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"The Concept of Hukkoth Hagoyim in the Tannaitic Period"

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The Concept of Hukoth Hagoyim in the Tannaitic Period

by Jakob Josef Petuchowski

DIGEST

The origin of this concept is traced through the circumstances that gave rise to it, viz.: the differentiation of the religion of Israel from that of the surrounding nations, and the gradual emancipation of Judaism from its own pagan antecedents.

The influence of the environment on Judaism, on the one hand, and Judaism's opposition to certain aspects of that environment on the other, are shown to be at work in both the biblical and the post-biblical period, special emphasis being placed upon the Deuteronomic Reformation, the Elephantine Papyri, the work of Ezra and the law codes. Strong Hellenization is proved to have affected authoritative circles even after the successful outcome of the Maccabean Revolt.

In the Tannaitic Period proper, a distinction is made between mere exegesis of biblical passages dealing with the "statutes of the nations" and the actual practical demands of the times. These latter are throughout compared with the literature of the early Church, and the same "defense mechanism" is shown to have been at work in both religions. Historical circumstances responsible for an intensification of this legislation are indicated. Differences between the strict halakhah and the more lenient practice, when such was demanded by the exigencies of life, are noted.

A special chapter is devoted to the superstitious practices that go by the name of "The Ways of the Amorite;" and the relevant Tosefta material, critically edited, and supplied with translation and explanatory notes, has been added in an Appendix.

Reference to Freud's concept of "ambivalence" is made in the

"Conclusions," where it is shown that the "statutes of the nations," being foreign, are considered as hateful and suspicious just because they were felt to be attractive and worthy of emulation.

The Concept of Hukkoth Hagoyim in the Tannaitic Period

by

Jakob Josef Petuchowski

Submitted in Partial Fulfilment

of the Requirements for the

Master of Hebrew Letters Degree

and Ordination.

Hebrew Union College-
Jewish Institute of Religion
Cincinnati, Ohio
January, 1952

Referee:
Professor Dr. Samuel S. Cohon.

לא תלמד לעשות כתועבות הגוים ההם
יכול אי אהה יכול להכין ולהורות,
ת"ל לעשות: לעשות ת אי אהה למד
אבל אהה למד להכין ולהורות:
(ספרי דבי רב, שופטים, פיסקא קע)

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Jakob J. Petuchowski.

CHAPTER ONE

I N T R O D U C T O R Y

Affirmation of Monotheism implies negation of any other form of religion. - Definition per genus et differentiam. - Early Israel and its pagan heritage. - The gradual emancipation from heathen rites. - Legislation against 'Abodah Zarah and the hukkoth hagoyim. - Their similarity and difference. - Meaning and usage of the term hukkoth hagoyim. - A word about the sources and the scope. - Israel among the nations.

CHAPTER ONE

I N T R O D U C T O R Y

We might regard the first two of the Ten Commandments as a definition per genus et differentiam of the Jewish Religion. Anokhi YHWH, the positive statement, has as its required corollary the negative lo yihyeh lekha elohim aherim al panai.

From this point of view, the religion of Israel had to be an "intolerant" one. The differences between it and the religions of the surrounding peoples was that between right and wrong. Eo ipso any institution connected with a foreign cult became unacceptable to the true worshipper of YHWH. (The history of the word "Magic" is illustrative in this connection. Meaning originally nothing more than the religion of the Persian Magi, the word acquired its current derogatory meaning at least as early as the 4th century B.C.E., when, imported into Greece, it had no official standing there, and, though impressive, was unauthorized. ¹⁾)

But the distinction between right and wrong, between the acceptable and the anathemized, in the Religion of Israel was not as simple as our preliminary statement of the problem might make it appear. In the first place, we shall have to look into the historical factors that made for the ultimate acceptance of this definition per genus et differentiam. We are, after all, dealing with a whole historical people, and not with an isolated thinker. And secondly, this particular people was constantly in close and intimate contact with other peoples and their cultures and cults, so that more subtle distinctions became imperative. Indeed, it has been rightly said that Judaism is the living epitaph of dead cults and their gods as well as the depository of many of their beliefs and

rites. 2) Here we shall deal very briefly with both of these, apparently contradictory, phenomena:

The traditional view that Israel became monotheistic "in a flash", as it were, has long ago been challenged by the so-called Higher Critics of the Bible. Unable to fit in unique Revelations into the general pattern of Evolution and Progress, the religious history of Israel was looked at from a new point of view. The Bible itself was made to furnish the material from which the rise of Monotheism in Israel was reconstructed as a slow and painful process. "The biblical tradition about idolatry in the days of the First Temple assumes a new form. This idolatry was not a 'going astray' from YHWH, as tradition would have it, but it was indeed the accepted religion of the nation in that epoch. The people believed that there were many gods in the world, and that other gods hold sway over other nations and countries. In the Land of Canaan, the people served the Baalim, for they were considered to be the masters of the land, the givers of the crop, and the bestowers of blessing upon the flocks." 3)

Tradition itself was at pains to explain away the various discrepancies that occur in biblical narratives and codes. It is true, as Moore points out 4), that the religion of Israel was distinguished by its "antipathy not only to images but to aniconic representatives of the deity, the pillars and posts at the places of worship. The opposition to these things was at first because they belonged to other religions, Canaanite or foreign; but the religious leaders advanced to the higher ground that Yahwe is invisible, and therefore cannot be represented in any visible likeness." And yet, pious biblical characters are on record as having worshipped at just such pillars and posts. Maimonides 5)

could find the reason for the biblical prohibition of the mazebbah, even for the purpose of YHWH worship, in the fact that such was the manner of worship of the idolaters. But the tannaitic midrash ⁶⁾ has to recognize the fact that there was a time when such worship was acceptable, though it is no longer so. (ahubhah la-abhot, senu-ah labanim.) The rationale which the author of this statement would have given is, no doubt, that recorded in the Tosafoth to Aboda Zara 18a, and re-echoed by a modern commentator on Maimonides ⁷⁾: that the mazebha was at first comme-il-faut for Israel, but when the idolaters copied it from them (sic), the institution had to be dropped by Israel.

We have mentioned this type of argumentation at greater length because, in dealing with rabbinic sources, this is exactly the approach to history we shall come across. The ancient rabbis were unconscious, not to say ignorant, of our modern notion of Evolution, and had to make the best of biblical material, as God gave them to see the light.

For us it is, of course, axiomatic that the Religion of Israel could not have arisen in a vacuum; and even a scholar like Ezekiel Kaufman, who deviates from the modern trend by insisting that the new religious idea, which embodies the complete negation of the mythological-magical Weltanschauung, did not originate at the end of the period of Israelite idol-worship of the days of the First Temple, but before that ⁸⁾, --even Kaufman is ready to admit ⁹⁾ that there is a historical connection between paganism and YHWH Religion; that the latter arose within a definite period of time, and certainly not in a vacuum. He goes on to say that the environment where this new religion arose, was a pagan environment with its own definite religion which did not come to a sudden end with the revelation of the YHWH Religion. Monotheism

could not conquer it completely, and traces of it remain in biblical literature itself. But Kaufman also points out ¹⁰⁾ that, while in pagan religions different foundations can be joined to one another in peaceful development, while even outmoded beliefs and practices do not become forbidden in these religions, and polytheism continues to give life to the most ancient roots and branches, the case of biblical religion is quite a different one. This religion negates any kind of worship except that of YHWH. It came "to uproot and to destroy" the paganism which preceded it. It proclaimed warfare against the old, knowingly or unwittingly. The connection between its various constituent foundations is, therefore, unique. The foundations preserved from the ancient period were conquered by the new idea, made subservient to it, and smelted in its furnace. Their essence was decidedly changed, and only with this change could they obtain a position in the new faith.

It really comes to the same, then, whether we follow the Higher Critical view of the gradual growth of the monotheistic idea, or whether we accept Kaufman's defense of the traditional position that pure Monotheism was there from the beginning. The fact remains that, once Monotheism was victorious, all other religions had to appear in a negative light, and their institutions shunned.

But, since the Religion of Israel - due to its position in space and in time - did share with the religions of the surrounding world any number of common inheritances, be it in ideas, culture patterns or modes of worship, it became the task of the religious leaders time and again to define and to delimit the religious standards of Judaism vis-à-vis the practices of the environment. Thus there came about a gradual ~~emancipation~~ emancipation from pagan customs (this would be our way of looking at

the ahubhah la-aboth, senu-ah labanim, referred to above); and, at the same time, a careful and meticulous sifting of importations from the outside world.

The older strata of the Bible seem to regard the religion of the neighboring peoples as belonging to the nature of things. For Jephthah, Kemosh is a sovereign in his domain, as YHWH is in His.¹¹⁾ And even in Deuteronomy (4:19) we find the recognition of the sovereignty of YHWH curiously combined with a de facto recognition of the legitimacy of astral worship, "which YHWH thy God hath allotted unto all the peoples under the whole heaven."¹²⁾

But the Prophets, culminating in the militant Monotheism of a Deutero-Isaiah, brought about a different appraisal of paganism as practiced both in and outside of Palestine. And it was on the basis of a triumphant Prophetic Judaism that the Tannaim, to whom we shall devote our main attention, were able to build.

The teachers of the Mishnah and the Midrashim could take Monotheism for granted. Several centuries had elapsed since the Torah, in its final form, became in truth the "inheritance of the congregation of Jacob." And, with the fundamentals uncontested, the Tannaim were no longer confronted with the ~~task~~ of downright rejection of anything coming from the outside, but of distinguishing, like R. Joshua ben Levi¹³⁾, between the metukanim, the acceptable, and the mekulkalin, the corrupting, among the practices of the Gentiles.

Reverting to our description of Jewish Monotheism as a definition per genus et differentiam, it will be evident that we can learn as much about the positive content of Judaism itself as about the state of heathen society, by studying the things which Judaism felt inclined to reject rather than to incorporate. Since this process of sifting had to

be a continuous one, being in operation contemporaneously with the general growth of culture and development of civilization, Judaism's own growth and development will make itself felt in the course of our investigation.

There are two aspects to Judaism's "defense mechanism," its fight for self-preservation in a heathen world. The one is the total prohibition of what is called 'Abodah Zarah, "idol worship." To be guilty of 'Abodah Zarah means to have become an apostate to Judaism, to have participated in the worship of a strange god. But not only one's own participation in foreign cults makes one fall foul of this law; it is sufficient to have been instrumental in helping others to do so, to have supplied the necessary ingredients of such worship, etc. Nay, more: to benefit from anything that was dedicated to an idolatrous purpose, to drink the wine from which a libation has been made, or to utilize the wood of even a desecrated "Ashera" for building purposes,--all this is forbidden to the Jew. Hence such concepts as yayin nessekh, issur hana-ah, etc., which receive full treatment in the Mishnah, the Tosefta, and the two Talmudim, under the general heading of 'Abodah Zarah.

But then there is something more subtle and less outspoken than 'Abodah Zarah, than complete apostasy and idol-worship. Those are the hukkoth hagoyim, the "statutes of the Gentiles," their religious customs and procedures, their ways of dressing, and their sexual morality. Such were the things against which Judaism always had to be on guard; - even in periods when real 'Abodah Zarah had become nothing more than a theoretical problem. For it is quite feasible that a Jew, with no

desire to apostasize from Judaism at all, borrows religious customs pertaining to another religion. This may or may not have detrimental results for him, though such a rapprochement to another faith can, and often does, ultimately lead to 'Abodah Zarah. From this point of view, then, the laws concerning hukkoth hagoyim and 'Abodah Zarah are not unrelated to one another. But it is possible to reserve the latter term for complete apostasy, and the former for what could best be described as "religious syncretism." In early biblical days these two are more or less identical, but during the period to which this study is devoted, it is easy to separate the two, and this is the procedure we shall follow.

Individual rites, then, and not Paganism with a capital "P", are covered by the rabbinic use of the phrase hukkoth hagoyim.

The phrase itself is biblical. Thus we find the hukkoth hagoy in Lev.20:23, and the hukkoth hagoyim in II Kings 17:18, while the technical verb is usually hlkh, "to walk;" as in Lev.18:3:
uvehukkotem lo telekhu. ¹⁴⁾

The Rabbis, of course, quote this phrase whenever they are expounding the particular biblical passages in which it occurs. But it is surprising - if one may rely on the completeness of Kassovsky's Otzar Leshon Hamishnah - that the phrase does not occur a single time in the Mishnah; though, as we shall have occasion to see, it is fairly evident that the concept did play its part in the determination of a number of Mishnaic halakhoth.

What we do find in the Mishnah is the verbal form יחקה in Hullin 2:9, where, in connection with certain ways of slaughtering, we are told that a man must not do so in a public place שלא יחקה את

המינים "because he should not imitate the Minim"¹⁵⁾. Now, Bertinoro (ad loc.) explains the word thus: יחזיק ידיהן בחוקותיהם יחקה ל'חק, from which it follows that he takes it to be a secondary root of חק. Kassovsky¹⁶⁾ mentions the root חקה, and explains it to mean "to make to correspond one's deeds to the deeds of others," i.e.: to imitate. This is also the explanation given in the Aruch¹⁷⁾, and Kohut himself adds that it means "to be like." Lieberman¹⁸⁾ translates: "lest it appear that he is following the laws...", basing himself on the corresponding Tosefta passage, which has the reading: מפני שעושה את חוקי מינין.

From all this we may draw the following conclusion: that, while חקה is, no doubt, a verb in its own right with the sense given by Kassovsky and Kohut, the fact remains that the early authorities, such as the Tosefta, as well as the paraphrase given by the Aruch¹⁹⁾ and the explanation of Bertinoro invariably link the word with חק, making it, as it were, a denominative form of חקה.

On the basis of this we would like to make the conjecture that, when hearing this word, the ancient rabbis heard both: its association with hukkoth hagoyim, as well as its real meaning of "imitating." From this it was but a small step, during certain periods of extreme particularism, to be opposed to any kind of "imitation" - religiously motivated or otherwise -, falling back on Scripture's prohibition not to "walk in the hukkoth hagoyim."

Finally a word remains to be said about the sources we have utilized in our present study. After looking at the origin and development of the idea in biblical literature, and the historical

factors responsible for the rabbinic elaborations, we shall be concerned primarily with tannaitic sources, i.e.: Mishnah, Tosefta and the early Midrashim. We have, however, drawn considerably also on early Christian literature, and that for two reasons. In the first place, it is very instructive to see how early Christianity, in its endeavor to make itself more attractive to the pagan world than Judaism had been, nevertheless re-echoes some very pronounced Jewish views on the subject of hukkoth hagoyim. And then there is the added phenomenon that Christianity had to fight a war "on two fronts." It had to fight the pagan world, and at the same time, it adopted a kind of hukkoth hagoyim attitude towards Judaism itself, being constantly on the look-out against the "judaizers." Thus disentangled from the theological structure of Judaism, we are able to watch the "hukkoth hagoyim mechanism" in operation "from the other side of the fence."

That our subject is of more than mere archaeological interest is not only borne out by the fact that hukkoth hagoyim has been a subject of rabbinic discussion right up to modern times (especially in connection with the rise of the Reform Movement), but also by the present-day position of the Jewish People and its need for self-preservation. "Let Israel not say: 'Since we are exiled among the nations of the world, let us do according to their deeds !'", warns the Sifra ²⁰⁾. And a little later ²¹⁾ we are told that "were it not for the Book of the Torah that is left to Israel, they would not be different from the other nations of the world at all."

It was for the preservation of this particular "difference" that the rabbis of old concerned themselves with the laws of hukkoth hagoyim; and it is with the full conviction that they were right in so doing and that important lessons can be drawn from their endeavors for our own day, that the following pages have been written.

CHAPTER TWO

E A R L Y M A N I F E S T A T I O N S

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B I B L I C A L B A C K G R O U N D

The hukkoth hagoyim of First Temple days as evidenced by their abolition in the Deuteronomic Reformation. - The continued prophetic struggle. - An exegetical problem in Ezekiel. - The religious syncretism of the Jews in Elephantine. - Environmental influences on the Babylonian "Golah." - Religious separatism at the Restoration. - The work of Ezra. - Legislation against the hukkoth hagoyim in the law codes. - The word to'ebah. - The twofold procedure of the Torah. - Ezekiel Kaufman's view on paganism in the Bible appraised and discussed.

CHAPTER TWO

Early Manifestations and the Biblical Background

While our main attention in this study will be directed to the Tannaitic period, we have already indicated that the concept of hukkoth hagoyim is of biblical origin. It is therefore necessary to pay some attention here to the Bible itself, if only to outline the groundwork on which the later rabbis were able to build. That the problem was acute in biblical times is evidenced by the Law, the Prophets, as well as by the Hagiographa (cf. esp. Ezra and Nehemia and Psalm 106).

