, and over the German Jews in particular.' (The time) demands of the rabbis that they do not content themselves with a life of pleasure as was their wont, but rather must they learn to understand the workings of their opponents. Their eyes and their hearts should be directed only to the task of the betterment of their people, from every angle possible; and not like many of the Polish and Hungarian rabbis today whose eyes and hearts turn only towards imagined glory. They speak from above, as if they were angels, and it is beneath them to descend from their Olympian heights to supervise the activity of their congregations in the preparation of schools and academies for children, in order to teach them, at least, the principles of our belief. They do not stand ready to protect the welfare of the Jewish body as far as the government is concerned, especially in these days when the Jewish position has been bettered throughout the country. They, however, think that by merely cursing and excommunicating the deeds of the Reformers secretly, in their own towns and congregations, can they dis-

charge their duty. Meanwhile, the Reform movement goes about its work, and the hour favors them; many great congregations in our empire have already broken the bonds of restraint, and now have as their leaders preachers and rabbis of that type (the Reform wing). As far as appearances go, they are succeeding, because, even though they do not possess knowledge and piety, they know how to proceed in the spirit of the times, gracefully and in a friendly way. They have decided that wisdom is not the important thing; everything depends upon the amount of work done for the community, and any wisdom which does not have as its companion work and action is destined to disappear. It is only recently that some of these rabbis have begun to flourish, and from the periodicals we are notified as to what the nature of their work is. Many of our people are attracted to them, and follow in their actions. And the rabbis of the older type are quiet and mute. And what will they do when the end comes? To whom will they flee for assistance, and to whom will they bequeath their glory, so that they will not have to bow before these leaders, who with every passing moment are becoming stronger than they are, with a great strength (which they use) in order to seduce our people to think as they do.

History, unfortunately, has shown us that this caustic criticism of the Rabbis of a century ago had no effect. Chajes was a lonely figure calling in the wilderness of darkness and obstinacy....

CHAPTER FOUR: THE APPRECIATION

In the cemetery in Lemberg, there is to be found an inscription on one of the gravestones, which follows in its entirety:

ע"ה ק"ה ח"ה חזון תרנ"ז אפי"ק
 פה נאמן יאש חכמי ילדיו ועשרת הדורות, הרב הגאון הגדול
 המכונים בהרב וכו' מוה"ר מאיר חיות מבראז, אבד"ק
 זאקווא יתגלו וק"ק קאליס דבולין ואגפ' קדמ"ח ס'
 תורת נביאים, עשרת דבי וסו"ת מוה"ר י"ן
 צווא אחרי נעם נאפו לעתותיו, דקע אל אבן בהור
 מדברותיו, יראת לבי מעוז צדק עולמים,
 חכמה תורה ומצוה בו נתאמץ, וליבי הינתן רבו
 אבדת סכירות, וירבו יעצמו ויהיו למאורות,
 תושיה ודעת סכריו מ' מנה.
 וישכח את ילדיו עלרים ולבדע לנ"ס.
 תרנ"ב"ה

This is the epitaph on the grave of Zvi Hirsch Chajes, who came to Lemberg in 1855 to be cured from an illness, but found there instead his eternal resting place. It is interesting to notice that the name of the deceased Rabbi is not mentioned explicitly, but that one must reconstruct it from the first letter of every word which has above it a stroke of the pen. This fact may also be symbolical of the fate of Chajes and his works; both are almost forgotten, and if either is ever mentioned, it is only in a cursory and hasty manner--merely by a slight stroke of the pen.... It is truly disheartening that so great a man, from whose fresh, bubbling springs others have drawn for their sustenance and comfort, is rarely mentioned today, and even those who should owe him the greatest debt of gratitude and appreciation, have neglected him. Chajes was an unusual character in many ways, and much to

the loss of the orthodox wing of Jewry, a sadly neglected and slighted personality. It is safe to say that he could be included in a roster of the ten greatest Talmudists, since his scope of knowledge and acumen were unbelievably vast and deep. When writing on his Talmudic subjects it is quite apparent that the entire range of Rabbinic lore is at his fingertips, and at the same time, as we have seen in the preceding pages, one cannot accuse him of being one-sided. To say that this type of education was exceptional for a Galician Jew--and especially for a Galician Rabbi--is putting it quite mildly.² Because of his fine education, Chajes bore the onus of the reputation of an "Epikoros" throughout his life. This fine background, which Chajes cultivated and nourished, stood him in good stead; for, when in 1846, as we already know, the imperial Austrian government promulgated a ruling that all rabbinical candidates pass a university examination in the liberal arts and philosophy, Chajes, although already a Rabbi, received the degree of doctor of philosophy from the University of Lemberg--with a thesis written in Latin. Unusual? For Chajes nothing was difficult; fighting Reformism was not difficult. Pioneering in the field of Rabbinics was not difficult. Teaching and discussing with his friends were also not difficult. To contribute to foreign periodicals in their original tongues was also not difficult. But it is difficult to conceive that today the name Chajes, if remembered at all, designates the last of the family, Zvi Peretz,³ author of a commentary on Psalms, famous Zionist leader, chief Rabbi of Vienna, etc., etc. To most people interested in Jewish knowledge