From Hosea on, we find the Prophets engaged in a struggle against the religious syncretism of their contemporaries. That this syncretism was the actual religion of the people, as the modern critics would have it, and not the "going astray," as understood by the biblical writers, can only heighten our appreciation of the successful work of the prophetic school in emancipating the people from their traditional religious practice. And emancipate the people they did; for, when the Deuteronomic versions of the historical books began to be circulated, the former religious practice of Israel could actually be referred to as hukkoth hagoyim. Thus, in II Kings 17:8 we read that the children of Israel "walked in the statutes of the nations, whom the Lord cast out from before the children of Israel....." And what these statutes of the nations were is clearly exemplified in verse 11 of that same chapter, where we are informed that "they offered in all the high places, as did the nations whom the Lord carried away before them....." (The same kind of high places, no doubt, on which Samuel himself could offer sacrifice with impunity. Cf. I Samuel 9:12.)

There are, moreover, two rather full catalogues of the hulkoth hagoyim in the days of the First Temple. One, in II Kings, chapter 21, is a list of the "evil things in the eyes of YHWH," which Manasseh did "after the abominations of the nations" ¹⁾.

Here we read that Manasseh

erected bamoth, and altars for Baal, made an Asherah, and worshipped the host of heaven (verse 3);

built altars for the host of heaven in the two courts of the Lord's house (verse 5);

made his son pass through the fire, practised soothsaying and appointed oboth and vid'onim (verse 6);

set up a graven image of Asherah in the Temple (verse 7);

dealt more wickedly than the A m o r i t e s ²⁾ had done (verse 11); and

shed innocent blood (verse 16).

An even more complete list is obtained from the description of the Deuteronomic Reformation under Josiah, in II Kings, chapter 23:

Removal of vessels made for Baal, Asherah and host of heaven (verse 4);

putting down of idolatrous priests, who had been ordained to offer unto Baal, the sun, the moon and the host of heaven (verse 5);

destruction of the Temple Asherah (verse 6);

breaking down of the houses of the sodomites, where women wove coverings for the Asherah (verse 7);

defiling of the bamoth from Geba to Beer-sheba (verse 8);

defiling of Topheth, the place of Moloch worship (verse 10);

taking away of horses dedicated to sun worship, burning of "chariots of the sun" (verse 11);

breaking down of altars on roof of Ahaz' upper chamber, and

of Manasseh's altars in the two Temple courts (verse 12);

defiling of Solomon's bamoth for Ashtoreth, Chemosh and Milcom (verse 13);

breaking in pieces of pillars and cutting down of Asherim (verse 14);

destruction of altar, high place and Asherah of Jeroboam I (verse 15);

defiling sepulchres in the mount (verse 16); and

putting away of oboth and vid'onim, of teraphim and idols (verse 24).

Truly, an impressive list, but, alas, the Reformation was not complete. The prophets after the Reformation had to continue the struggle, and the Jews of the military colony in Elephantine present a phenomenon that has to be investigated in this context.

We see from Jeremiah chapter 44 that the Jews, particularly those who had found refuge in the land of Egypt, reverted to the worship of the "Queen of Heaven." Jeremiah's remonstrating was of no avail. On the contrary, the peoples seemed to ascribe the misfortune that had befallen them to the very Deuteronomic Reformation itself. ".....We will not hearken unto thee," they said to the Prophet. "But we will certainly perform every word that is gone forth out of our mouth, to offer unto the Queen of Heaven, and to pour out drink-offering unto her, as we have done; we and our fathers, our kings and our princes, in the streets of Jerusalem; for then we had plenty of food, and were well, and saw no evil. But since we let off to offer to the Queen of Heaven, and to pour out drink-offerings to her, we have wanted all things, and have been consumed by the sword and by the famine..."³⁾ (It is interesting to note that the people adopted the same line of reasoning that the mocking Rabshakeh used in the days of Hezekiah: "But if you say unto

me: we trust in YHWH our God; is not that He, whose high places and whose altars Hezekiah hath taken away....?" ⁴⁾)

Even Ezekiel still had to contend against syncretistic worship, -- and that in the Jerusalem Temple itself. In Ezekiel chapter 8 we read that the Temple was being desecrated by "the image of jealousy" -- perhaps Manasseh's idol ⁵⁾ - and by pagan mystery rites, lamentations for Tammus-Adonis chanted by women, and worship of the sun-god Shamash. "It is surprising, though not incredible," says Pfeiffer ⁶⁾, "that such heathen cults could still be practiced in Jerusalem after the Deuteronomic reform of 621." The memory of these practices lingered on in the national conscience of the people, so that part of the later simhath beth hasho-ebhah ceremonies included the following practices: "When they reached the gate that leads out to the east, they turned their faces to the west and said: 'Our fathers, when they were in this place, turned with their backs toward the Temple of the Lord and their faces toward the east, and they worshipped the sun toward the east. But as for us, our eyes are turned toward the Lord.'" ⁷⁾

In connection with the hukkoth hagoyim (or as the Prophet refers to them: the mishpete hagoyim) there arises an interesting exegetical problem in Ezekiel. In 11:12 we read: "And ye shall know that I am the Lord; for ye have not walked in My statutes, neither have ye executed Mine ordinances, but have done after the ordinances of the nations that are round about you." This is as clear a condemnation of the hukkoth hagoyim as we can find it; and yet this appears on the surface of it as the logical contradiction of Ezekiel 5:7, "Therefore thus saith the Lord God: Because ye have outdone the nations that are round about you, in that ye have not walked in My

statutes, neither have kept Mine ordinances, neither have done after the ordinances of the nations that are round about you;....."

The difficulty here hinges on the one word lo in the second passage. Modern critics are inclined to delete this disturbing little word; and, indeed, according to the Kittel Bible, the word is absent in a number of manuscripts. But already the Targum read la; and in this form the text was available to the rabbis. Ingenious attempts have been made to reconcile the two passages. Rashi, Kimhi and Metzudath David take it to be a comparison between Israel and the nations, to the disadvantage of the former. The nations otherwise reprehensible, so runs the argument, at any rate do not change their gods. But Israel have exchanged their Glory for something utterly useless. ⁸⁾ An alternative explanation, bearing both passages in mind, is offered by the Talmud ⁹⁾: "You did not do according to their good usages, but have done according to their corrupt usages." Whether this was indeed the implication of Ezekiel himself may be left as an open question here. Certainly, to follow the critics in omitting the word lo would be the easier way out; but it is important to see how later Judaism understood the passages in question.

We shall now turn our attention to the papyri of the Jews in Elephantine. In one of them we read: "Oath of Menahem b. Shallum b. Hodaviah which he swore to Meshullam b. Nathan by Ya'u the God, by the temple and by 'Anatya'u (ענת יהו).." ¹⁰⁾

From other documents it is evident that in addition to Ya'u (who no doubt is YHWH) and the above-mentioned Anathya'u, the Elephantine Jews also recognized Bethel, Ishum and Herem; and, of course, they had their own temple. There may have been others, says Cowley ¹¹⁾, but it

is at least a coincidence that we have the names of five gods and that there were five gates to the temple. 'Anathya'u is known as a goddess of Syria and elsewhere, so that it has been suggested that 'Anathya'u was intended as a consort of Ya'u - the "Queen of Heaven" (Jer.44:17), as He was the God of heaven. Bethel has long been recognized as an early Canaanite god (cf. Genesis 31:13). ¹²⁾

That Jews should still practice this type of syncretistic religion some 200 years after the Deuteronomic Reform raises the important question of whether they brought this religion with them to Egypt, or whether they accepted it there. Cowley is all in favor of the first alternative. He finds Jeremiah's attack against the worship of the "Queen of Heaven" corroborated here, a century later, and finds the explanation in the people's answer to Jeremiah (quoted above) that it was no new heresy that they invented for themselves - people do not invent much - but they did "as we have done, we and our fathers....in the cities of Judah." They took with them in all sincerity the old religion of pre-exilic Judah, and continued to practice it after the exile (and Ezra) had made it impossible for the mother-country. ¹³⁾ In other words, it was not a case of falling away from the monotheistic ideal, but a continuation of the pre-exilic popular beliefs. ¹⁴⁾

Not so Albright. He believes that "pagan theological conceptions had entered into post-exilic Jewry through the circles to which these Jews belonged," and he regards the Elephantine Papyri as evidence "that pagan Aramaic literature began to exercise (an) influence after the 6th century B.C.E." ¹⁵⁾

Even if we assume that Cowley is right in identifying 'Anathya'u with the malkath hashamayim of Jeremiah, and in regarding her, as well

as Bethel, as survivals of the old pre-exilic popular belief, the other deities remain unaccounted for, and no biblical counterpart has been found for them. But that is not all. Considering the historical background of the Elephantine Jews, we must say with Klausner¹⁶⁾ that it is difficult to conceive how those Jews could not have been influenced by their pagan environment to the extent of accepting additions to their Jewish monotheism. After all, they had been removed from their homeland for two generations - from the days of Pharaoh Hophra to the days of Darius II -; and they were soldiers, hence simple Jews. And they do not compare too unfavorably with the "Golah" of Babylon itself, against whom the Prophet had to protest because of the absorption of various pagan elements. Indeed, Klausner goes as far as to say that the syncretistic religion of the Jews of Elephantine was merely following the pattern set by the Jews of Babylon, when they took up the belief in Satan, Samael and Metatron (of whom the Talmud says sheshemo keshem rabbo¹⁷⁾). He seems to feel a peculiar urge to "whitewash" the Elephantine Jews, and even insists that they did not place Ishum etc. on the same level with Ya'u. How he derives that from the sources, Klausner does not say.

But with all his exaggeration, Klausner is right in drawing attention to the interaction between people and environment. This, together with Albright's reference to the pagan Aramaic literature, would of necessity lead us to a modification of Cowley's absolute statement, quoted above. On the other hand, the mere fact that such syncretistic cult was still possible does make us doubt the efficacy of the Deuteronomic Reformation, and points to the strength of popular religion.

Turning our attention now to the Babylonian "Golah", we shall have to ask whether there was any direct influence of the environment on the Jews there, - besides the obvious borrowing of the names of the months. Remembering the strong attraction the hukkoth hagoyim had for the Jews still on the soil of Canaan, it would be strange indeed if such had not been the case in the pagan environment of the Exile. To this must be added another consideration: In Zoroastrianism the Jews encountered a type of religion which was on an incomparably higher level than that of their erstwhile Canaanite neighbors, and one, moreover, that presented many similarities even to the higher forms of Judaism. That there was a trend at that time among the Jews to incline toward the Zoroastrian doctrine of dualism is evident from Deutero-Isaiah's affirmation that YHWH is the creator of both light and darkness, peace and evil ¹⁸⁾. But in the sphere of practical religion, too, we can see some definite influence of Parsee practice, hukkoth hagoyim that found their entrance into the authoritative sources of Judaism. Chief among these are the laws of ritual purity. Of course, as Klausner points out ¹⁹⁾, such laws as concerning the tum-ath yoledeth and the tum-ath meth were the monopoly of no single nation in antiquity, and were known not only in Israel and Persia, but also in Babylon and Greece, and even distant Anam. Therefore, it is certain that the laws of ritual impurity were in existence in Israel still from before the time of the First Temple, just as they were in existence among all early and primitive peoples. But, Klausner admits ²⁰⁾, it is almost certain that the Parsee philosophy of life, with its fight between the god and the spirits of darkness and impurity

and the god of light and purity, s t r e n g t h e n e d, developed and e n l a r g e d the early Hebrew laws of impurity and purity, until they became what we see them to be in the days of the Second Temple and after. This, as pointed out by Weiss²¹⁾, was due to the fact that the Parsee practice was even stricter than that of the Jews; and the line of reasoning went something like this: "If they, who do not believe in our God, are strict in the observance of the laws of taharah, how much more should we be!" With the result that the Jews actually made their own observance stricter.

Schorr, for whom there is hardly a single aspect of post-biblical Judaism which is not based on a Parsee model, mentions that especially angelology²²⁾ and demonology²³⁾ came to the Jews from there. The foundations had already been laid by the Babylonians; but the full development was due to the Parsees²⁴⁾. He sees three possible ways to account for the many parallels in Bible and Zoroastrianism: (a) a common source of both Canaanites and Babylonians; (b) the mediating influence of the Medes; and (c) the possibility that the Torah itself did not assume its final form until late in the Babylonian Exile or even thereafter²⁵⁾. Schorr himself seems to incline to the last alternative.

While it is impossible to go along with Schorr in viewing as borrowing from the Parsees many folkloristic and legal elements of Judaism, which might be nothing more than parallel developments in the two systems, a certain indebtedness to their Parsee environment on the part of the Jews can hardly be denied. But we shall discuss some of these other adaptations from Parsee practice, the manifestations of

which are evident in rabbinical rather than in biblical literature, in the chapter devoted to the appropriate period.

Looking at Palestine after the Exile, we still find an anonymous prophet ²⁶⁾ speaking out against the practice of obscene fertility cults in the country, and idolatrous rites in the city. And then we come to the period of Nehemiah and Ezra, when the fight against heathen associations begins in earnest, and Jewish particularism and exclusivism becomes the order of the day. Here we meet with the characteristic terminology that we shall encounter again and again in the law codes. One example will suffice:

"The people of Israel, and the priests and the Levites, have not separated themselves from the peoples of the lands, doing according to their abominations, even of the Canaanites, the Hittites, the Perizzites, the Jebusites, the Ammonites, the Moabites, the Egyptians and the Amorites. For they have taken of their daughters for themselves and for their sons; so that the holy seed have mingled themselves with the peoples of the lands; yea, the hand of the princes and rulers hath been first in this faithlessness." (Ezra 9:1-2)

The whole chapter, from which we quoted the first two verses, emphasizes the idea that the cleanliness and holiness of Israel must be rigidly maintained to ensure the continued relationship with the deity, and that the adoption of the "abominations" of the nations must necessarily cause a break between God and people. The leaders

of the post-exilic community fiercely condemned the practice of inter-marriage, and in order to prevent it, passed laws of rigid exclusivism. In verse 1, the entire people of Israel is accused of not having held itself aloof from the surrounding nations which practiced to'ebboth. It is not meant here that the Jews participated in the pagan to'ebah practices of the nations, but that they did not abstain from inter-marriage with them, as verses 2ff. go on to indicate. Naturally, however, foreign women were bound to bring pagan practices with them. The idea that to'ebboth make a land unclean is shown clearly in verses 11 and 12. Inter-marriage with the peoples that practice to'ebboth would bring upon Israel complete destruction by the deity, as is explicitly stated in verse 14. Inter-marriage meant the committing of a to'ebah. To'ebah, then, may be interpreted as that way of acting which renders impossible the continuation or the establishing of the covenant relationship with the deity. ²⁷⁾

Ezra has come in for a good deal of criticism for his "heartless" action in having the Jews drive out their foreign wives. Cheyne ²⁸⁾ goes so far as to accuse Ezra of denying the doctrine of the "Fatherhood of God." But this same Cheyne ²⁹⁾ is able to acknowledge the "extenuating circumstances." He admits that "a child is always affected permanently for good or for evil by the religion of its mother. There was a time when the religion of ancient Egypt became partly Semitic through the inter-marriage of Egyptians and Syrians; and some of the least desirable religious peculiarities of the early Israelites were largely due to their inter-marriage with the Canaanites."

Something else, too, begins with the appearance of Ezra, and that is the rule of the Torah over the people. However much of this legal literature may, or may not, have existed before this time, it is only now that Judaism as a "Religion of the Book" takes its rise.

The legislation of the so-called Holiness Code is replete with warnings against the hukkoth hagoyim. The laws of sexual morality in Lev. chapter 18 are introduced by the statement: "After the doings of the land of Egypt, wherein ye dwelt, shall ye not do; and after the doings of the land of Canaan, whither I bring you, shall ye not do; neither shall ye walk in their statutes." (verse 3) And this particular list of moral offences closes with the remark: "Therefore shall ye keep My charge, that ye do not any of these abominable customs (mehukkoth hato'ebhoth), which were done before you, and that ye defile not yourselves therein: I am YHWH your God" (verse 30). After another list of ritual and moral offences, the juxtaposition of which is so characteristic of H, we read: "And ye shall not walk in the customs of the nation, which I am casting out before you; for they did all these things, and therefore I abhorred them." (Lev. 20:23) ³⁰⁾

The Priestly lists of forbidden foods in Leviticus 11 and Deuteronomy 14, with the motivation of "self-sanctification" and "chosenness" in Lev. 11:44 and Deut. 14:2 respectively, have also been taken to serve the purpose of exclusivism and separation from the Gentiles. (Especially in the light of the rabbinic identification of kedushah with perishuth ³¹⁾.) But Moore ³²⁾ denies that there is any internal or external evidence to substantiate that view. For him they are merely ancient customs, the origin of which had long since

been forgotten. Some of them are found among other Semites, or more widely; some of them were peculiar to Israel. As a system they were the distinctive customs which the Jews had inherited from their ancestors with a religious sanction in the two categories of holy and polluted.