and its luminaries, the name means nothing. God willing, in the years to come, the author of this essay may yet prove that the work of Krochmal, Isaac Hirsch Weiss⁴ and all those who engaged in Talmudical research would have been impossible without Chajes' pioneering efforts⁵; yet none mentions his name directly. Weiss writes in his memoirs that he learned much from ~~him~~ ^{Krochmal and Zunz}. His great work, however never once mentions ~~the~~ ^{the} ~~his~~ ^{of Chajes} name. As an outstanding fighter against the German Reform movement, Bernfeld's history of that movement mentions his name only once--in a footnote.⁶ The Jewish Encyclopedia, per Louis Ginzburg, treats of him in four paragraphs. Orthodoxy has failed to realize that this man could have served as its outstanding representative to the Jewish world and the Gentile world; yet his name has been practically wiped out from the mind of the modern Jew, and there is the great danger that even to the scholar, Chajes is becoming a memory...⁷

* * * * *

Chajes lived in a time of great political and religious ferment; and he was conscious of that fact. His writings and utterances give clear testimony that he knew what was happening throughout the world, and he tried to take an active role in events of the day. His realization of the economic problems of his fellow-Jews is manifested in many of his Teshuboth and Drashot; he suggested methods of solving the economic and social problems of his Galician co-religionists. The great political upheaval which preceded his birth--the French Revolution--and the one which took place during his lifetime--the Revolution of 1848--were, in his estimation,⁸ events of great importance to the world and Jewry; to some of his fellow-Rabbis news of these events never arrived... And when the German Reform

movement began its systematic work of destruction of the Jewish religious edifice, Chajes was among the first to realize the enormous danger which such activity might produce. Had Orthodoxy realized that Chajes, with his vast, all-embracing knowledge, was the logical leader in the fight against Reform, much of the damage could possibly have been avoided. For, with his tremendous talents and endowments, Chajes was more than a match for the leaders of the Reform wing. Few Reform Rabbis knew as much as Chajes, either in the holy or profane subjects. Few of them could have obtained with such ease as did Chajes the degree of doctor of philosophy when the Austrian government passed the above-mentioned ruling. Here was Chajes, with his untouched beard and earlocks, believing completely and sincerely in every jot and tittle of the Jewish dogma and legal code--yet completely in tune with the times in which he lived. To say that he was appreciated then is impossible, but we should very well be able to appreciate his ideas today, in the light of Jewish history of the past one hundred years; especially his ideas on the Jewish law and its adaptability to the demands of life--even the life of 1939. Chajes, as we have seen, felt that the arbitrary attitude assumed by the German Reformers was unnecessary, if not, indeed, harmful. The work of Holdheim, Geiger and others was unnatural and revolutionary; a process which does not go well with Jewish law and history. Both have evolved, hence have lived and flourished. In the light of the material presented, it is false to say that Jewish law is out of touch with the times; it is a product of the times. Its very accretions, decrees, regulations, annulments, obsolete and forgotten laws, are all signs that the Jewish law has grown, withered and flourished again. It

is like a firm tree, shedding its bark and taking on a new one; the Jewish law can flourish in any age or clime. It is a living thing, a true mirror of the Jewish people and its life--and no reform is necessary to keep it alive and "modern." It is "eternally contemporaneous"; no man-made reform can cope with the Jewish law. Man's attempts in this matter can lead only to a pitifully insufficient result, conducive to chaos and arbitrariness. Time must perform the surgery, and time must provide the healing balm. Jewish law is not limited to the boundaries of one continent or the confines of one century; it must be considered in universal and historical measurements. As long as there will be life, there will be Jews, and as long as there will be Jews, there will be Jewish law....

* * * * *

When the subject of Chajes was suggested to the author, he had little knowledge of the delight and surprise in store for him. Chajes the man, the teacher, the scholar, is the ideal type of orthodox Jew. In reviewing the history of the Jewish people since the beginning of the modern era, no figure, in our opinion, stands out so clearly and beautifully matured and well-integrated as does Chajes. Torah and Derek Eretz were combined in him in beautiful and harmonious measure. Foresight and acumen were lavishly bestowed upon him by the Almighty, who, in His great love for him, took Chajes back to His bosom at so early an age...