While Moore may be right in as far as the origin of these laws is concerned, their systematization and promulgation as a code could not have been unconnected with the endeavor of putting hindrances in the way of intercourse with the heathen. At any rate, that is how they were viewed in the first century B.C.E. ³³⁾

Deuteronomy, ³⁴⁾ too, has its share of anti- hukkoth hagoyim legislation, and it is here that the word to'ebah is most prominently associated with it. According to Glueck ³⁵⁾, the meaning of that word in pre-exilic times was quite general; and it is only in Ezekiel and related passages that it has the specific meaning of violating the covenant relationship between God and His people, as we have already noted when discussing the word as used in Ezra chapter 9.

We shall now look at some of the passages in Deuteronomy that warn against following the statutes of the Gentiles and apply the word to'ebah to such practices.

Deuteronomy 12:29-31 -

When the Lord thy God shall cut off the nations from before thee,..... and thou dwellest in their land; take heed to thyself that thou be not ensnared to follow them, after that they are destroyed from before thee; and that thou inquire not after their gods, saying: 'How used these nations to serve their gods? even so will I do likewise.'

Thou shalt not do so unto the Lord thy God; for every abomination to the Lord, which He hateth, have they done unto their gods; for even their sons and their daughters do they burn in the fire to their gods.

And again in Deuteronomy 18:9-12 -

When thou art come into the land which the Lord thy God giveth thee, thou shalt not learn to do after the abominations of those nations. There shall not be found among you any one that maketh his son or his daughter to pass through the fire, one that useth divination, a soothsayer or an enchanter, or a sorcerer, or a charmer, or one that consulteth a ghost or a familiar spirit, or a necromancer. For whosoever doeth these things is an abomination unto the Lord; and because of these abominations the Lord thy God is driving them out from before thee. ³⁶⁾

And finally, Deuteronomy 20:17-18 -

Thou shalt utterly destroy them: The Hittite, and the Amorite, the Canaanite, and the Perizzite, the Hivite, and the Jebusite; as the Lord thy God hath commanded thee; that they teach you not to do after all their abominations, which they have done unto their gods, and so ye sin against the Lord your God.

Black Magic, then, and the practice of child sacrifice were the abominations par excellence, and the particular fear of the legislator is that Israel would be taught to do these things by the local inhabitants. No doubt, a well grounded fear.

That the Torah as a whole presents us with a two-fold procedure,

both that of adaptation from the environment and of guarding the purity of Judaism vis-à-vis that environment, was already recognized by Isaac H. Weiss³⁷⁾. He says that there is an astounding similarity between early Babylonian doctrines and beliefs, and Canaanite religion, on the one hand, and those of the Torah on the other. At the same time, the Torah enacted special legislation to guard Israel from the indecent habits of those self-same environments. Weiss, for example, would concede³⁸⁾ that circumcision, the laws of ritual purity and the dietary laws were taken over from the environment, so long as there was no moral or religious harm in them. On the other hand, the law that sacrifices must be brought "unto the door of the tent of meeting" (Leviticus 17:5), "so that they shall no more sacrifice their sacrifices unto the satyrs" (ibid.17:7), was, according to Weiss, instituted in direct opposition to an Egyptian cult.

In bringing this chapter to a conclusion, we may note an observation of Kaufman's in connection with the biblical opposition to heathen religion. He emphasizes again and again³⁹⁾ that there is no struggle against pagan mythology in the Bible. In spite of all the struggle against the manifestations of paganism, we do not find any correct information about historical paganism or its mythological beliefs. The biblical period sees paganism as if from afar, through a dimmed glass. Kaufman⁴⁰⁾ reaches the following four conclusions:

- 1) No biblical writer expresses the thought that the gods, in whose existence in heaven and earth the nations believe and of whom they tell legends, do not exist.
- 2) In no place is the belief in the legends of the gods,

or the telling of such legends, forbidden.

3) No single biblical writer relies on any kind of mythological motif in his fight against paganism.

4) The one and only claim which the Bible has against paganism is that it is F E T I S H I S M, "wood and stone."

There is, of course, one instance of paganism in the Bible that would seem to contradict Kaufman's assertion. This is the passage in Ezekiel 8:14, about the women weeping for Tammuz in the House of the Lord. ⁴¹⁾ Kaufman finds an ingenious way out of this difficulty ⁴²⁾. He questions Ezekiel's knowledge, and that of his contemporaries, of the legend about the death of young Tammuz, the lover of Astarte. Ezekiel mentions explicitly only the rite, but not the legend. The various component parts of the cult were no doubt known to the idolaters in Israel. But even among the heathen nations the majority of the people knew only very dimly of the mythological foundations of the cult which they were practicing. Is there any ground to think, asks Kaufman, that the "weepers for Tammuz" in Israel knew the legend of Tammuz? Ezekiel himself does nowhere oppose heathen mythology. Not with one word does he mention the legend of Tammuz or any other heathen legend. In all his words against idolatry, he speaks of it as mere fetishism. So far Kaufman.

We do indeed know that ceremonies are being observed by people who are not at all clear about their real meaning. The observance of rosh hodesh by abstention from work has survived among pious women right up to our own time, even though they may be ignorant of the original reason or its later rationalization. But, at any rate, the women concerned have a pronounced feeling that what they are doing is

pleasing to God; and, therefore, their action fits perfectly into their complete pattern of Jewish living. Kaufman, on the other hand, makes an excessive demand on our credulity if he wants us to believe that people went through all the outward motions of a cult without in the least knowing why they were doing so, without making allowance for the presence of cognitive elements.

Again, what should have been the objection of Isaiah (17:10) to the planting of gardens, unless he credited his hearers with a full knowledge of the Adonis myth?

Furthermore, in our consideration of the cult of the "Queen of Heaven" (in Jeremiah, chapter 44), we have seen that the women practicing it had quite a workable hypothesis as to its function.

It would have been as well for Kaufman to admit that these particular instances are the exceptions which prove his general rule. For, as a general rule, Kaufman's conclusions may be accepted. The general attitude of the biblical writers toward idol worship was indeed one of mocking satire at the expense of those who worshipped "wood and stone." They did not make room for mythology as an equal partner in the search for theological truth.

But they realized just the same that if a cult or practice is observed which does not make sense within the framework of Judaism, a mythology will needs have to arise to explain to the initiates just why the particular rite is being observed.

Herein lay their violent opposition to the introduction of hukkoth hagoyim, of religious observances peculiar to heathen cults which are fully explicable only in the light of pagan mythology. No

wonder that they considered them to be "abominations," disturbing the covenant relationship between God and Israel.

CHAPTER THREE

HISTORICAL FACTORS

and their

INFLUENCE

Further Parsee influence. - Klausner's view on the origin of the blessing over light discussed. - Underlying and immediate causes of the Maccabean Revolt. - Bickermann's view on Hanukkah as a Gentile custom, and his interpretation of the historic mission of the Hasmoneans. - The simhat beth hasho-ebhah. - Venetianer's hypothesis. - Imitation of Gentile practices in the Jerusalem Temple. - The reforms of Johanan the High Priest. - Heathen influence on Diaspora Jewry. - Their reaction and their yielding. - Herod. - The pagan cities of Palestine. - Heathen festivals known to the Mishnah. - The Jewish reaction to the viciousness of pagan life.

CHAPTER THREE

Historical Factors and their Influence

We have already noticed in the last chapter that the Babylonian Exile was not without its influence on the development of Judaism, which took place there. Apart from the angelology and the names of the months, we have seen that there was a direct Parsee influence especially in the field of tum-ah and taharah legislation. To this may now be added the whole system of berakhoth in general, and the berakhoth over light in particular.

Weiss,¹⁾ noting that there was no basis for the system of berakhoth either in the Torah or in the Prophets, draws attention to the fact that such a system was known in the Parsee religion. The various occasions for which the Jew was required to recite a berakha had their counterpart, or, as Weiss would have it, their model, in the Parsee religion; --- with this difference: that in the Parsee religion, different angels were thought to be in charge of the different phenomena, so that the "address" of each Parsee "berakha" was different. To prevent the Jews from taking over the Parsee system in toto, the later rabbis insisted that a berakha was only complete when God is mentioned in it (Ber. 40b).

Schorr, too, asserts that the berakhoth were based on a Parsee model, mentioning especially the Parsee prototype of the blessing ozer yisra-el big'vurah on putting on one's belt²⁾. But neither Weiss nor Schorr give us a reference to this alleged Parsee source.^{2a)}

There is also a view held by a number of scholars³⁾ which would see in the blessing over the lights on Sabbath Eve and in the blessing

"bore me-ore ha-esh" at the termination of the Sabbath a clear case of borrowing from the Persians.

Klausner⁴⁾ concedes that the particular blessing included in the Habdalah is due to Parsee influence. However, he believes that this influence was exerted at a very late time, in fact, as late as the time of the Parthian fireworshippers, after the renaissance of Mazdaism under the Sassanids. The custom was first accepted by the Babylonian Jews, and spread from there to Palestine and other countries.

On the other hand, Klausner⁵⁾ refuses to believe that the blessing over the lights on Sabbath Eve was due to Parsee influence. Instead he regards it as a mitzvah kadumah (an a n c i e n t commandment). His support for this thesis he finds in Josephus, Contra Apionem II, 39, 282⁶⁾, where Josephus boasts that "there is not any city of the Grecians, nor any of the barbarians, nor any nation whatsoever, whither our custom of resting on the seventh day hath not come, and by which our fasts and lighting up lamps.....are not observed."

Whether or not Klausner is right in his assertions, the passage from Josephus certainly does not prove it! In the first place, if we bear in mind the time in which Josephus lived, it is obvious that the custom of kindling lights for the Sabbath could have spread far and wide even if its original institution was due to Persian influence. Secondly, in Josephus' list, the "lighting up of lamps" does not follow directly on "resting on the seventh day," but is separated from it by the insertion of "our fasts" (which latter could not possibly refer to the Sabbath). "Lighting up lamps" was not restricted to the Sabbath. Indeed, one of the names which the festival of Hanukkah received in Hellenistic literature was phota ("lights"). But even

if Josephus did mean the lamps to be associated with the Sabbath - and this is not unlikely -, we would still have to rule out Josephus as a proof for Klausner's assertion, on the basis of the time factor involved.

Be all that as it may. The statements of Schorr and of Weiss notwithstanding, we have no actual literary evidence that there was a complete system of berakhoth before the time of the Tannaim. If the Talmud ⁷⁾ regards the berakhoth as having been instituted by the "men of the Great Synagogue," Künen's demolition of the traditional notion of this institution makes it impossible for us to regard it as a terminus a quo in our case. Besides, ascribing a thing to the "Great Synagogue," just as calling it halakha lemoshe missinai, merely indicates that the teachers of the Talmud had to deal with a tradition for which they could neither find a biblical source nor a hermeneutic derivation. There seems little likelihood, therefore, that we shall be able to determine the date of individual berakhoth - such as the two mentioned by Klausner - with any degree of certainty.

On the other hand, an attempt has been made by Kohler ⁸⁾ to trace the daily recital of the Shema and its two preceding blessings to as far back as the hassidim harishonim. And here, too, Zoroastrian influence seems to be at work.

Basing himself on the description of the Essenes given by Josephus, and on Philo's account of the "Therapeutes," Kohler ⁹⁾ summarizes the morning devotions as follows: "They assembled in the open field where they could watch the sun rise from daybreak on, and, beginning with their benedictions, they greeted the sun, as it appeared in full radiance over the hills, with uplifted hands, while solemnly

reciting the Shema.

"It is easy to see that, being meant to be a demonstrative proclamation of the Unity and the Uniqueness of Israel's God, in opposition to the Zoroastrian dualism, the practice originated neither in the Temple nor in the Synagogue, but in the open under the free heaven and before the very eyes of the surrounding Mazdean priests.

"In all likelihood, the Mazdean worshippers themselves gave the impulse to the Jewish practice, as we learn from the Avesta that every morning they hailed the rising sun, the god Mithras, with the sacred prayer, ASHEHU VOHU, and likewise the setting sun with the same prayer."

The ever increasing Hellenization of Judea, as it began and continued to be drawn into the orbit of Ptolemies and Seleucides, is too well known to require any special treatment here. What has to be emphasized, however, is the fact, so stressed by Bickermann ¹⁰⁾, that, far from being due to any great outside pressure, that "Hellenization" was the result of assimilationist tendencies on the part of the influential Jews themselves. So much so that Bickermann is able to regard the "Maccabean Revolt" more as a civil war than as a fight against the Syrians.

The historical sources seem to bear out this point of view. Thus we are informed in I Maccabees 1:11-15 -

In those days there came forth out of Israel lawless men, and persuaded many, saying: "Let us go and make a covenant with the nations that are round about us; for since we separated ourselves from them many evils have come upon us."

And the saying appeared good in their eyes; and as certain of the people were eager (to carry this out), they went to the king, and he gave them authority to introduce the customs of the Gentiles ¹¹⁾. And they built a gymnasium in Jerusalem according to the manner of the Gentiles. They also submitted themselves to uncircumcision ¹²⁾, and repudiated the holy covenant; yea, they joined themselves to the Gentiles, and sold themselves to do evil.

This fashion of obliterating the mark of circumcision (the sign of the covenant) must have greatly enraged the pious of that time. It, no doubt, was for them the symbol of complete dejudaization. We still hear an echo of it in Jubilees, probably written not very much later ¹³⁾:

And there will be great wrath from the Lord against the children of Israel, because they have forsaken His covenant and turned aside from His word, and provoked and blasphemed, inasmuch as they do not observe the ordinance of this law; for they have treated their members like the Gentiles, so that they may be removed and rooted out of the land. And there will be no more pardon or forgiveness unto them for all the sin of this eternal error ¹⁴⁾.

The outcome of the Maccabean Revolt is well known. But did it mark the end of Hellenism, the restoration of the pristine purity of the Jewish cult? Not, if we look at what the victorious Hasmonians did. Judah's institution of the Festival of Hanukkah, Bickermann points out ¹⁵⁾, was without Jewish precedent. All previous festivals were grounded in Scripture. Even the Return from Exile, and the Reconstruction of the Temple, did not call into being a special commemoration.

But the institution of Hanukkah did correspond to the custom of the heathen. It was customary among the Greeks for a generation to consider an event of their own time to be of such importance that they felt the need of establishing the memorial thereof for all times. Judah, therefore, imitated an institution of his enemies, at the same time incorporating it into Judaism. Bickermann¹⁶⁾ regards this as but the first step on the way of the historic mission of the Hasmoneans, which was "to introduce Hellenism into Judaism, without forgoing the latter."¹⁷⁾ It was in this latter that the Maccabees differed from the so-called Hellenizers. Both parties were actually engaged in hellenizing Judaism; but the latter wanted to assimilate the Torah to Hellenism, the former to incorporate Hellenic culture into the sphere of the Torah¹⁸⁾.

While Bickermann, from the vantage point of his own historical perspective, may have interpreted the Hasmonean phenomenon correctly, we can, on the other hand, hardly assume that the Maccabees were conscious of the historical mission that was theirs. And that Judah, who enjoyed the support of the Hassidim, should have consciously imitated a heathen custom is not only incredulous in itself; but Bickermann's whole argument in this regard would have to be modified in view of the institution of similar days of commemoration, as witnessed by the nearly contemporary Megillath Ta'anith.

Schürer, too, points out¹⁹⁾ that if one bears in mind that the little Jewish country was surrounded on all sides by Hellenistic territories, with which, of necessity, it had to have trade relations, and if one remembers that already the Maccabean Revolt was directed only against heathen worship - and n o t against Hellenism as such -,

and that the latter Hasmoneans again adopted Greek forms (foreign mercenaries, Greek coins, Greek names), and that men like Aristobulos I favored Hellenism directly, - if one considers all this, it is legitimate to assume that - in spite of the Maccabean Revolt - Hellenism had entered Palestine in no mean dimensions already before the Roman period.

It is as due to the influence of Hellenism that L. Venetianer would like to regard the institution of the simhat beth hasho-ebhah ²⁰⁾. The generally accepted view about this ceremony is, of course, the conjecture, quoted with approval also by Moore ²¹⁾, that we are dealing here with the survival of an old rain making ceremony, which in the context of a higher religion became transformed symbol of rain. On the other hand, the attempt of Venetianer to link this ceremony with the Eleusian mysteries is so ingenious, and the corresponding details are so astonishingly similar, that we feel justified in paying some attention to this hypothesis.