The writer, as an orthodox young man, and student of Hebrew letters, has found much in Chajes to make him realize that here indeed was a man of rare gifts and potentialities. His

style of Hebrew writing is a refreshing contrast to the ungrammatical and jargonized mumblings of other Rabbis who clumsily attempted to put their thoughts on paper. It is true that certain errors in syntax and spelling are to be found scattered throughout his writings, but these flaws are quaint rather than disgusting. To read one of his utterances--and especially his *Minchat Kn'aot*--is to experience a thrill of surprise and delight. Tolerance, a wide range of knowledge, unsurpassed learning, cleverness, subtlety and gentleness are the marks of his character. Had he lived today, Chajes would have found ways in which to preserve Orthodoxy from its present state of disintegration and chaos. As it was, his own atmosphere stifled him and prevented him from saying that which was necessary and true. We wish to modify this last statement. Chajes' great moral integrity at times, like Jeremiah, forced him to burst out with the truth. At such moments, when his heart was full, he cared nothing for the consequences, as far as his own person was concerned. His attacks upon the rabbis of his own wing, his contempt for the jargonized, vulgar medium of expression of his fellow-Jews, his open contemptuousness for certain practises of the Chasidim he knew--these, and more, found expression in Chajes' writings in a manner which is a tribute to his courage and intellectual honesty. Galicia has been famous-for the past two centuries-as a hotbed of intellectual decadence and fanaticism; a bloom such as Chajes in a garden of such rocky soil is therefore to be wondered at. Today, with such agonizing hindrances as were active in his day no longer existing, Chajes could certainly have accomplished much more. In word and in deed he could have been the spokes-

man of world orthodoxy; Fate, however, conspired against Jewish history and placed him in a compressed-air atmosphere, one hundred years too early.

Right here, however, it should be made clear that Chajes would not have led the orthodox wing over to Reform Jewry, as Jost thought he would.¹² He had opinions and traditions which he would have defended with his life. There was much which the Reform leaders did which shocked him. Dr. Herzfeld's traveling on a train on the Sabbath was for him an unspeakable desecration.¹³ Holdheim's transfer of the Sabbath to Sunday left him speechless.¹⁴ The seating of men and women together during the synagogue service was for him a wicked, deliberately sinful act.¹⁵ Indeed, Chajes regarded the Torah and its laws as being immutable;¹⁶ but in a case where a condition in need of rectification persists and becomes chronic, the principle of

annuling the Torah means its preservation¹⁷

is applied. It is better, according to Chajes' own example, to amputate a man's arm or leg in order to preserve his life, rather than permit him to die by keeping his body intact.¹⁸ So, too, is it preferable to drop or revise old laws which are incompatible with life, and if necessary, institute newer and more modern legislation. In our times, we believe, there are certain laws and observances which he would have found obsolete or archaic in the modern tempo of life. He might, therefore, have been in favor of substituting legislation which would be more in keeping with our times, yet which at the same time would preserve the identity of the Jewish people as a distinct and different religious and national group. He

would never, never assent to the policy of German and American Reform Jewry, namely, gradual abolition of Jewish life and law with an eye towards eventual assimilation. Chajes would have taken the Jewish body out of its cast and given its limbs freedom and agility; he would not have stripped it of its flesh, poured out its blood and mangled its bones. To him the Jewish people must live forever as a corporate, active body. All that this body must do from time to time is to change its attire and add new words to its eternal vocabulary. It does not have to undergo plastic surgery in order to transform its Jewish nose into an organ more pleasing to the Gentile eye....

APPENDIX A

(It will be noticed that some quotations have been given at length. This was done in order to present some representative excerpts of Chajes, in all their beauty and grammatical incorrectness.)

NOTES TO CHAPTER ONE

- 1) This chapter is the account of Louis Ginzburg in the Jewish Encyclopedia. I have corrected certain intolerable errors, which are in the original sketch; otherwise, no changes have been made.
- 2) About Zangwill Margoliot there is no information available. Ephraim Margoliot was a very distinguished Rabbinical authority, even though he did not practise as a Rabbi. He was a very successful banker, and was the author of many works which even today are accepted as authoritative in the Rabbinical world. He was born in 1762 and died in 1828, in Brody. Elazar Landau died in Brody of the cholera, in 1831.
- 3) Nachman Krochmal, the "Galician Socrates", born in 1785, died in 1840. One of the greatest Jewish minds of all times.
- 4) I have been unable to find out the topic on which he received his doctorate.

* * * * *

NOTES TO CHAPTER TWO

- 1) The substance of the query, more formally expressed, is to be found in Phillipson's book, "The Reform Movement in Judaism", in the first Chapter, on pps. 122, 145, 161-2, 171. It is difficult to enumerate all the places in the volume wherein these ideas are expressed. The entire volume just breathes hostility to Orthodoxy.
- 2) The answer, as found in this essay, is based on the two most important volumes written by Chajes. The first is his "Darke Ha'Horaah", published in 1842. The second is his "Minchat Kna'oth", published in 1849. The latter volume is beyond

- 8) Deutoronomy 21.
- 9) Yad Ha'Chazakah, Hilchot M'lachim, Chapter 8, Law 1.
- 10) Ibid.
- 11) Exodus, 21 and Exodus, 23.
- 12) Gittin, Chapter 4, Mishna 3, has the following statement:

באל היקין כחוצהו מכי יקין העולם

it certainly does not explain very much, since this phrase itself is one of the less comprehensible ones of the Talmud.