After giving a description of the ceremony based on the rabbinic sources ²²⁾, Venetianer raises the following questions:

- 1) Why, after the completion of Herod's Temple, was the locale of the celebration transferred to the Court of Women; and, specifically, what is behind the tradition which says that originally only women participated while men were only spectators, and that these rôles were only changed as a consequence of outbursts of unchastity?
- 2) Why was this feast celebrated at night time?
- 3) What was the meaning of the brilliant torch illumination?

- 4) Why could only the pious participate, and what is the meaning of their songs?
- 5) Why was the kindling of the lamps entrusted to the young priests?
- 6) Why the self-praise that they are bowing before God, while their ancestors worshipped the sun?
- 7) Why, in all this jollification, did they have to pay attention to the cry of the cock as a signal for the procession to Siloam?

Without going into all the details here, we may state that Venetianer finds parallels to all the items mentioned here in the cult of DEMETER and PERSEPHONE, especially in the way it was performed at ELEUSIS. The center of these celebrations was the Well of KALLICHOROS, otherwise known as "well of the virgins." (In this connection Venetianer points out that in Christian times the Siloam was known as the "Virgin Spring;" -- for obvious reasons, no doubt, but the association might precede the Christian interpretation.)

As for the "cry of the cock," Venetianer draws attention to a controversy between Rab and R. Shela (in b. Yoma 20b), about the meaning of keri-ath hagever. Rab convinced his opponent that the meaning was "Proclaimer," "Herald." In that case, argues Venetianer, the gever in our context, too, is not the "cock," but corresponds to the hierokerux of the Eleusian rites.

The question has now to be answered: how did all this get into the Jerusalem Temple? Venetianer thinks it was introduced by the Hellenistic High Priests under Antiochus Epiphanes. Even Judah's

"cleansing of the Temple" was of no avail in this respect since, as is evident from the sources, he himself was on the battle-field again by the next Tishri.

Alcimos, who took over the High Priesthood, was not innocent of Hellenizing efforts. Consequently, the Temple was in the hands of such High Priests for nearly 25 years, -- sufficient time for this cult to take root. After some 20 years of observance, it was no longer considered "foreign," and its original heathen color faded away. Indeed, it even happened less than a century later, that the Pharisees rebelled against a High Priest who poured out the water at his feet, instead of performing the libation East and West as was the usage at the Eleusian mysteries!

Venetianer applies the words of Renan that the Pharisees showed an enthusiastic love in the defense of just such institutions which, originally, were forced on them from the outside.

This hypothesis is certainly suggestive, although, as a reading of Frazer's Golden Bough will bear out, it is very hard to draw conclusions from similarities occurring in ancient rain-making and similar ceremonies. It may just be coincidence, and not a case of "borrowing" at all. ²³⁾ On the other hand, as far as our present state of knowledge is concerned, the simhat beth hasho-ebhah is an institution of the days of the Second Temple, not attested to by the earlier sources, and, besides, heartily disliked by the Sadducees. If Venetianer is right, then the Hellenization of the Jerusalem Temple cult must have been much more incisive than the mere architectural details of Herod's Temple, and the circumstance, reported by Rabbi Ishmael ²⁴⁾, that - instead of being labelled aleph, beth and gimmel - the boxes of the "Shekel Chamber" bore the Greek inscriptions of alpha, beta and gamma.

Lieberman ²⁵⁾ thinks that it is safe to assume that the tendency to avoid pagan customs was not always strictly followed in practice. In addition to the argument that the heathen were following Jewish practices and not vice versa, ²⁶⁾ the Jews might, in matters of external decorum, imitate the Gentiles without any feeling that they were breaking the law; - after all, it was commendable "to adorn a religious act" (hiddur mizwah). "There was a general pattern in the ancient world of temples and sacrifices with which the Jews shared." ²⁷⁾

But it was not a case of acquiescing in pagan practices completely. The Mishnah records ²⁸⁾ that "Johanan the High Priest did away with the Declaration concerning the Tithe. He also abolished the Awakeners and Knockers."

The Tosefta ²⁹⁾ explains: "The Knockers are those who strike the calf between its horns, as they do in (the practice) of idol worship. Said Johanan the High Priest to them: 'How long will ye feed the altar with terephoth!'"

Lieberman ³⁰⁾ aptly notes that this Tosefta passage implies two reasons for the abolition of the "Knockers:" the real reason, that it was to prevent the imitation of the heathen VICTIMARII who practiced the very wide-spread habit of pagan worship to stun the ox before slaughtering; and the reason which Johanan gave to the people, namely that this "knocking" would make the animal unfit for sacrifice. "Certainly, the High Priest's authority in all matters pertaining to the altar could not be challenged. Thus the public understood the High Priest's action in one way, while its real

purpose was something other." 31)

A very similar motive is discovered by Lieberman 32) to have been underlying Johanan's abolition of the "Awakeners." This was the name given to those people who every morning used to recite the verse "Awake, why sleepest Thou, O Lord!" 33) in the Temple. Of course, Johanan had no intention to eliminate the verse from the Bible, for he probably understood it as a literary figure. But he must have known that the chanting of this Psalm in the morning closely resembled a heathen ceremony. The Egyptian temples were, as was the Jewish Temple, closed at nights. At the opening of the former, the god was invoked in a hymn with the current refrain: "Awake in peace!" Johanan apparently abolished the Temple ceremony for it sounded too much like a repetition of the service in a heathen temple. He did not divulge his reason to the public. But the desired effect was achieved, and the Rabbis gave him the deserved praise for it.

If the influence of heathenism was great in Judea itself, it must have been enormously greater in the cities of the Diaspora, where Jews were a minority in the midst of Hellenistic civilization. We know that they were very conscious of the great gulf dividing their Jewish heritage from the culture surrounding them. And it did not remain with them a mere matter of conscience. Paul 34) tells us that the Jews of the Diaspora were in the habit of boasting of their possession of the Torah. Max Radin 35) is able to devote a whole chapter to what he calls "The Jewish Propaganda." In the Apocrypha and Pseudepigrapha, quite a number of these propaganda "tracts" have been preserved. Thus, the author of the Wisdom of Solomon 36) makes no bones as to what he thinks of idolatry, and the

evil-doing which he considers to be its result. The authors of the Sibylline Oracles, adopting the very clever device of putting their words into the mouth of generally accepted pagan oracles, not only threaten the heathen - as contrasted to Israel - with utter doom ³⁷⁾, but they also violently attack the whole theory of idolatry, and ridicule its practices by professing - and rightly so - to see in them nothing but the spectacle of benighted men worshipping stones, animals, etc. ³⁸⁾

With all this, the Jews of the Diaspora could not escape the influence of their environment. It was natural for them to adopt from their pagan neighbors institutions without parallels in the written and oral law, although, as Pfeiffer is careful to point out ³⁹⁾, not directly in conflict with Judaism. Pfeiffer adds, however, that the "laws of the Gentiles among whom they lived, even when some local institutions and practices were adopted, remained alien and external - even when they could not be disregarded."

He lists some of the institutions adopted from the environment ⁴⁰⁾. Thus, for instance, Jews formed or joined trade associations and guilds, as shown by the epitaph of a certain P. AELIUS GLYCON of HIERAPOLIS (East of Ephesus): this gentleman bequeathed a sum to the guild of purple-dippers with the stipulation that they adorn his grave with a crown annually on the Feast of Unleavened Bread, and likewise to the guild of carpet weavers who were to adorn his grave on the Feast of Pentecost.

It also became customary among Diaspora Jews to confer current Gentile honors - such as crowns and chief seats at the synagogues (instead of the chief seats at the games) - and record them on

inscribed stelae placed in the synagogues and occasionally even in the amphitheater; to dedicate synagogues to the king; to confer on women titles and honorary positions such as "chief of the synagogue," "mother of the synagogue," etc.; to free slaves in the synagogue with the obligation that the freedman would honor the synagogue and attend it regularly, as pagans freed slaves by fictitiously selling them to a temple.

From our excursion into the Diaspora we shall now return to Judea, and take as our time of arrival the reign of Herod the Great. To get the atmosphere of that period we shall merely watch the reaction of Josephus, who was rather close to the period in question, and who is not exactly known as a die-hard opponent of Greek or Roman culture.

"Herod revolted from the laws of his country, and corrupted their ancient constitution, by the introduction of foreign practices," says Josephus⁴¹⁾ and proceeds to a description of the "solemn games" held every fifth year in honor of Caesar, the theater built at Jerusalem and the "very great amphitheater in the plain;" -- all of which were very "opposite to the Jewish customs."

Josephus concludes his description by saying that the foreigners, who were specially invited for these occasions, were greatly surprised and delighted;

"but to natural Jews, this was no better than a dissolution of those customs for which they had so great a veneration. It appeared also no better than an instance of barefaced

impiety to throw men to wild beasts, for the affording delight to the spectators; and it appeared an instance of no less impiety to change their own laws for such foreign exercises; but, above all the rest, the trophies gave most distaste to the Jews; for as they imagined them to be images.....they were sorely displeased at them, because it was not the custom of their country to pay honours to such images."

We are ready now to cast a glance at the locale. There were in the Roman-Herodean age three Jewish provinces: Judea, Galilee and Transjordan⁴²⁾. But even in these provinces the population was not exclusively Jewish. Although Judaism had grown - both extensively and intensively - until the reign of Alexandra, this movement had come to a stop under the Romans and Herodeans; it even suffered a reversal. Pompey, Gabinius and Herod favored Hellenistic culture. The "Greek cities," destroyed by Alexander Jannai, were rebuilt, and new cities founded. Under the auspices of Herod, the splendour of pagan culture was introduced, even into the inner part of the country.

A real feeling of claustrophobia animates the reader of Schürer's history of that period, when he tries to visualize what was left of uncontaminated Jewish Palestine.

Samaria and Scythopolis⁴³⁾ counted among their populations a majority of pagans. Gaza⁴⁴⁾ had its veritable menagerie of Greek deities and a sole surviving Semitic god (MARNAS). Askalon⁴⁵⁾ had a mixture of native and Greek cults. Its coins depicted ZEUS, POSEIDON, APOLLO, HELIOS, ATHELE and others. Caesarea⁴⁶⁾ could

boast a temple built by Herod himself, containing the statues of AUGUSTUS and of ROMA . It also gave ample hospitality to the Egyptian cult of SERAPIS, which was highly valued in Rome. In Jamnia and Joppa ⁴⁷⁾ the Jewish element predominated since the days of the Maccabees. Nonetheless, Joppa became important for Hellenism as the scene of the myth of PERSEUS and ANDROMEDA; -- the latter was exposed to the sea monster on the rock of Joppa and rescued by the former. This myth was kept alive even in the predominantly Jewish period ⁴⁸⁾ . In Sepphoris and Tiberias ⁴⁹⁾ , cities so familiar to us from rabbinic literature, the existence of hellenistic cults can be proved since the second century C.E. It seems very unlikely that these cults found entry there before the war of Vespasian, as the predominantly Jewish population would hardly have tolerated the public exercise of these cults in their midst.

This, then, is a very general outline of the **religio-geographic** background, to which could be added, and to which Schürer does indeed add, many more details. But we believe to have achieved the purpose of our survey by what has already been stated.

Of the festivals celebrated in this environment the Mishnah ⁵⁰⁾ mentions particularly the following, to which we shall also quote the explanations of Krauss ⁵¹⁾ :-

קַלֵּנְדָּא - The Kalends, celebrated by the Romans in the beginning of the month, especially on January 1st, on which occasion a solemn sacrifice was offered in the Capitolium. The KALENDAE, as a monthly holy day, were not celebrated

publicly, but in the home, a sacrifice being brought to JUNO.

סטורנוֹרְאָ - The Saturnalia, a feast of unrestrained lust, which was a favorite occasion for the manumission of slaves. Dedicated to SATURNUS, it began on December 17th.

קֶרְטִיסִים - ΚΡΑΤΗΣΙΣ - IMPERIUM, is here the DIES IMPERII or NATALIS IMPERII, the birthday of the Roman principate. It was celebrated annually on April 16th. According to Tosefta 'Ab.Zar. 2:4, KRATESIS is the day when Rome assumed rulership. The Babylonian Talmud, 'Ab.Zar. 8b further explains that this took place in the days of Queen Cleopatra. Indeed, the victory of Actium can be regarded as the beginning of the Roman principate; and Josephus (Ant.18-2-1) reckons according to the AERA ACTIA, which era was also in use in Syrian and Phoenician towns.

שְׁלֵמִיָּהּ - יוֹם גִּנּוּסִיָּהּ - The Genesisia (ΓΕΝΕΣΙΑ) of the Emperors, the NATALIS IMPERII of every single Emperor, as rightly defined in Tosefta 'Ab.Zar. 2:2; יוֹם שֶׁל כָּל מֶלֶךְ וּמֶלֶךְ.

יוֹם הַלִּידָה - The day of birth and the day of death, not only of the Emperor, but of every pagan. There is no doubt that private individuals celebrated their birthday. The Romans did so by sacrificing to GENIUS. But the "day of death" is not the annual day of memorial, but the actual day of death, for the cultic celebration of that day was only the incense (יִשְׁוִין) dedicated to the dead, and the cremation (שִׁפּוּף) of the corpse⁵². Also, the burning of the dead man's utensils and

of gifts in his honor. On the day of burial, the tomb of the Roman was sanctified by sacrificing a pig, and a sacrifice to the LARES. The day itself was kept holy as FERIAE DENICALES.

In addition to these, the Mishnah mentions a few other celebrations, more in the nature of a private affair of the individual celebrant; and, hence, from the halakhic point of view to be treated more leniently ⁵³⁾.

יום תגלחת - "The day of shaving beard and lock of hair." A Greek custom זקנו ובריתו adopted by the Romans, of dedicating the first beard to the gods. But only the actual day of DEPOSITO BARBAE, not its annual recurrence, was sanctified with a sacrifice.

יום שעלה בואן הים - "The day on which a man disembarks from a voyage."

יום שיצא מבית האסורין - "The day of his release from prison."

משתדק - "The wedding banquet."

When we ask what particular thing in all this heathen world - known to the Jews both in and out of Palestine - aroused the fiercest opposition on the part of the Jewish leaders, we shall have in the answer an indication of what was considered hukkoth hagoyim par excellence in the period under discussion. The answer is not far to seek: it is the viciousness of heathen life.

Commenting on Leviticus 18:3 (After the doings of the land of Egypt..... and after the doings of the land of Canaan..... shall ye not do), the Sifra ⁵⁴⁾ says:

" I could think that this means that they should not build houses or plant plantations like they (the Egyptians, etc.) do.

Therefore Scripture teaches: 'Ye shall not walk in their statutes!' The above commandment applies only to the statutes that have been specifically legislated for them, their fathers and their fathers' fathers. And what used they to do? A man would have sexual relations with another man, and a woman with a woman. A man would marry a woman and her daughter, and a woman would be married to two men. Therefore it is said: 'And ye shall not walk in their statutes.'

Similarly, we are told that the deeds of the Egyptians corresponded to those of the Canaanites (which is just the rabbinic way of referring to the nations of their own time by utilizing the words of Scripture), in that they were all "carried away by passion (shetufim) in idolatry, and in incestuous unions, and in the shedding of blood, in homo-sexuality and in sodomitic intercourse with animals." 55)

Paul, too, describes the morality of the Gentiles in no uncertain terms 56):

"For this cause God gave them up to vile affections: for even their women did change the natural use into that which is against nature. And likewise also the men, leaving the natural use of the woman, burned in their lust one toward another; men with men working that which is unseemly, and receiving in themselves that recompense of their error which was meet."

And this appraisal of the heathen world had its repercussions in Jewish legislation.

"No one may place animals in inns kept by heathen since

they are suspected of immoral practices with them,"
says the Mishnah ⁵⁷⁾.

"Also no woman may be alone with them, since they are
suspected of lewdness; and no man may be alone with them,
since they are suspected of shedding blood."
To which the Tosefta ⁵⁸⁾ adds that one may not entrust one's cattle
to their shepherds; and that a Jewish father should not bring his
child for instructions, or for training in a vocation, to a heathen,
and that there should, at any rate, be no occasion when the Jewish
youth would find himself in seclusion with a heathen.

As Weber ⁵⁹⁾ sums up the Jewish attitude, "Forsaken by God, the
nations have sunk to the indulgence of the flesh, and in that indulgence
they have also lost their human nature. Instead they have acquired
animal nature, so that the heathen world is to be regarded as unclean,
both ethically and physically."

It is true, the passages we have just been considering are
already the product of the tannaitic period. But the phenomena to
which they have reference are older than that. Josephus, for example,
tells us that Herod refused to send his young brother-in-law,
Aristobulus, to the Roman court at the request of Antony, because
"he did not think it safe for him to send one so handsome as was
Aristobulus, in the prime of his life, for he was sixteen years of
age, and of so noble a family; and particularly not to Antony, the
principal man among the Romans, and that would abuse him in his
amours, and besides, one that freely indulged himself in such
pleasures as his power allowed him without control." ⁶⁰⁾

And earlier still, Radin tells us ⁶¹⁾, in the Hasmonean period,

the Jewish writers of the time address themselves against the viciousness of Greek life. In many extant books sexual excesses and perversions are made a constant reproach to the heathen, and the extant Greek and Latin literature gives a great deal of color to the charge. It is significant, says Radin, that this accusation, constantly repeated by the Jews, is not met by any retort in kind. The anti-Jewish writings are not especially moderate in their condemnations. But with viciousness in their lives they do not charge the Jews, and they cannot have been unaware of what the Jews wrote and said. ⁶²⁾

The charges against the low and corrupt state of Graeco-Roman morality, Weiss ⁶³⁾ finds corroborated by such sources as DIO CASSIUS, JUVENAL, the DIGESTAE of Roman Law, etc., which he quotes in great detail.

While the Jews of the Diaspora thus engaged in polemics with the heathen world, the Jewish doctors of the law, in Judea, were engaged in raising a protective wall against pagan encroachments. There is no doubt, says Weiss ⁶⁴⁾, that the usage of Greeks and Romans in matters sexual led to an intensification of the efforts made by the legislators of the Oral Law.

CHAPTER FOUR

M E T H O D and P U R P O S E of the T A N N A I M

Separatism in the Pseudepigrapha. - The Pharisees. - Samples of tannaitic exegesis. - Historical factors making for strictness. - The Eighteen Prohibitions. - Differences of approach between Hellenistic-Jewish and Palestinian-Jewish writers. - Mentioning the names of idols. - The prohibition of imitation. - Safeguarding the days of feasts and fasts. - Imitation in dress. - Change of name. - Music and the Visual Arts. - Theater and Circus: the strict view. - Theater and Circus: the exceptions. - Opposition to Beheading as Roman method of execution. - The lenient view.

CHAPTER FOUR

M E T H O D a n d P U R P O S E o f t h e T A N N A I M

By the time the Tannaim came on the scene of Jewish history, the idea of separatism, of shunning the heathen practices, was no longer anything new. In fact, we find the whole tannaitic program and approach already adumbrated in the Book of Jubilees:

And do thou, my son Jacob, remember my words,
and observe the commandments of Abraham, thy father:
Separate thyself from the nations,
And eat not with them:
And do not according to their works,
And become not their associate;
For their works are unclean,
And all their ways are a pollution and an abomination and uncleanness.
They offer their sacrifices to the dead
And they worship evil spirits,
And they eat over the graves,
And all their works are vanity and nothingness.
And as for thee, my son Jacob,
May the Most High God help thee
And the God of heaven bless thee
And remove thee from their uncleanness and from all their error. 1)

It was from the identical point of view that the writer of the Letter of Aristeeas had interpreted the purpose of the whole Mosaic

legislation. "Now our Lawgiver," he wrote ²⁾, "being a wise man and specially endowed by God to understand all things, took a comprehensive view of each particular detail, and fenced us round with impregnable ramparts and walls of iron, that we might not mingle at all with any of the other nations, but remain pure in body and soul, free from all vain imaginations, worshipping the one Almighty God above the whole creation." And these "walls of iron" are then defined as "rules of purity, affecting alike what we eat, or drink, or touch, or hear, or see" ³⁾. And, more specifically, he comes to speak of the wall of iron par excellence: the Dietary Laws:

Therefore he compels us to recognize that we must perform all our actions with discrimination according to the standard of righteousness - more especially because we have been distinctly separated from the rest of mankind. For most other men defile themselves by promiscuous intercourse, thereby working great iniquity, and whole countries and cities pride themselves upon such vices. For they not only have intercourse with men but they defile their own mothers and even their daughters. But we have been kept separate from such sins. And the people who have been separated in the aforementioned way are also characterised by the Lawgiver as possessing the gift of memory. For all animals "which are cloven-footed and chew the cud" represent to the initiated the symbol of memory. ⁴⁾

This paean on separatism, be it noted, was part of an apologia for Judaism which, undoubtedly, was primarily intended for heathen

consumption. It was, incidentally, a very clever psychological device employed by the author that he should paint in such exclusivist colors the very Judaism which he was trying to propagate among the heathen. But, and this is more germane to our discussion, if such ideas are to be found in the circles responsible for the Letter of Aristeas, we can be very confident that they were at least as forcefully expressed among the pious of Palestine itself, long before the time of the Tannaim. The latter, therefore, in their treatment of hukkoth hagoyim, were not called upon to perform a creatio ex nihilo.

To which must be added another consideration: The Tannaim were the direct successors and heirs of the Pharisees. As for the name perushim, it has been stated by Geiger ⁵⁾, echoed by Moore ⁶⁾ and Klausner ⁷⁾, that it is to be translated as "Separatists."

Separatism was the most important outcome of loyalty to the Law already in the days of Ezra. Now it became so again, and more thoroughgoing than heretofore, since foreign heathenism had penetrated via the Seleucides and the Jewish apostates, and since, owing to the influence of the Sadducees, some of the stricter regulations were also disregarded by the Hasmoneans. The Pharisees, then, are the latter-day counterparts of the nivdalim, mentioned in Ezra 6:21 as "all such as had separated themselves unto them from the filthiness of the nations of the land to seek the Lord, the God of Israel." The Pharisee, too, "separated himself" from all the foreigners. Of course, as Klausner points out ⁸⁾, all the people of John Hyrcanus had separated themselves from the Syrians. The Jews did not agree to receive the army of Antiochus Sidetes into Jerusalem, because of "separation from

the Gentiles" (the ἀμιξία of Antiquities 13-8-3), ⁹⁾ which is the opposite of the ἐπιμιξία, the "assimilation" for which the Hellenists were striving. But the Pharisees were even more stringent in their "separatism," so that in addition to their separation from the heathen, they were also led to separation from the 'am ha-aretz and the Sadducees.

Moore ¹⁰⁾ draws attention to the fact that in the tannaitic midrashim the word parush is frequently associated with kadosh, so that the perushim took their title from parash. This was less presuming than kedoshim which would have really expressed their aim.

There is really no need to assume a Pharisaic preference for the one name over the other, for, as Moore himself is aware, the very idea of kedushah was that of perishuth, in the very sense of exclusivism and separatism.

Thus, explaining the phrase goy kadosh in Exodus 19:6, the Mekilta ¹¹⁾ says: "Holy (kadosh) that is holy (kedoshim), hallowed (mekudashim), separated (perushim) from the peoples of the world and from their detestable things."

And the Sifra ¹²⁾ takes Leviticus 20:7 (Sanctify yourselves therefore, and be ye holy...) to refer specifically and exclusively to the separation from idolatry:

"Sanctify yourselves....." - this is the holiness of separation from idolatry (kedushath perishuth akum). You say, it is the holiness of separation from idolatry; perhaps the verse has in mind the holiness of all the commandments? -- When Scripture said: "Ye shall be holy" (Lev.19:2),

this was said in reference to all the commandments. Why, then, does Scripture say: "Sanctify yourselves...."? This is the holiness of separation from idolatry.

This, then, is the background of tannaitic activity. Their activity falls into two parts. On the one hand, it was a case of expounding Scripture so that the biblical verses come to life and become vivid to the listener. No direct legal consequences are implied here. On the other hand, the Law had to be brought up to date, taking into consideration the changed historical circumstances. New "fences" had to be erected in conscious opposition to heathen practice. We shall deal with this second aspect after we had a closer look at the historical circumstances responsible for it. First we shall consider some samples of tannaitic exegesis of the first type.

The biblical passages that have a bearing on our topic fall ^{the} under two headings of "Election - Separatism" and "The Nations and their Practices."

"Therefore shall ye keep My charge" (Lev. 18:30)- means, according to the Sifra ¹³⁾ - that the law courts should be warned accordingly.

"That ye do not any of these abominable customs, which were done before you, and that ye defile not yourselves therein (ibid.)" teaches that all the sex crimes (mentioned in this chapter) are called "defilement." "That ye defile not yourselves therein" so that ye become impure through them. If you become impure through them, you will be disqualified from (following) after Me. What benefit have I from you,

when you deserve extinction by Me?! Therefore it is said (ibid.): "I am the Lord your God." And thus Ezra says (Ezra 9:14): "Shall we again break Thy commandments, and make marriages with the peoples that do these abominations? Wouldest Thou not be angry with us till Thou hadst consumed us, so that there should be no remnant, nor any escape? O Lord, the God of Israel, Thou art righteous."

And to the verse "And I have set you apart from the peoples, that you should be Mine" (Lev. 20:26), the Sifra, on the basis of historical events, adds:¹⁴⁾

If you are apart from the peoples, behold, you are Mine (lit.: for My Name). But if not, then you belong to Nebuchadnezzar, King of Babylon, and his like. R. Eleazar b. Azariah said: Whence do we know that a man should not say "I do not want to wear sha'atnez;" "I do not want to eat pork;" "I do not want to have forbidden intercourse;" but (that he should say): "I do want (to do these things); but what can I do, since my Father Who is in Heaven has thus decreed for me?!" The Scriptural basis for this is: "And I have set you apart from the peoples, that you should be Mine." If a man separates himself from sin, then he accepts upon himself the (rule of the) Kingdom of Heaven."

It is interesting to note that R. Eleazar b. Azariah who traced his ancestry back to Ezra¹⁵⁾, should give the same "separatist" rationale for the observance of the moral and ritual law, that we have already encountered in the Letter of Aristeeas. He must have

been very conscious of the distinctive observances of Judaism, and have valued them for their distinctiveness.

In their homilies on the nations and their practices, the Tannaim must have been struck by the particular attention Scripture pays to the Egyptians and the Canaanites ¹⁶⁾. And so we find repeated statements enlarging upon the "abomination" of these people, and pointing out that of all the nations these two were the most abominable ones, "dissolute in harlotry and idolatry more than any of the other peoples of the world." ¹⁷⁾ It is here, too, that we come across the accusations we had occasion to consider before, of the type: "Look how much of a difference there is between you and the nations. Among the nations a man would decorate his wife and then hand her over to another man; or he would beautify himself and yield to another." ¹⁸⁾

This method of "painting the lily", of adding to the lurid details of Scripture's characterization of the heathen, was meant to lay the theoretical foundations on which the anti-hukkoth hagoyim legislation could be built. Moreover, these descriptions were supplemented by the obvious reference to the responsibilities of Israel in view of all the above.

Moses warns Israel not to do according to the deeds of the nations of whose land they are about to take possession. For it is only on the strength of the obligation they have taken upon themselves n o t to do according to the deeds of these people that they are at all coming to take possession of the land. ¹⁹⁾

So much for exegesis and homiletics. What about the practical details, the counter-measures taken by the Tannaim? Little use as Schürer has for the legal development of Judaism, he does admit ²⁰⁾ that legislation against heathen influence was a question of life and death (eine Lebensfrage) for Judaism, although in his treatment of Jewish resistance to paganism, Schürer concentrates on the laws against idolatry and ritual impurity, without paying attention to hukkoth hagoyim.

The particular rôle played by Shammai and his school in this connection is stressed by Derenbourg ²¹⁾. He sees Shammai's rejection of proselytes as a manifestation of Shammai's fear that the acceptance of proselytes would ultimately lead to an easing of the yoke of the Law, in order to make Judaism more attractive to them.

This fear was, of course, justified when "Paul went forth to remove one by one the walls separating Jews and Gentiles; and we thus see the School of Shammai ever creating new prohibitions and making new fences to distinguish between Jews and idolaters until there could be no further contact between them." ²²⁾

This strictness of the School of Shammai was to have its momentous repercussions when the so-called "Eighteen Prohibitions" were adopted; but first we must point out two significant historical events.

Shortly before the beginning of what is conventionally referred to as the "Second Generation of Tannaim," the Temple was destroyed, and the last vestiges of Jewish independence came to a bitter end.

And the "Third Generation of Tannaim" witnessed both the rise and the suppression of the Bar Kokhba Rebellion. Needless to say, added to the original dislike of pagan religion, the political and nationalist feelings against foreigners ran high at times like those.

Only by bearing in mind these and similar historical realities can we understand the occasional outbursts of radicalism and particularly the extreme measures known as "The Eighteen Prohibitions" (ל"ח דברים) and the violent tempers of those who framed them.

As all the nations round Judea made common cause with the Romans, says Schwab ²³⁾, the Zealots were naturally inflamed against every one of them; and therefore the Shammaites proposed to prevent all communications between Jew and Gentile, by prohibiting the Jews from buying any article of food or drink from their heathen neighbors. The Hillelites, still moderate in their religious and political views, would n o t agree to such sharply defined exclusiveness. But when the Sanhedrin was convened to consider the propriety of such measures, the Shammaites carried the day, and the "Eighteen Prohibitions" were adopted. During the discussion many Hillelites were k i l l e d; and on account of the violence as well as of the radicalism of the enactments, the day on which the Shammaites triumphed over the Hillelites was thereafter regarded as a day of misfortune.

"That day was as hard for Israel as the day on which they made the Golden Calf." ²⁴⁾

The "Eighteen Prohibitions" are enumerated by R. Simeon ben Yohai in Jer. Sabbath perek I, halakhah 6. But Klausner ²⁵⁾ finds it hard to

give credence to the whole of this enumeration, since a number of items have no direct reference to the historical conditions responsible for the enactments. However, he believes the list to be correct in essence, and thinks that it originally included such items as the prohibition of the bread of Gentiles, their oil, their wine (yayin nessekh), ²⁶⁾ the Greek language, the testimony and sacrifices of the heathen, and, particularly, intermarriage.

We have mentioned the "Eighteen Prohibitions" as an illustration of the mood in which part of the rabbinic legislation was framed, especially in as far as it concerned "foreign relations." Technically, of course, the "Eighteen Prohibitions" come under the heading of 'Abodah Zarah and its appurtenances, and n o t under hukkoth hagoyim. We shall now return to the latter subject itself.

To Exodus 20:20, R. Akiba adds the following comment: ²⁷⁾

"Ye shall not do with Me." - Ye shall not behave towards Me in the manner in which others behave toward their deities. When good comes to them, they honor their gods, as it is said: "Therefore they sacrifice unto their net, etc. (Hab. 1:16)" But when evil comes to them they curse their gods, as it is said: "And it shall come to pass that when they shall be hungry they shall fret themselves and curse their king and their god. (Isa. 8:21)"

Akiba was achieving the desired effect by a clever juxtaposition of Scripture verses. But that there was really something to what he said is amply illustrated by the many examples of such behavior toward

deity, brought together by Heiler²⁸⁾. It is doubtful if the pagans of Akiba's time were still on the same primitive stage of religion as were the aborigines investigated by Heiler. Nevertheless, there was a certain materialistic conception of religion in the air - current, no doubt, within Israel just as it was without -, which Akiba did not like to see on the Jewish scene. The philosophy which he tried to inculcate was that of Job 2:10 ("Shall we receive good at the hand of God, and shall we not receive evil?!"). This philosophy the Mishnah (Berakhoth 9:5) puts into legalistic terms, saying that a man must bless God for the evil, just as he blesses Him for the good. And Akibah in his own life, or, rather, in the attitude toward his own martyr's death, gave a practical demonstration of what he meant. The reference to the piety of the pagans, or, better, the lack of it, may, therefore, have just been incidental to the point Akiba wanted to make.

On the whole, the Tannaim were not too much concerned with the theoretical foundations of paganism. In this, as Moore²⁹⁾ and Lieberman³⁰⁾ point out, they differed from both the Hellenistic Jewish writers and the Church Fathers. They were, however, not entirely devoid of theological argumentation. In an interesting baraita³¹⁾ we read about the kind of discussion a delegation of zekenim had with the "philosophers" of Rome. Why, if God is really powerful, they were asked, does he not destroy the idols? To which they replied that this would necessitate the destruction of sun, moon and stars, since these heavenly bodies are also objects of idolatry. Rather, olam keminhago noheg, the natural order will not be interfered with by God, just because there are shotim who, in any case,

will have to give an account of themselves when their time comes. Significant is the illustration which the zekenim give in this connection: Stolen wheat, if it be sown, will grow naturally, in spite of the fact that the stealing is a moral wrong. That the rabbis thus did engage in theological argumentation, moreover elevating in this process true religion from the sphere of mere pragmatic demonstration - as the above answer and their attitude toward the sparing of an idol temple in a conflagration, and toward "faith healing" show (ibid) - is a fact too often overlooked by writers who see the rabbis as law-makers exclusively. But it is true that in mere bulk the laws and precepts do outweigh the theoretical refutations of the principles of idol worship.