- 13) Darke Ha'Horaah, Chapter 2.

ובאורן הענינים שלא נמצא היתר דרך הערמה הנחל אדם
 זכר אדם, כמלאך [ח"ו"א ס"ז ס"ח] שנתגלה אצלו דין שמיטה, ואלו
 נמצאו אדם אצלו.

- 14) These words are given in their entirety in the Tur Choshen Mishpat, and not in the Schulchan Aruch, where there is only a reference to them.
- 15) Darke Ha'Horaah, Chapter 2.

אולם העיקר מכי אין צורך יק אסחור והולאה וזוין אן שילת
 דלת זכר און עדת מצה, והזייל כי לא יכעלו זמבחרה, אכן
 הנחו אדם מנהגם.

- 16) Rabbeinu Asher Ben Yechiel, born 1250, died 1327. One of the earliest codifiers of the Jewish law, and known for his rigorism in the interpretation thereof. Also was a great opponent of secular studies, and forbade the study of the philosophical works of Maimonides.
- 17) R. Jacob ben Asher, known as the "Ba'al Ha'Turim", because

he arranged the Jewish body of law into four rows, or sections, called in Hebrew, "Turim." It is not known when he was born, but he died in Toledo, Spain, before 1340. His work was the basis for all the later codifications of the Jewish law.

18) Darke Ha'Horaah, Chapter 2.

התורה הראשונה בזה הענין

19) Turei Zahab. A commentary by David ben Samuel Halevi, born in 1586, died in 1667.

20) Darke Ha'Horaah, Chapter 2.

התורה הראשונה בזה הענין
התורה הראשונה בזה הענין
התורה הראשונה בזה הענין
התורה הראשונה בזה הענין
התורה הראשונה בזה הענין

21) Mishnah Shabbos, Chapter 24.

22) In the Orach Chayyim.

23) "because of the financial loss involved" are the words of the Magen Abraham.

24) Darke Ha'Horaah, Chapter 2.

25) Ibid.

26) Ibid.

התורה הראשונה בזה הענין
התורה הראשונה בזה הענין
התורה הראשונה בזה הענין
התורה הראשונה בזה הענין
התורה הראשונה בזה הענין

27) Te'vuoth Shor, a commentary written by Ephraim Zalman Shor, who died in 1634.

28) The last two paragraphs of Chapter 2, in the Darke Ha'Horaah.

29) *קדוש דת המה המאמרים*

30) Joseph Karo, one of the greatest Jewish legalists of all times, who was born in 1488, and died in Safed in 1575. He was also a devoted student of the mystical studies.

31) Rabbi Moses Isserles, the last great legal authority of the Jewish nation, who lived in Cracow, where he was born 1525 and died in 1572.

32) Darke Ha'Horaah, Chapter 2.

33) Ibid.

34) The Tosafists were the authors of supplementary explanations to the Gemara, and had their origin in the discussions concerning the various texts, at the time of the grandchildren of Rashi. The work of the Tosafists extended from the twelfth to the fifteenth century.

35) Darke Ha'Horaah, Chapter 2.

*ראוי כי האשכנזים מצינו אצלנו דברים ומהם חזקים ואלו חלוקים
אם שם נאמר דברים וצרכי האומות, כגון הדין דשיל והוא החסיד
היבטח, וכן הדין דהשול מן הדין... ואלו חזקים ואלו חלוקים.
אין להם צורך אל זה דמאן ואגב.*

36) Ibid.

37) Ibid, quoted in the Beth Joseph, Karo's commentary to the Tur Yoreh De'ah, Section 82.

38) Judah the Pious, who lived approximately at the end of the twelfth century, and the beginning of the thirteenth.

39) Rokeach, the ethico-legal volume, written by Eliezer of Worms who lived in the twelfth century. He may have been

killed in one of the crusades.

40) Darke Ha'Horaah, Chapter 2.

41) Laws of Sabbath, Section 334.

42) Quoted in Darke Ha'Horaah, Chapter 2.

43) Darke Ha'Horaah.

ומהין בא צוואה להאשכנזים הממשיכים והמקדקים בה און הולאה יקולו
דדברים אלו אקילו נגד חבשי המלוא?

44) Ibid.