The reason for this is not far to seek. The Hellenistic Jews (such as the authors of the Sibylline Oracles we discussed in the last chapter) had concentrated their attacks on the gods of their environment, on the divinities of the Greeks and Egyptians. The Church Fathers, for the greater part converted pagans themselves, also addressed themselves to their environment, in the hope of making converts. The rabbis, on the other hand, were speaking to their fellow Jews. And, as Lieberman³²⁾ emphasizes, in the first centuries C.E. the Jews were so far removed from clear-cut idolatry that there was little need to argue and to preach against it. Even the practical details with which they were concerned, the laws relating to the ramifications of idolatry, incest and the sacrifices of children to Moloch, far from being the burden Schürer makes them out to be³³⁾, could hardly be considered as coming within the

province of the practical life of the Jew; "just as little," to quote Schechter ³⁴⁾, "as we can speak of Englishmen being under the burden of the law when prohibited from burning their widows or marrying their grandmothers, though these acts would certainly be considered as crimes."

At the same time, the Jew was to do nothing, even unintentionally, which could even be remotely interpreted as giving his assent to paganism. Bearing in mind the many centers of idol worship in Palestine, which we have surveyed in the last chapter, and Josephus' remark about the myth of ANDRONEDA in its connection with Joppa ³⁵⁾, we can well understand the unjunction:

"Do not say: 'There is an object of worship (yir-ah) in such-and-such a place. Thus it eats, and thus it drinks; thus it does good, and thus it does harm.'" ³⁶⁾

Under the same heading comes the rule which prohibits one to make the temple of idolatry a meeting place; or to say to anyone: "Where do you live? Is it in the place of such-and-such an idol?"; or, again, to say: "Wait for me at the place of such-and-such an idol!" ³⁷⁾

Tertullian ³⁸⁾ deals with the identical problem, and expounds the same Scripture verse. But his halakhah is more lenient:

It is our duty to see to it that idolatry does not sneak in even by means of mere words.....The Law (Ex. 23:13) certainly forbids us to call the heathen gods "God;" but it definitely does not forbid us to pronounce their names, when the exigencies of life demand it. For example: "You

will find him in the Temple of Aesculapius;" "I live in Isis Street;" "He has become a priest of Jupiter;" etc. - If I call SATURN by name, I do not honor him thereby; likewise if I call Markus MARKUS..... But if one has to mention the gods, one must add something from which it is evident that one does not regard them as Deity. Thus, when Scripture mentions the gods, it adds "their", or "of the heathen," as David did when he said (Psalm 96:5): "For the gods of the heathen are demons." 39)

It remains to be stated that the later rabbis, too, did not abide by the strictness of the early halakhah, but - to quote Lieberman⁴⁰⁾ - understood that this injunction applies only to cases where the mention of the idol could be avoided, when the given place could be designated by another appellation; otherwise it was not prohibited to mention places which bear the names of idols. Mishnah and Talmud do so.

Closely connected with the precaution by no means to appear as approving of idolatry is the subject of "meat offered to idols." It is in the nature of the case, and in view of the intricate shehitah and kashruth regulations, that this whole subject was of very little practical interest to Jews. However, it did play a part in the acceptance of semi-proselytes (gere toshabh); and it was to occupy the early Christians a great deal.

We read in the Didache⁴¹⁾: -

If you are able to carry the full yoke of the Lord, you will be perfect; but if you are not able, do whatever you

can.

With regard to food, abstain as much as you can; and from whatever has been offered to idols abstain completely, for this is to worship dead gods.

Kohler⁴²⁾ assigns this passage to the original of the Didache which he regards as a Jewish manual for proselytes. Indicated in these verses is one of the differences between the ger tzedek and the ger toshabh. The former would, of course, have to abstain from terephoth completely; but even the latter must abstain from the meat tainted with idolatry.

Since the Church took over this "manual of instruction," it follows that the early Christians, too, upheld that Jewish interdiction. This is furthermore evidenced by the "letters which the apostles and elders and brethren sent unto the brethren which are of the Gentiles in Antioch and Syria and Cilicia:"⁴³⁾

For it seemed good to the Holy Ghost, and to us, to lay upon you no greater burden than these necessary things:
That ye abstain from meats offered to idols; and from blood, and from things strangled, and from fornication; from which if ye keep yourselves, ye shall do well. Fare ye well.

Paul, of course, having achieved a much greater emancipation from the Law, is not able to state the law as categorically as all this. He reaches a compromise solution: let those who know that "an idol is nothing in the world" partake of meat offered to idols with full ease of conscience. But if there be a "weak brother"

present who might misinterpret the action, one's own "liberty should not become a stumblingblock to them that are weak." ⁴⁴⁾ Considering that the heathen temples were the "meat markets" of those days, and that the ranks of early Christianity were primarily recruited from the "lower classes," economic factors must have greatly supported the hetter given by Paul.

Still on the subject of meat, we turn now to the consideration of a tannaitic halakhah which was framed in conscious opposition to the heathen method of sacrificing, even though its subject matter is the slaughtering of animals for secular consumption by Jews. ⁴⁵⁾

None may slaughter into the seas or into rivers or into a vessel. But they may slaughter into a basin filled with water. And (when a man is) on a ship, he may slaughter on the outside of vessels. One may by no means slaughter into a hole (or pit), but a man can make a hole within his house for the blood to flow into it. He may not, however, do so in the market place lest it appear that he is following the laws of the Gentiles. ⁴⁶⁾

If a Jew had disregarded the aforementioned halakhah, it might have been nothing worse than an unconscious and unwitting imitation of the hukkoth hagoyim. This, however, is but one side of the picture. The Tannaim do indeed envisage the possibility that Jews would want to imitate the Gentiles consciously.

The Mekilta to Deuteronomy 12:30-31 comments: ⁴⁷⁾

"And that thou inquire not after their gods, etc." (This means) that you should not say: "Because the nations kill

by stabbing and hamstring (their animals), and offer abominable and creeping things (shekatzim u-remasim) to their idol, we will do likewise." Therefore Scripture says: "Thou shalt not do so unto the Lord, thy God."

To which is appended the sarcastic remark:

If you come to do according to their deeds, have a look at the details of the commandments which I commanded them in the beginning, i.e.: "Whoso sheddeth a man's blood, by man shall his blood be shed (Gen.9:6)." Even in this matter, in which they consider themselves to be innocent, they are guilty; as it is said (Deut. 12:31): "For even their sons and their daughters do they burn in the fire to their gods."

However, the Gentiles did not only sacrifice shekatzim u-remasim. They had a sacrificial system as nicely developed as that of Jerusalem. If imitation of Gentile practice is prohibited per se, the thought might occur to someone, as it did to R. Levi,⁴⁸⁾ re-echoed centuries later by Maimonides, that the whole Jewish sacrificial system was an imitation and an adaptation of pagan practices. The Midrash reckoned with such an objection and tried to make it void ab ovo. In a telling yakhol.....talmud lomaz passage, the Sifré comments on the same verses of Deuteronomy.⁴⁹⁾

I could think that (Jews) should bring no sin-offerings and no guilt-offerings (because such offerings were brought by Gentiles). Therefore Scripture says: "For every abomination to the Lord, which He hateth, have they done unto their gods" (Deut. 12:31) -- from which it follows that the prohibition

extends only to the things hated and abhorred by God.

Another explanation: They (the Gentiles) intended to sacrifice only such things which the Holy One, Blessed be He, hates; as it is said (ibid): "For even their sons and their daughters do they burn in the fire to their gods."

From this I can derive only that they burned their sons and daughters. Whence do I know that they did the same to their fathers and mothers? (Because) Scripture says: "For even e t h b e n e h e m v e - e t h b e n o t h e h e m ." 50)

Said R. Jacob: "I have seen a Gentile who bound his father, cast him to his dog; and the dog devoured him."

In this way did the Tannaim overcome the possible objection that would see in the whole sacrificial system a borrowing of hukkoth hagoyim. Needless to say, the problem was for them t h e o r e t i c a l only. The Temple, and with it the sacrifices, had long since come to an end. But, both because they were still comparatively near to the time of its destruction and because the sacrifices were, after all, part of the Law, they somehow had to romanticize its existence, and were unable to take as detached a view about it as a philosopher of the stature of a Maimonides was able to do. At any rate, the passages we have considered do show that the Tannaim were not completely unaware of the problem involved.

From the institution of sacrifices we shall now turn our attention to the institution of Holy Days. That Jews have felt tempted to join in the celebration of pagan festivities is a fact that should not

appear too strange and far-fetched to the modern Jew for whom at least Christmas is an occasion to be reckoned with.

Of course, the ancients realized that there are occasions, dependent upon Nature, when the joy is inter-denominational.

It once happened that an idolater asked Rabbi Johanan ben Zakkai ⁵¹⁾: "We have festivals and you have festivals. We have Kalends, Saturnalia and Kratesim. And you have Passover, Pentecost and Tabernacles. Which is the day on which we are both happy?" Said R. Johanan b. Zakkai to him: "This is the day when the rains fall."

Perhaps the rabbi did not mind the day of common joy so much as long as he knew that the Kalends, Saturnalia and Kratesim would not, for the Jews, take the place of the Jewish festivals.

But just this is what was worrying the author of Jubilees. Having come to the conclusion that the year has to have 364 days, he has premonitions that people will make their own astronomical observations and reach different conclusions. The disastrous result will be that "they forget the feasts of the covenant and walk according to the feasts of the Gentiles after their error and after their ignorance..... And they will make an abominable day the day of testimony, and an unclean day a feast day, and they will confound all the days, the holy with the unclean, and the unclean with the holy....." ⁵²⁾ Of course, the author of Jubilees had his own axe to grind. He wanted to get his solar calendar accepted. But it is at least significant in this context that he thought of the possible coincidence of Jewish and Gentile festivals as a strong enough argument to bolster up his thesis.

He never carried his point, and, ironically enough, the Tannaim who championed the lunar calendar did so with the full conviction that the lunar calendar was a distinctive Jewish institution which the Gentiles did not share. ⁵³⁾

An even stronger fight against celebrating "heathen" feasts had to be waged by the early Church; for not only did the converts to Christianity have to give up the feasts of the environment into which they were born; but more and more the Church began to place itself in opposition to the Jewish festivals. Says Tertullian ⁵⁴⁾:-

The servant of the Lord must not participate in the joyful festivities of the heathen environment and the costumes and food connected therewith. To do so would be to reverse the saying (John 16:20): "The world shall rejoice, but ye shall be sorrowful." If we rejoice with the world, it is to be feared that we shall also have to mourn with the world. Rather would we be sorrowful when the world is rejoicing, so that afterwards, when the world is sorrowful, we may rejoice.

The custom of exchanging gifts on certain days has been given a superstitious sanctity. Why should you participate therein as if the ordinance applied also to you, not to repay what you owe, or to accept what others owe you, on any other but the days appointed for this?! It is y o u who should set the form under which you are willing to transact this business.

And, again, a passage that deserves to be quoted for the sheer beauty of its irony ⁵⁵⁾:-

The Holy Spirit reproaches the Jews: "Your sabbaths, your

new moons and ceremonies My soul hateth." But we, who are not concerned with the sabbaths, the new moons and the days, which at one time were pleasing to God, we celebrate the Saturnalia, the Janus feasts, the winter solstices and the Matronalia.....In that case, the pagan faith is much more considerate to its adherents. It does not lay any claim on the Christian festivals. They would celebrate neither the Lord's Day nor Pentecost, even if they knew about it; for they would be afraid to be mistaken for Christians. But w e do not mind being taken for pagans!

And the Constitutions of the Holy Apostles ⁵⁶⁾ are not beyond quoting Jeremiah himself against attending the "assemblies of the Jews":-

.....Wherefore Jeremiah exhorts, saying (Jer. 10:2): "Walk ye not (sic) according to the ways of the heathen, and be not afraid of the signs of heaven." So that it is the duty of the believer to avoid the assemblies of the ungodly, of the heathen, and of the Jews, and of the rest of the heretics, lest by uniting ourselves to them we bring snares upon our own souls; that we may not by joining in their feasts - which are celebrated in honor of demons - be partakers with them in their impiety.

The Constitutions present also another interesting side-light on the development of Christian anti-hukkoth hagoyim legislation. We read, for example ⁵⁷⁾, that it is the duty of the brethren, "who are redeemed by the precious blood of Christ," to observe the days of the Passover "exactly, with all care;" - in memory of the Passion, of course.

The statement goes on to say:

Do not you yourselves compute, but keep it when your brethren of the circumcision do so: Keep your nights of watching in the middle of the days of unleavened bread. And when the Jews are feasting, do you fast and wail over them, because on the day of their feast they crucified Christ; and while they are lamenting and eating unleavened bread in bitterness, do you feast.

This passage, the editors admit ⁵⁸⁾, is not in the MSS. But they found it in Epiphanius, and believe it to be genuine.

We have here a very interesting stage in the development of Christianity. The "brethren of the circumcision" are, no doubt, the Judeo-Christians; for when the author means Jews, he says so, and he gives us to understand that he does not particularly like them. As far as the calendar is concerned, he feels that he better rely on the Jewish one. After all, the Jews do have some experience in this matter. At the same time, the opposition to them is already very conscious: when the Jews are feasting, do you fast, etc.! The author has heard of the maror, though probably only from the Bible itself, for he completely mistakes the nature of the seder if he imagines that the eating of unleavened bread is with wailing and in bitterness.

But the approach of this author was only an intermediary stage. With the disappearance of the Judeo-Christians, it must have been rather awkward to rely on the Jews for the correct date of the most important Christian festival. And so the Constitutions proceed with what is the direct opposite of the previous paragraph, and is, accord-

ing to the editors, the work of a later interpolator:

But no longer be careful to keep the feast with the Jews,
for we have now no communion with them, for they have been
led astray in regard to the calculation itself.....

One final example of this subject in Christian literature. In
an obviously Christian section of the Didache we read ⁵⁹⁾ :-

But do not let your fasts be with the hypocrites; for they
fast on Monday and Thursday; but you shall fast on Wednesday
and Friday.

The "hypocrites" are, of course, - according to Matthew 6:16 - the
Pharisees, and the fasts mentioned are still known to us as ta'anith
sheni vehamishi. The same principle is at work throughout.

Much more constant than the temptation to join in heathen
festivities was the temptation to imitate the heathen apparel. Of
course, to forbid such imitation would not have occurred to the
biblical legislators. They did prescribe a certain distinctiveness
in Jewish dress, the tzitzith ⁶⁰⁾, but otherwise there could have
been very little difference in this respect between Israel and her
neighbors.

By the time of the Tannaim, things had changed however. Not only
would the Roman toga be the symbol of the oppressor nation, but we
learn from Tertullian ⁶¹⁾ that purple and other badges of honors and
offices, worn by the Roman nobility, were dedicated to the idolatry
originally connected with those honors and offices, and that, further-
more, the idols themselves were draped in striped and embroidered togas.

No wonder, then, that to the much expounded verse of Deuteronomy 12:30

the Sifré⁶²⁾ adds the following interpretation:

"And that thou inquire not after their gods, saying" - this means that you should not say: "Because they (the Gentiles) go out in the toga, I, too, will go out in the toga. Because they go out in purple, I, too, will go out in purple. Because they go out in helmets⁶³⁾, I, too, will go out in a helmet."

Tertullian⁶⁴⁾, for the reasons already stated, likewise discountenances the imitation of distinctive heathen dress. On the other hand, he is willing to compromise in the case of children:

If necessary, the Christian can permit his boy to wear the TOGA PRAETEXTA, as well as the customary child's apparel;-- but as a sign of his descent, not of his position; of his family, not of his honorary office; of his rank, not of his religion.

Imitation in dress is one of the visual methods of adopting hukkoth hagoyim. There are, however, aspects of heathen culture which, for all their invisibility, are none the less real. Among these we would list imitation in language and in names.

In a Mekilta⁶⁵⁾ discussion on Israel's merits responsible for their liberation from Egypt, R. Eleazar ha-Kappar b'Rabbi⁶⁶⁾ says:

Did not Israel possess four virtues than which nothing in the whole world is more worthy: that they were above suspicion in regard to chastity and in regard to tale bearing, that they did not change their names, and that they did not change their language.

We shall restrict ourselves here to a consideration of "name

changing." The problem of language is too vast to fall within the scope of our present investigation, and has, moreover, been dealt with at great length already in Joel's "Blicke" and Lieberman's "Greek in Jewish Palestine" and "Hellenism in Jewish Palestine."

As far as the reference to the virtue of not changing their name is concerned, the Mekilta was not interested exclusively in the historical circumstances of the time of the Exodus. This is brought out in full force in the parallel passage in Leviticus Rabbah ⁶⁷⁾.

Here the statement is elaborated as follows:-

They did not change their names: As Reuben and Simeon they went down (to Egypt), and as Reuben and Simeon they went up again. They did not call Reuben Rufus, or Judah Lulian (Julian), or Joseph Lestes, or Benjamin Alexander.

These are not Egyptian names. But they are the Roman and Greek names of Bar Kappara's contemporaries. The Hasmoneans had already set the fashion of adopting non-Jewish names, and, as even a cursory reading of the Pirke Aboth will show, this fashion was by no means restricted to the ruling Sadducean families. Among the Tannaim immediately preceding Bar Kappara there was a R. Dosethai, a Symmachus, and an Eurydemus,--to mention but a few.

Why this opposition to foreign names? Was it because some of them were thecferous and thus had idolatrous implications? Or was it then, as it is now, that behind the choice of such a name there lay the conscious or unconscious desire to attenuate one's Jewishness and to facilitate assimilation? Our text does not say. It might have been a combination of both reasons. All we can deduce from it is that

at the time of Bar Kappara both the Hebrew language and the custom of bestowing Hebrew names on one's children were in danger of falling victim to the environment and its influences. Consequently their importance had to be stressed by placing them on the same level as the moral virtues of which the Jews had always been proud.

If speaking the vernacular and adopting of non-Jewish names were, to quote a latter-day Hellenist who preferred the name "Heinrich" to "Harry", the "entrance ticket" to Greco-Roman culture, then it is easy to see that in the same circles in which the "entrance ticket" was discountenanced, some main features of the culture in question fared no better.

Says the Mekilta ⁶⁸⁾ in interpretation of Exodus 20:20:-

Another interpretation of "Ye shall not make unto you gods of silver" is: Lest you say: "I am going to make them merely for adornment as others do in the various provinces," Scripture says: "Ye shall not make unto you."

The literal application of that commandment had, of course, no more meaning for the Jew of the tannaitic period. He would hardly engage in the manufacture of idols for his own religious purpose, but he might conceivably treasure them as objets d'art. In that there lay a danger; for, in the first place, the image was, after all, an idol, and, secondly, such procedure might lend credence to the suspicion that this man had fallen victim to the idolatry of the environment. The Sifra to Leviticus 19:4 sums it up nicely ⁶⁹⁾ :-

"Turn ye not unto the idols" - Do not turn to worship them.

Said R. Judah: "Do not turn to look at them; and that is

enough!" "Turn ye not unto the idols" - at first they are merely idols; but if you turn to them, you elevate them to the position of deities.

Herein, then, is grounded the Jewish opposition to the visual arts. This opposition, as recent finds - like the synagogue at Dura-Europos (245 C.E.) - have shown ⁷⁰⁾, may not have been quite as intense and consistent as was formerly believed; but there is ample evidence that this particular aspect of Hellenistic-Roman civilization did not elicit too much response from the Jews.

The underlying motive is not far to seek; It had its theological aspect, as Kohler ⁷¹⁾ noted: In the same measure as polytheism, whether Semitic or Aryan, greatly aided in developing art as far as it endeavored to bring the deity in ever more beautiful form before the eye of the worshipper, so Judaism was determined to lift God above the realm of the sensual and corporeal, and to represent Him as Spirit only. And, as Güdemann ⁷²⁾ shows in great detail, it had its moral aspect. For with the visual representations of the gods there was perpetuated their mythology, with all its immoral details. And this mythology was understood literally by the ordinary people. Early Christianity shared Judaism's negative attitude in this respect, and throughout Church History iconoclastic outbursts occur ⁷³⁾.

Closely connected with the Jewish opposition to the visual arts is the rabbinic approach to instrumental music. According to Werner ⁷⁴⁾, the rabbinic opposition to instrumental music was more than a sign of mourning over the destruction of the Temple. It was, in fact, a policy of defense for Judaism against the pagan cults; particularly against the

orgiastic mysteries of Asia Minor, wherein certain musical instruments were recognized attributes of the deities. He also draws attention ⁷⁵⁾ to the statement in b. Hagigah 15b, that the apostasy of Elisha ben Abuyah was due to the Greek melodies (or to the Greek instruments which were always in his house). "The prohibition against attending, on the eve of Passover, an EPIKOMION, a festal procession with flutes and cymbals and probably Greek songs, may also stem from the fear of the assimilation of Hellenistic customs" ⁷⁶⁾. The Church, in the first two centuries, held, according to Werner ⁷⁷⁾, exactly the same principles in this respect as normative Judaism.

But the form of Heathen entertainment which was most repugnant of all to the Jews was the Circus and the Theater. This was hukkoth hagoyim in extenso. The Sifra ⁷⁸⁾, commenting on Leviticus 18:3, says:-

"Neither shall ye walk in their statutes." What, then, has Scripture left over (to be covered by this verse) that has not been stated elsewhere? Has it not already been said: "There shall not be found among you one who passeth his son or his daughter through the fire," and "a charmer, etc.?" Why, then, does Scripture say: "Neither shall ye walk in their statutes?" This means that you should not walk according to their usages (נימוסות = νόμος), the things that have been specifically legislated for them, such as theaters, circuses, and arenas.

Why this particular furor against the circus? We have already

come across the description given by Josephus of the games organized by Herod in Jerusalem. ⁷⁹⁾ The same dislike of the arena fights between men and beasts that was felt by the Jews of Herod's time still animated the Tannaim. Hence, the following law: ⁸⁰⁾

One may not sell to them (the heathen) bears or lions or anything injurious to the public. One may not build in company with heathen a basilica, the seats for an amphitheater, a stadium, or a judge's tribunal.

But there was something more than cruelty to men and animals that determined the Jewish reaction. According to Rabbi Meir ⁸¹⁾, a visit to the theater was forbidden "because of idolatry."

What this means is described at great length by Tertullian. He says ⁸²⁾, for example, that the games were dedicated to LIBER, NEPTUNE, MARS and other gods. "But it is sufficient to brand their origin as idolatrous.....One cannot regard that as good which originated in something evil, shamelessness, in violence and hatred, founded by a fratricide, a son of MARS."

He draws attention to the fact ⁸³⁾ that "there is indeed a patronage of BACCHUS and VENUS over the scenic arts. For that which is original and appertains to the stage, the effeminate manner and the sensuous posture of the body, is offered to VENUS and to BACCHUS..... On the other hand, that which is done by voice, melody, instruments and writing, is presided over by APOLLO, the MUSES, MINERVA and MERCURY."

He mentions all the pomp connected with the circus, the long row of idols and images, the vehicles of all sorts, the litters, the wreaths and the armour. And "How many festivities, how many sacrificial

rites precede this!" "Even if only a few images are being carried around, one alone is sufficient to make it idolatry! Even if only one chariot is driven, that is the chariot of JUPITER!" ⁸⁴⁾

This, then, is the meaning of Rabbi Meir's statement that the prohibition is "mishum 'Abodah Zarah."

But the Sages admit of the possibility that such performances might take place even without idolatry. In that case, however, the Jew can still not attend them, because they are to be regarded as "the seat of the scornful" ⁸⁵⁾. More fully the case is stated thus ⁸⁶⁾:-

He who goes to the arenas and the army camps and sees clowns and comedians, the bucco, the maccus, the morio, etc., is to be regarded as sitting "in the seat of the scornful;" as it is said (Psalm 1:1-2): "He sitteth not in the seat of the scornful; but his delight is in the law of the Lord." So you learn that these activities make a man to cease from the study of the Torah.

The identical Scripture verse is adduced by Tertullian ⁸⁷⁾ for the same purpose:-

The prohibition of going to the circus, the theater, the races and the games, is nowhere stated in such specific terms as the laws "Thou shalt not murder!", "Thou shalt not worship idols!", "Thou shalt not commit adultery!", etc. Nevertheless, we find that the very first expression of David (Psalm I) refers also to our case. "Happy is the man that hath not walked in the counsel of the wicked, nor stood in the way of sinners, nor sat in the seat of pestilence" ⁸⁸⁾.

Even though David had in mind that particular pious man who did not take part in the court scene at which Jesus was condemned, Holy Writ has a more extensive application. If that mere handful of Jews could be described as "the counsel of the wicked," how much more so the vast assembly of heathen! Are they less wicked, less the enemies of Christ, than were the Jews of that time?!

Tertullian goes through so many pilpulistic contortions to prove that the verse in Psalms does indeed imply what he makes it to imply, that it would seem probable that this interpretation of the Psalm did not originate with Tertullian. The Psalm, for the Christians of his time, had undoubtedly the meaning he mentions: happy is that particular Jew who did not participate in the trial of Jesus. He now has to show that, in spite of the accepted interpretation, the Psalm verse is still - to use the language of tannaitic hermeneutics - "muphne", that it is still free for the interpretation relating to the circus.

The Tannaim did not have to do that. They knew that they could not deduce a legal ruling from a verse in the Book of Psalms. In other words, the reference to the moshav letzim is a mere remez or asmakhta. But with that, the issur of the Sages in the case where idolatry does not take place is deprived of its strictly legal basis; and is not comparable to the strength of R. Meir's ruling "mishum 'Abodah Zarah."

An opening was thus created for a more lenient interpretation and application of the law. The political and economic conditions of the times made that necessary, too: for it was in the theaters and arenas that much of the public business was transacted. 89)

Thus, it was permitted to go to the theaters to see to the needs of city or country (tzorekh medinah), though as a financial backer of the games himself (mithhashebh)⁹⁰⁾ it was obviously prohibited.⁹¹⁾

It could, of course, still be said with a great deal of justification: "He who sits in the arena is like one who is shedding blood;"⁹²⁾ but R. Nathan⁹³⁾ saw fit to permit it for two reasons:

- a) because he can cry for mercy to be shown to the dying fighter, and he can thus save lives (matzil nefashoth);⁹⁴⁾ and
- b) because he could serve as a witness to the death of a woman's husband, thus saving her from the fate of the 'agunah.

Very similar provisions are made in the Constitutions of the Holy Apostles⁹⁵⁾:-

You are also to avoid their public meetings, and those sports which are celebrated in them. For a believer ought not to go out to any of those public meetings, unless to purchase a slave and save a soul, and at the same time to buy such other things as suit their necessities.

The editors of the Constitutions, in a footnote ad loc., interpret "save a soul" in the evangelical sense; the idea being that the Christian would go to the games, purchase a slave and have him baptized.

However, in view of the aforementioned Tosefta passage where matzil nefashoth is good Hebrew for "life-saving," it would seem that the "soul" in the Constitutions is to be taken in the identical sense, that of saving a life.

We find, then, that both Jews and Christians had a deep abhorrence of that particular aspect of Hellenistic-Roman life which was so

characteristic that it could almost be taken as the epitomy of hukkoth hagoyim. Both Jews and Christians had occasion enough to experience the arena, not as spectators, but as victims; and their dislike of the institution must have been profound. And yet, both Jews and Christians were forced by circumstances to disregard the strict interpretation of the law, and to visit circus and arena when necessity demanded.

As a last example of conscious opposition to hukkoth hagoyim, we turn to the Mishnah dealing with capital punishment. ⁹⁶⁾

The ordinance of them that are to be beheaded (is this): they used to cut off his head with a sword, as the government does. R. Judah (ben Ilai) says: This is shameful for him; but, rather they lay his head on a block and cut it off with an axe. They said to him: There is no death more shameful than this.

This Mishnah has a sequel which is reported, with only minor variations, in the Tosefta ⁹⁷⁾, the Yerushalmi ⁹⁸⁾ and the Babylonian Talmud ⁹⁹⁾. According to it, R. Judah agrees with his colleagues that the method of execution he suggests is even more shameful than beheading with a sword. But what can he do since the latter is the (foreign) government's method, and the Torah states explicitly: "Ye shall not walk in their statutes!?"

The whole discussion was, needless to say, only a theoretical one. Judah b. Ilai was a Tanna of the fourth generation; and by that time Jewish courts had long since been deprived of the power to inflict capital punishment. But the discussion reveals, according to Ginzberg ¹⁰⁰⁾,

that, when capital punishment was inflicted, beheading must have been adopted in late years from other nations - Assyria or Persia, Greece or Rome. The very question, whether axe or sword should be employed, is intelligible only on the supposition that beheading was a foreign procedure and one, therefore, not determined by law or custom. It is known that the Roman Emperors adopted the use of the sword in lieu of the axe.

So far in this chapter we have been considering the defense-mechanism of legislation against hukkoth hagoyim, the various ways and means by which the Tannaim tried to protect Jews and Judaism from assimilation to pagan culture and environment. The legislation was, of necessity, strict; and had it not been so, Tannaitic literature might have had to mention many more "Elisha-ben-Abuyahs." The constant parallels in early Christian literature prove that this particular method of self-preservation was not an exclusive Jewish monopoly. (One wonders what the comments of a Weber or a Schürer would have been could they but have found some of the passages of Tertullian, which we have been considering, as anonymous passages in rabbinic literature!)

At the same time we must not lose sight of the fact that we have been considering only one side of the picture. Not only did the attitude towards hukkoth hagoyim depend upon the political factors of the time (the days of R. Judah's friendship with "Antoninus" were different from those that saw the birth of the "Eighteen Prohibitions"), but also upon the education and personality of any given Tanna.

The laws against idols and images were among the most pronounced

but Rabban Gamaliel II could rise above the situation and take a bath in the Bath of Aphrodite at Akko. Asked how he could do so, he replied ¹⁰¹⁾ :-

"I did not come within her sphere; she came into mine! No one says, 'The Bath was made as an adornment for Aphrodite,' but 'Aphrodite was made as an adornment for the Bath.' Again, supposing you were given much money, would you go in to your idol naked, or after pollution, or make water before it? This image stands beside the gutter, and all people make water before it. Scripture only says: 'their gods.' Therefore that which is treated as divine is forbidden, but that which is not treated as divine is allowed."

Again, we have to bear in mind the statement made by R. Joshua b. Levi who, though no longer belonging to the age of the Tannaim, was near enough to it by being a first generation Amora. He distinguishes between the good and the corrupt among the "statutes of the Gentiles." ¹⁰²⁾

And, finally, we have the Sifra to Leviticus 18:3, which protests against a too literal interpretation of that verse. ¹⁰³⁾

"After the doings of the land of Egypt....., and after the doings of the land of Canaan.....shall ye not do." I could think that this means that they (the Jews) should not build houses or plant plantations like they (the Egyptians, etc.) do. Therefore Scripture says: "Ye shall not walk in their statutes!" The above commandment refers only to the statutes that have been specifically legislated for them, their fathers and their fathers' fathers. (And here follows a list of sex crimes which we had occasion to consider before.)

That the literal interpretation, of which the Midrash tried to dispose, was not merely hypothetical is evidenced by the existence and practice of the Rechabites whose program was just that. ¹⁰⁴⁾ But neither the Torah nor the later Rabbis had any intention of making the Jews a nation of Rechabites. There are certain things essential to civilization, and of these the Jew must not be deprived. And so, in dealing with the hukkoth hagoyim, the Tannaim had to distinguish between the essentials common to all civilized men, and the hukim hahakukim lahem, the "statutes that have been specifically legislated for them," the nomos of paganism.

The separatism of the hukkoth hagoyim legislation is counter-balanced by the legislation mipne tikkun ha'olam and mipne darke shalom. But that is beyond the scope of our present investigation.

CHAPTER FIVE

T H E D A R K E H A - E M O R I

Explanation of the name. - Did R. Meir know our "Chapter of the Amorites?" - The imitation of pagan coiffure. - The relation of Magic to the hukkoth hagoyim. - The criterion of permissibility. - Magic and Medicine.

CHAPTER FIVE

T H E D A R K E H A - E M O R I

In the Sifra's comment to Leviticus 18:13 ("Ye shall not walk in their statutes") ¹⁾, the first part of which we have already been considering in connection with the circus and theater, Rabbi Meir is reported to have said:

"These are the 'Ways of the Amorite' which the Sages have enumerated."

R. Judah ben Bathyra, apparently taking up the hint dropped by R. Meir, adds:

"You shall not be foppish in dress ²⁾, and you shall not let the hair-locks grow, and you shall not trim the front of the hair like a fringe on the forehead."

The Mishnah, too, mentions the "Ways of the Amorite" twice. Once in Sabbath 6:10, where we read:

Men may go out with a locust's egg ³⁾ or a jackal's tooth ⁴⁾
or with a nail of (the gallows of) one that was crucified ⁵⁾,
as a means of healing. So R. Meir. But the Sages say:
Even on ordinary days this is forbidden as following the
"Ways of the Amorite."

The second passage is in Hullin 4:8:-

.....If a beast that had not before borne young, cast an
afterbirth, it may be thrown to the dogs ⁶⁾. But if the
beast had been set aside as an offering, it must be buried.
It should not be buried at cross-roads, or hung on a tree,
for such are the "Ways of the Amorite." ⁷⁾

Two questions arise in this connection: a) Why the name "Ways of the Amorite?" and b) What is the enumeration of the "Ways of the Amorite" to which R. Meir refers?