והאדם קנה ערד אל מי שמתבונן בקליות אהילת בני ישראל במדינות
אלכנז קושים הקדמונים, נגד מעמד עם ישראל במדינת ספרד, הנה הולאה
כי בספרד היה מעמד הרבני הן עמלן ישראל שבזמנים מאד באסכרה ומעורבות
במורה ובחכמה ובאשר נב, והוא חסונים וסלונים קטני האק והלונים, מחולקים כל
אנש, היה להם נחלת גדה ונכס, ומקצתם היו מחונים, ואלה בקאדה, עושים
מלאכתם קציה האק, והיה מלאכתם עיקר והמסחר סלי, ולא היה איזה
גדולה בין העמים והעמלן, ולא היו חסידים אומלן דבדולת הנצחיות רק
היו אלהים נחלונים וסלונים אצלם, אולם מעת אהילת במדינות אלכנז, היה
נח ונח וסלון אליהם הנח, ולא נחלן להם חלוצה ושארית זמל, ולא
הנח אולם להסכנה הנח, מעורבים ומעורבים אל מקרה נכד ונח
זכס שילי קנמסמר ובולאה, כולד, ח"ס ההכרחי יפונה ונאכדכל
אחריהם קדיר קצב אלס הנח, ח"ס, ח"ס שיל כל צד איסור ע"כ,
והמכנים כחלל אה אחיהם כל צד הם, ומעמדם במדינות כאלו אינל
אל צד הולד סנ, הנחלן להם מעמד מפני החלטה דאדם זהל אל אמול
ויהיה מעמד ונח, ונח באור [יו"ד ס קעל בשם המסלול] דהאידיד
אלס החלול לדכונ"ס דריוזי מפני שכל עסקינן הולס רק בחלואה עם
ד"ל, ומי שמתבונן בקליות ישראל בשלל בשם המסלול והד"ל והאור
יקין בנחל סדס בהיות, כי אל האלינו אל שום דבר רק חלואה לנכ,
ועם חפ"צ הקולו בהיזה מנינים נגד הבין מפני חל איזה נעלה ע"כ,
והסכונים האלינו ביני השמאל אל האק מפני אלס היו מוצאים שום
כבר אהיה אלס במורה.

45) This statement is found in Tractate Soferim, Chapter 6.

The Hebrew original reads:

מנה אל ילמל מורה היל.

46) Darke Ha'Horaah, Chapter 3.

אקילו נגד בין קד/ר בתמלוג אחרין מנה אל ילמל
מורה היל, אס יל אמנה איזה לורל בסכרי חלדה.

47) Quoted in Chapter 3 of the Darke Ha'Horaah.

48) Ibid.

(א) נהניו דעם אמוס אילור, והכחוס יוצאים כי יל אינא היגרים
בזענים האלו, ויל חלל אמו ילצלו דעיקר, ונאזל זקצ'ל זקצ'ל, ונאזל
ליהיה דעני תצ'ל ליחה דני דעניא, אזי אילור אכנסם
דמון אה ההיג.

(2) דענינים אלד דא אילורום קבוצים, ואין אבם דד היג זלום
אופן, ויק דעם נהניו דהם היג אמו, והסכנה מנחגת כי
דעם אה יתל ויוצן קלוגה לקל מלכים, ולא יוצלו הכחוס
דמלכותם, אזי אילור אכנסם ג"כ חומר האילור, מלכד ליהיו
שקצים ואל יהיו מצידיים.

(ג) כיכי שנהגו דעם היג דעניני אילור, ויל אכחוס כח
מחלות, ויק יל דידה יחידות סוגרת מעג דעם, ויל שביד
המרוצים התנגד מעג שערלס, אזי אין מלוח היג דעם, ואין מלוח
אבם ג"כ יק מניחין אורם זסטאם, שיתנהגו כמל להנהגה דד כהן
כיון ליל דידה סוגרת אה מעגם, אולי תקדד המעג ע"כ דידה
זאת, כמל שברג המוצי דעם אור צרוד כ"כ הכוזאים, דדוקא
מנהג נקדד אל כי חכמי המקלם דענין, כדמדינת זמס' סאכרומ
אין הלכה נקדד דד ליהיה מעגם, והייל ע"כ חכם דוקא.

49) Mordecai, written by Mordecai the son of Hillel Ash-kenazi, who either died or was killed in 1298.

50) Or Zarua, written by Isaac of Vienna, who lived in the thirteenth century.

51) The full name of the chapter is "He who hires the Workmen", which is a ^{chapter} ~~tractate~~ of tractate Baba Mezia.

52) Darke Ha'Horaah, Chapter 3.

אם לא נחלקה דעת היחיד אמרי, שוב דענין יל אם ע"כ קיום
והזמנה דמלחמה וסמוך אה מעגם שערלס דענין דד, ולא מלחמה
מעגם, ומניחין אהל מעגם שישלר בלי קוזה, ואין אמרים אה אילור
לא היג. וליין פרי חלל [י"ד ס' תצ"ז] דעם הוא תקדד מסורת קיסר
זה, דאם יל מעגם יק דדד יחידות, דמסיד ודעני מניחין אהם
מעגם מלין נגד יול דעני, ואילור זמלל זלום אופן.

53) Pri Chodoash, a commentary on the legal code, written by Hezekiah Di Silva, who was born in 1659 and died in 1698.

54) 1108

55) $200 = 1' 283.$

56) Darke Ha'Horaah, Chapter 3.

[illegible]

57) Darke Ha'Horash, beginning of Chapter 4.

58) Orach Chayyim, Section 3, quoted in Chapter 4 of the
Darke Ha'Horaah.

59) Yom-Tov Heller, commentator of the Mishnah, born in 1579 and died in 1654.

60) Joel Sirkis, author of "" and "", commenta-
ries to the Turim, born in 1561 and died in 1640.

61) Joshua Falk, author of "Drisha" and "Prisha", commentaries to the Turim, who died in Lemberg in 1614.

62) Mordecai Jaffa, legal arbiter, mystic, communal leader and rabbi in Prague, Lublin, Venice, etc, born in 1530 and died in 1612. His most famous works are the "Lebushim."

63) Samuel Edels, known as the "Maharsha", one of the most important commentators of the Talmud, who lived in Ostro, Volyhn. Was born in 1560 and died in 1631.

64) Meyer of Dublin, born in 1538 and died in 1616.

- 65) Darke Ha'Horaah, Chapter 4.
- 66) Ibid.
- 67) Ibid.
- 68) Ibid.
- 69) Tur Yoreh Deah, Section 116, quoted in Chapter 4.
- 70) Magen Abraham, one of the most important commentaries to the legal code, written by Abraham Gombiner, who was born 1635 and died in 1682.
- 71) Ibid.
- 72) Ibid.
- 73) Ibid. The exact wording, as quoted by the Beth-Joseph, is:
- 74) Mishnah, Shabbos, Chapter 7.
- 75) Darke Ha'Horaah, Chapter 4. This is a quotation from Orach Chayyim, Section 253.
- 76) Orach Chayyim, Section 272.
- 77) Darke Ha'Horaah, Chapter 4. (Yoreh Deah, Sec. 114)
- 78) Yoreh Deah, Sec. 123.
- 79) Yoreh Deah, Sec. 140.
- 80) Darke Ha'Horaah, Chapter 4.
- 81) The discussion concerning these customs is to be found in Chapter 6 of Darke Ha'Horaah.
- 82) Nachmanides, Rabbi Moses ben Nachman, one of the greatest Jewish scholars and thinkers of the Middle Ages. Born in Spain in 1195 and died in Palestine circa 1270.
- 83) Rabbi Solomon Ben Adret, one of the more important Rabbis of the middle ages. Was Rabbi in Barcelona. Born 1235, died 1310.

84) Darke Ha'Horaah, Chapter six, second paragraph.

85) Ibid.

86) Darke Ha'Horaah, Chapter six, third paragraph.

יזולת שפלה זכרי חזק וי"ח סימן קי"ז, ח"ק ה"זל החלם.
זאת שמעדין זמן זמירות נפלאים, ואסיים, הלואה י' וחקר
ז' מה פתחל, ואריק ה' ימיו ולרמיו נרדמים.

87) The material is to be found in Chapter seven of the Darke Ha'Horaah.

88) See Phillipson's work, pps. 23, 27, 30, 227.

89) Ibid, pps. 13, 14, 227, 390, 433.

90) Ibid, pps. 9-12, 14, 22.

91) Ibid, pps, 128, 138-9, et. al.

92) Ibid, p. 33.

93) Ibid.

94) Ibid, pps. 24, 81, 85, 87.

95) Minchat Kna'oth, Footnote 5, as well as in other places in the volume. Important is also Chap. 6, at the end, in D. H.

96) Darke Ha'Horaah, Chapter 6.

וזבחי מצד דבמו ח"ן מביק בזיכור אלו המעשים, חלם נכון נא ולולה
המחשבות הדבמות ואלו זמנו בצמנים פיסול למנים ואלו המעלות אלכנז,
עד שזרעה קהילות נחלק הדם זחצי, והזכור אדם למלא דמי-תפלות
מלחמות, ודבין נשאלו קולי קולות מלני צדדים המלחמות.

97) Darke Ha'Horaah, Chapter 6, paragraph 2.

ביהם הזיע אחיה דבר מלאכות, ויצא מן הכסיון כי כל ח"ן המעלות מזה
אריסט סדר בקולות ושמיים קול צוחה וקול כחל וכו' זמנו מולד ליהן שופטים
וחל יהו מצינים, והניחו אדם שיגענו כמו שהתעלה דד כה, וחלם במלך הזמן
יגמל מצד צמנים, ח"ן זכך כלום.

98) Minchat K'naoth, Paragraph 8.

גבולות ושלשון

99) Bernfeld's volume, p. 102.

הוא היה מן העצבים והוא מן האשלים

100) Ibid, p. 171.

הוא היה מן הצדדים והוא מן האשלים והוא מן האשלים והוא מן האשלים.

101) Minchat K'naoth, Paragraph 8.

102) Minchat K'naoth, Footnote 2.

היה זה קצת מאד והוא מן הכותל והוא מן הכותל.

103) 1818-1896. This incident I found in an article in the "Day" on the anniversary of his death, in 1936. However, Prof. Tchernowitz tells me that Rabbi Spector refused to enter a synagogue in Kovno which had painted on its wall a picture of Moses with the tablets. The exact details are really unnecessary; the principle here is the important thing.

104) Laws of Prayer, Chapter 1.

105) Joseph Karo's commentary to the Yad Ha'Chazakah.

106) Ibid.

107) מנחת ותיקין.

108) מנחת ותיקין.

109) Minchat K'naoth, Footnote 11.

110) Ibid.

111) P. 31.

112) Minchat K'naoth, Footnote 11.

113) Minchat K'naoth, Footnote 3.

114) Laws of the Reading of the Shema, Ch. 2, Sec. 10.

Laws of Blessings, Ch. 1, Sec. 6.

115) Ibid.

116) Quoted from Orach Chayyim, Laws of Megillah, Sec. 690.

117) The substance of this section is to be found in
Minchat K'naoth, Footnote 3.

118) Ibid.

8) Ibid.
ראויל וציקר השגותיו אצל כנסת הגדולה היה למען תבונה התורה
בבה יעקיה זלמן אחד מלכי סורק שאלו השגותיו

119) Ibid.

120) Ibid.

121) Ibid.

122) This translation is from the Singer Prayerbook.

123) Minchat K'naoth, Footnote 9.

[illegible]

124) Minchat K'naoth, Paragraphs 21 and 22.

125) , Minchat K'naoth, Paragraph 21.

ויוון וצאנים יבני חוצותם מה שמואל אליהם לפי מצאנום בדבר, כי משה
יבקש מהם שלח יהיו נדמו כבהמות, ומועץ חזק מלתאליס יק צאנאס, ודבר
השליח זהם במקומם לדבר, ומועץ חזק מלתאליס זהם קריות בני עמנו, ומועץ
ומתים קדמונים יזכיר אצלה מה נוסח בישראל עתה, וכבר כיה הרב יצחק
בספרו מלך יקציעה הי סגור ס' סייץ במועץ חזק ספר חכמה בלגיה, כי
בזה האופן, יכין מן מועץ כי מזה אכל ילד מושלח אכילת בקי בספר
מחמד של יחזקיה, וצאנאלי ספרים מספרים קריות ילדא, וצנאלי חסד ב'
ונפאלותיו בזה הקריות כי אז תמנו בזה יצציות הרגות, וצאנאלי ילדא חזק
דברים מהקרים בדברי ילדא, וצנאלי, ורעני מיונתני מועץ חזק מלתאליס
זהם ילדא סגור קריות בני עמנו, אז אכילת מלך, כה, ומועץ כי

מחלוקת כזאת ידעת כי יתעלה אל החקק ואל הנזק צדיק
 אמש הוא הביא לנו הילל הזה דעתו חלה אצל הנזק וישימו
 זה, שהם חילוקי המצא אף בדעת, ומהי אלה חזקת הכל בספר
 החתום, אשר לא יבוא קרובו חלום, ומכאן זה יתכן אל בקולם.

126) Jacob Zvi Emden, famous Rabbinical authority, publisher
 and controversialist, 1697, died 1776.

127) Schebet Judah, a famous chronicle written by Judah
 Ibn Verga, who died in 1497.

128) Minchat K'naoth, Paragraph 24.

ואי יד תבואת רבני חביתתו, מנחם מנחם ונחל מקל אלהים
 תאונתם, נגד רבנים הישנים, ומהם, הנה בני ישראל הומותם אל זרבי התאונה,
 נבוצים אל פני הדמים, כבזון אשר ויין אדם נזה, לאו חזקתם אלה, אשר
 יבין אהל ידם, להבין צורק דעת, וכוח המצא בלוריה הוא אל כל בני תלד
 זכאל, ואל יסדוף, הלוכנים במדינתו ולפניו נכד, אשר יעקל מהרבים שאלו
 יספיקו דגשם בחי צונם במקדש, כך יכתיבם לדעת החקולות מתקדיהם,
 ואלה דתים נלגם חק אפקח בלוגה דגש, מכל צד ודגה, ולא כרבים מרובני
 כחליתיה ומהם אכן היום, ואלו ציניהם נלגם כך ולא הכבד המצומה, וממרום
 ידגרו כעני חללים, ויקאן דזיניהם לדעת מהם מצגם, להלפיה אל
 קהלתם בהכרח סתם-ספר וזה-מנוק הילדים, אלמגש דיקני הדת אל
 הפלות, ויחנם עומדים אל המלש אצלם בלוגה כל ילדיו משה שיל לו
 התיחסות להמלכה והלכות, נכד צד כזאת ואלו נלגם מצגם כל מקל
 מולגותם, ולדעתם מה למקללים וממכיתים מצלי המהחבלים בספר קדירים ונקהלתם,
 קנה לנגד כגד יבוא יד חזקם, בין כך ובין כך ואלה החבלים עולים ואל שכלם,
 והלזו משחקת אדם, והנה קהלות גדולות במדינתו עני כנצל מאל לעזול,
 ומהן אליהם, בולנים ורזנים מתקלים אלו, ומצויים למעלה דין, כי ואל חמנם
 תורה ויראות שמים ויין דגש, ודגים אלהם אף רוח המצא נכד שוחקות
 ונעים מסבילות, ומחללים כי ויין החכמה העיקר רק הכל אף רוח המלש
 והעלזה נלגה, וכל תורה לויין דגש מלחמה ועלזה סוכה בלגה, וזה לא כביר
 גשגש התחילו ויניהם מהם לצמח, ומיד העלים מלודים נלגם קדוש, ונכים הדם
 מלכים ומרובם, ואחזין במחללים, והרבים הישנים לומקים ומחללים, דגש,
 ומהריות מה ידלו? ואל ייכלו לדעה ואל ייכלו כנצלם, אלהם כנצלם רחמי
 המלשים הולד, אשר כל רבד מלודים אליהם נכח ואלו, אלהם הדם
 אל דגשם.

NOTES TO CHAPTER FOUR

- 1) Buber's "Anshe Shem", under Chajes.
- 2) How many Rabbis of his time and atmosphere knew who the Gnostics and Manacheans were? (Minchat K'naoth, Footnote 28.)
- 3) Zvi Peretz Chajes, 1876-1927.
- 4) I. H. Weiss, famous Talmudical scholar and author of "Dor Dor V'Dorshov". Born 1815, died 1905.
- 5) Meir Halevi Letteris, in his biographical sketch of Krochmal in the "More Nebuchel Hazman", tells us that Krochmal, after his marriage, settled in Zolkiew. There he became very friendly with a scholar and bibliophile, who taught in the governmental normal school, a certain Herr Neu. Chajes' name is not even mentioned as among the prominent personalities of the community--even though he was the Rabbi!
- 6) P. 200.
- 7) As an example of what the scholarly world owes to Chajes, we can mention the fact that Geiger openly declared that his development of the theory concerning the Jerusalem Targumim is an extension of the ideas which Chajes first propounded in his "Imre Binah." (Z. D. M. G. xiv, 314.)
- 8) Preface to Minchat K'naoth.
- 9) William Bolitho, in his essay on Alexander the Great, uses this phrase in describing the Jewish people.

- 10) Chajes' opinion of the Yiddish tongue is to be found in his Minchat K'naoth, Footnote 9.
- 11) He greatly condemns the practise of the Chasidim who prostrated themselves on the graves of the Zaddikim. (Essay on the Bas-Kol, Page 27b, footnote. This essay is included in the volume which contains his Responsa.)
- 12) Annalen, 1841, p. 72.
- 13) Minchat K'naoth, Paragraph 8.
- 14) Ibid.
- 15) Minchat K'naoth, Footnote 11.
- 16) Preface to his book Torath Ne'biim.
- 17) M'nachoth 99b.
- 18) Torath Ne'biim, Chapter 3.

APPENDIX B

Bibliography

1. The Reform Movement in Judaism-David Phillipson.

2. Jewish Encyclopedia.

3. ש. גרן פלד —

המכורחצין ישראל

4. ש. גאצער —

אנשי שם

5. צ. ה. חיות —

מבוא התלמוד

6. צ. ה. חיות —

דרכי ההלכה

7. צ. ה. חיות —

תורת נביאים

8. צ. ה. חיות —

מנחת קנאות

A complete list of Chajes' works follows:

1. Misped Tamrurim-A Funeral Oration on the Death of
Emperor Francis I. Zolkiew, 1835.

2. Torat Nebi'im-Thirteen treatises on the authority
of Talmudic tradition, and on the
organic structure and methodology
of the Talmud. Zolkiew, 1836.

3. Iggeret Bikkoret-An examination into the Targumim
and Midrashim. Zolkiew, 1840.

4. Ateret Zbi-Six treatises on different subjects, which
have appeared under separate titles:

i. Derush-An address on the accusation
that Jews are averse to agriculture
and trades as a means of livelihood.

ii. Mishpat Ha-Hora'ah-On the constitution
and authority of the Great Sanhedrin.

iii. Tiferet Le-Mosheh.

iiii. Darke Mosheh-A defense of Maimonides
against Luzzatto and Reggio; a dis-
course on the blood accusation as
an appendix.

iiiii. Iggeret Bikkoret-with new notes.

iiiii. Matbea Habarakot-On the principle ac-
cording to which the Rabbis pro-
nounce the blessings in performing
religious rites.

(To which are appended Responsa
under "Ateret Zbi.") Zolkiew, 1840-1.

5. Darke Ha-Hora'ah-Zolkiew, 1842.

6. Mebo Ha-Talmud-Zolkiew, 1845. (Translated in part by Jost.)

7. She'elot U'Tshubot-Zolkiew, 1850.

8. Imre Binah-Six treatises

1. Relation of Babli to Jerusalem (Talmud)

2. The lost Haggadah collections.

3. On the Targumim.

4. On Rashi's commentary to Ta'anit.

5. Article on the Bath-Kol.

6. Minhag Kna'ot.

Zolkiew, 1849.

9. Novella on various tractates of the Talmud.