As to the first, a number of possible answers have been suggested. ⁸⁾
Kohler mentions the fact that in post-Biblical literature the Canaanites are usually spoken of as "Amorites," and that to the apocryphal writers of the first and second pre-Christian centuries they are the main representatives of heathen superstition. And in the Syriac Apocalypse of Baruch 60 they are symbolized by "black water" on account of "their black art, their witchcraft, and impure mysteries, by which they contaminated Israel in the time of the Judges." ⁹⁾

¹⁰⁾
Boaz Cohen draws attention to the fact that the Bible itself often designates the various people of Canaan by the general name "Amorite." ¹¹⁾

¹²⁾
H. Ehrentreu draws attention to the fact that R. Meir's reference to the "Ways of the Amorite" is made in connection with Leviticus 18:3. But in the verse itself there is no mention of the Amorites at all. On the contrary, the Bible there mentions specifically "the land of Egypt" and the "land of Canaan." We would, therefore, expect the heathen practices to be called darke mitzrayim or darke kena'an. Why darke emori?

The answer is to be found in Exodus 23:23-24. In the first verse the Canaanitish nations are enumerated, with the Amorite right at the beginning. The next verse warns: "Thou shalt not do after their doings." Now, from the point of view of arrangement, this is the first verse of the Torah where the imitation of heathen customs is prohibited. And it is here that the Amorites are given this prominent

place. Consequently we have to regard this passage as the locus in quo, responsible for the rabbinic term darke emori.

Now, the statement of R. Meir in the Sifra, and the two passages from the Mishnah which we have quoted, are not the only instances in tannaitic literature where attention is paid to the darke emori. We have, in fact, two whole chapters in the Tosefta Sabbath which deal with this subject. To the best of our knowledge, no complete translation of these chapters has ever appeared in English; and the Hebrew text, as reproduced by Zuckerman, is also in need of correction. In view of this, we have added an appendix to this investigation, containing an emended text, an English translation, and a brief commentary; and the reader is referred to this appendix for the details which are the basis of the rather general remarks in this chapter.

Can we, then, assume that Rabbi Meir had before him the material now contained in chapters 6 and 7 of the Tosefta Sabbath? Boaz Cohen points out ¹³⁾ that, in view of the statement by R. Judah b. Bathyra, which we have already quoted, "it is clear that the collection he (R. Meir) was familiar with did not begin as the one in the Tosefta."

But can we be so sure about that? Let us call to mind R. Judah's statement:

"You shall not be foppish in dress, and you shall not let the hair-locks grow, and you shall not trim the front of the hair like a fringe on the forehead."

As against this, the Tosefta passage in question begins:

"These are the things (reckoned as being) 'of the ways of

the Amorite: ' If one trims the front of his hair like a fringe on the forehead, and lets the curls hang down on the temples; if one shaves his head to the crown;....."

There are, then, in the b r i e f statement of R. Judah not less than two items that agree in subject matter (one of which in almost the identical language) with the beginning of our Tosefta passage. Allowing for the inevitable variations that creep into material transmitted orally¹⁴⁾, and allowing also for a later process of editing in the case of the Tosefta material, it does not seem so unlikely, as Cohen would have us believe, that the chapter devoted to Amorite practices did begin very much in the same way as does chapter 6 of Tosefta Sabbath, as we have it before us. R. Judah's statement is too brief to enable us to draw any far-reaching conclusions from it. But the argument for the identity of the two lists of Amorite practices is stronger than the argument against could be.

As we study the "Chapter of the Amorites," given in the Appendix, we find that it deals with three general topics:

- a) Imitation of pagan coiffure (only the first part of the first paragraph).
 - b) Prohibited magical and divinatory practices.
 - c) Apparently magical practices that are permitted.
- a) Here we have a number of Christian parallels. Say the Constitutions¹⁵⁾:-

For it is not lawful for thee, a believer and a man of God, to permit the hair of thy head to grow long, and to brush it up together, nor to suffer it to spread abroad, nor to puff it up, nor by nice combing and platting to make it curl and

shine; since that is contrary to the law, which says thus, in its additional precepts: "You shall not make to yourselves curls and round rasures (Lev. 19:27)." Nor may men destroy the hair of their beards, and unnaturally change the form of a man. For the law (Lev. 21:25) says: "Ye shall not mar your beards."

This, of course, is merely a restatement of biblical legislation which, in itself, was consciously framed in opposition to heathen practice. Tertullian does the same ¹⁶⁾:

And should he be pleasing to God, who, with the help of a razor, changes his own appearance, untrue to his own face?!

But what was the need for this reiteration of biblical law, both by the rabbis and the Church Fathers? Kellner ¹⁷⁾ gives us a hint. He says that the changing of one's appearance, "untrue to his own face," was done in order to represent BACCHUS. Here, then, is the clue why, long after the purpose of the biblical legislation had been achieved, it became necessary again in the Hellenistic-Roman age to reformulate ¹⁸⁾ the old law.

b) When we get to Magic and superstitious practices, we must bear in mind that this was the bane of all the religious reformers from antiquity to the present day. The Prophets had to deal with it, and the Torah legislated against it. But the evil would not subside.

There is no doubt that many of the superstitious practices common among the Jews were, in reality, borrowed from the environment, and, therefore, truly darke ha-emi. ¹⁹⁾ On the other hand, we have to bear in mind the process already indicated in Chapters One and Two

above, whereby a certain practice which had originally been practiced by the Jews, but was outgrown in the course of religious evolution and discarded by the reformers, came to be classified by the latter among the hukkoth hagoyim. No doubt, many of the practices listed in the "Chapter of the Amorites" were good old Jewish heritage themselves, discountenanced only by a more enlightened generation, and laid at the door of the heathen. Others, such as Tos. Sab. 7:5, remained unhurt by this classification, and are considered quite acceptable in later Jewish legislation. ²⁰⁾

This much, though, is certain that the time of the Tannaim saw a great deal of superatition and magic, both domestic and imported. Hence the opposition had to be intense and comprehensive.

The Midrash Tannaim to Deuteronomy 18:13 explains the positive statement: "Thou shalt be whole-hearted (tamim) with the Lord thy God" as a negative prohibition against the consultation of soothsayers: ²¹⁾

: מִיֵּן שֶׁאֵין שׂוֹאֵלִין כְּכַדְדֵּי אֵין

Similarly, the Didache ²²⁾ includes the prohibition of magic in its summary of the Ten Commandments:

The second commandment of the Teaching is:

You shall not commit murder. You shall not commit adultery.

You shall not corrupt boys. You shall not commit fornication.

You shall not steal. You shall not practice magic. You shall not practice sorcery. You shall not kill an unborn child.....

The intimate connection between Magic and idolatry is also pointed out ²³⁾:

My child, do not be an observer of omens, for this leads to idolatry; or engage in witchcraft, astrology, or ritual

ablutions. Do not even desire to see these things (or hear them), for from all these idolatry is born.

c) But what of the instances that are permitted, and that are not regarded as being of the "Ways of the Amorite?" What was the criterion of permissibility?

Trachtenberg ²⁴⁾ makes a distinction between those practices that were thought to achieve their result by the mere "performance of an act," without resort to supernatural aid, and those which involved an appeal to the supernatural and a recognition of the supremacy of God. Only the former were rigorously excluded by the rabbis, while the latter were admitted past the barrier on sufferance.

This hypothesis is appealing, and it certainly explains the difference in the halakhic ruling between Tos. Sab. 6:3 and 7:22. On the other hand, it is not applicable to all instances. There is no "appeal to the supernatural" in placing a bone on one's head, if a bone of the same kind had got stuck in one's throat. (6:21)

But this ruling can easily be explained, as can many others of the same type, by reference to a halakhic principle, which Trachtenberg seems to have overlooked, or which may have no direct bearing on the subject matter he discusses.

The halakhic principle in question, which is so much taken for granted that the two veteran opponents, Raba and Abaye, find themselves in complete agreement on it, is this:

כל דבר שיש בו משום רפואה אין בו משום דרכי האמורי:

Any matter, required for medical purposes, cannot be considered as being of the "Ways of the Amorite." ²⁵⁾

Raba and Abaye lived after the tannaitic period; but the principle quoted in their name must have been implicit in tannaitic legislation. And when, in Mishnah Sabbath 6:10, the Sages disagree with R. Meir about the permissibility of carrying certain objects not only on the Sabbath, but even on week-days, -- then the difference of opinion is based on differing medical theories. R. Meir believes in their medical efficacy, and therefore permits their use. The Sages, being more up-to-date in their materia medica, fail to see the medical relevance, and hence have to ban the use of such objects as "Ways of the Amorite." 26) We can be sure, however, that once the efficacy of a certain "cure" was established, the Sages cared little about the environment whence it hailed. In the darke emori legislation, as in that concerning hukkoth hagoyim in general, they kept their feet firmly on the ground of life's practical demands.

CHAPTER SIX

C O N C L U S I O N S

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C O N C L U S I O N S

In bringing this study to an end, we may briefly note the salient features that have emerged from our investigation. The period of Jewish history to which we have devoted our main attention is the Tannaitic Period, the formative age of both Rabbinic Judaism and of Christianity. But, like all religious phenomena, a study of the concept of hukkoth hagoyim in the Tannaitic Period only, would be quite unintelligible. The concept did not originate then, even though it was in the Tannaitic Period that all of its ramifications were seen most clearly.

We have, therefore, traced its development from the earliest days. As soon as there was such a thing as Judaism, or, if this nomenclature be preferred, an Israelitish cult, distinct from the religion of the environment, the need for some form of hukkoth hagoyim legislation made itself felt.

We may, then, regard the history and the development of the hukkoth hagoyim concept as a true indicator of the degree of adjustment Israel made to life in a pagan world; -- of the adjustment, as well as of the growing self-consciousness and conviction that such difference as there was had to be preserved, because it was significant.

This preservation was not easy. Providence never let Israel live a secluded life for any long stretch of time. As an equal, or as a subject, Israel always had to come to terms with the culture and the Weltanschauung of his neighbors. Temptation was always strong, and the will to resist may not always have come up to expectations; --

at least that is how R. Jose ha-Gelili¹⁾ thought. Israel differed from the heathen nations just in this, he said, that the latter never forsake the tradition of their fathers, while Israel is only too ready "to forsake what their fathers have handed down to them, and to go worshipping strange gods."

We have seen how foreign influences shaped the cult not only of the Jewish soldiers at Elephantine, but of the faithful "Golah" in Babylon itself. And even after the successful outcome of the Maccabean Revolt, we have encountered Hellenistic customs in the Temple of Jerusalem. The Jews of the Diaspora, as conscious as any of the superiority of Monotheism over paganism, could not help adopting some of the customs of their environment. They would not have been human had they done otherwise.

But hukkoth hagoyim are not exclusively importations from the contemporary outside world. Perhaps one of the most interesting facts which this study has yielded is the evolution of Judaism itself, the gradual emancipation from its pagan antecedents. Here we have seen how practices that were an integral part of the religion in its early stages were dropped by the reformers, and classified as hukkoth hagoyim (!). This process we were able to witness in the Bible itself, as well as in the Tosefta, where superstitions of domestic vintage are laid at the door of the Amorites. The Midrash has an apt phrase for it. Speaking of the mazebhah, the Sifré²⁾ says that it was ahubha la-aboth, senu-ah labanim, acceptable in the days of the fathers, but considered hateful by the children. In this, lefi thumo, the Midrash gives recognition to the principle of religious reform and development.

In the days of the Tannaim, however, the essential task of emancipating Israel - at any rate, in theory - from its own pagan antecedents had already been accomplished. The danger that loomed largest in the Tannaitic Period was that of assimilation to the dominant culture. In the first place, Jewish national independence was a thing of the past, and the herem was the strongest weapon that could be employed against apostasy. And, secondly, the influence of Graeco-Roman civilization was harder to resist than that of the primitive Canaanites. Whatever can be said about their moral practice from the Jewish point of view, the Hellenists did wave the banner of "The Good, the True and the Beautiful."

Hence the rabbis' warning: 3)

Do not say that they (the heathen) have statutes, and we have no statutes. Scripture says: "Ye shall do Mine ordinances, and keep My statutes, to walk in them; I am the Lord your God." But there was still hope for the yetzer hara' to object and to say: "Their statutes are more beautiful than ours.".....

Here the rabbis have put their finger on an important psychological fact. Cohon 4) draws attention to Freud's concept of ambivalence: that the foreign elicits an ambivalent attitude in men. As foreign it is strange, outlandish and, consequently, ridiculous, annoying, suspicious and hateful.

As foreign, too, it possesses special interest, attraction and charm; and, therefore, appears valuable and worthy of emulation. Or, as Freud says about the taboo prohibitions 5): "In their unconscious (people) would like nothing better than to transgress

them but they are also afraid to do it; they are afraid just because they would like to transgress, and the fear is stronger than the pleasure."

Perhaps we can find in this the psychological motivation responsible for the tannaitic activity of erecting "fence" after "fence" in order to make the imitation of hukkoth hagoyim an utter impossibility. After all, the erection of legal barriers was the only possible way of safeguarding the Jewish Religion in the face of foreign attractions.

It is true, there were periods when catastrophe and national suffering added their weight to the stringency of the regulations which were to keep Israel apart from the nations. But the main endeavor was always in the "vineyard of the Lord," in the religious sphere.

This is borne out by the copious and oft-times amazingly exact parallels which we find in the literature of the early Church. Christianity, too, had to fight the imitation of heathen customs as well as those - what irony! - of Judaism itself. The differences between Judaism and Christianity as we find them in the world to-day are in no small measure due to the fact that Christianity, for reasons of its own historic mission, relaxed its vigilance in regard to the hukkoth hagoyim, whereas Judaism never wearied of re-iterating the stand taken by the Tannaim.

From the Talmud down to the Shulhan Arukh and its latter-day condensations, throughout the Responsa literature, the concept of hukkoth hagoyim has occupied the minds of the Jewish legalists.

It is not our task here to extend the scope of our present investigation to cover this wide field. Suffice it to take Maimonides as a representative of medieval Judaism, and to quote his concise summary of our subject:

One must not walk in the statutes of the heathen, and one must not make oneself like unto them either in dress, or in coiffure, etc.; as it is said (Lev. 20:23): "Ye shall not walk in the statutes of the nation;" and (ibid. 18:3): "Ye shall not walk in their statutes;" and (Deut. 12:30): "Take heed to thyself that thou be not ensnared to follow them." - All these warnings have one purpose in view: that the Israelite shall not make himself like unto them; but that he should be distinct from them, recognizable in his dress and in his actions, just as he differs from them in his philosophy (bemadda'o) and in his moral qualities. For thus Scripture says (Lev. 20:26): "I have set thee apart from the peoples." One must not wear their distinctive garments, nor let the front of one's hair grow as they do. And one must not shave from the sides and leave the hair in the middle, as they do; -- this is called belorith. And one must not shave one's hair in front, from ear to ear, leaving only the locks at the back, as they do. - One must not erect buildings for the many to congregate like the structure of the heathen temples, as they do. - 6)

As can be clearly seen, Maimonides merely summarizes the various rulings which we have already encountered in Tannaitic sources. Significant is his statement that these outward acts in which the Jew has to differ

from his environment are but the overt manifestations of the Jew's distinctiveness in religious philosophy and moral qualities.

It is left to our modern age, when many of the traditional restrictions have fallen into oblivion, to demonstrate and to prove that the Jew can retain his distinctive madda' and de'oth in spite of his outward assimilation.

For the past, at any rate, it can be said that while hukkoth hagoyim legislation "fenced us round with impregnable ramparts and walls of iron," it did help us to "remain pure in body and soul, free from all vain imaginations, worshipping the one Almighty God above the whole creation." 7)

APPENDIX

THE CHAPTER OF THE AMORITES

Critical Edition of Tosefta Sabbath, chapters 6-7.

English Translation.

Explanatory Notes to the English Translation.

APPENDIX

THE CHAPTER OF THE AMORITES

Introduction: -

"The Chapter of the Amorites." - This is the name given to the following two chapters of the Tosefta by the Talmud in Sabbath 67a. Lieberman - Tosefeth Rishonim, Part I, p.126-, quoting the Arukh, connects the word אַמֹרִיטָא with the "Amoraim", and believes that the chapter was called thus because the laws contained therein were taught by the Amoraim. The Arukh, however, lends no support to this interpretation.

Boaz Cohen, on the other hand, in his "Mishnah and Tosefta," p. 91, seems to support our translation of the word. He thinks the chapter was so called because it is dealing "with the superstitious practices of the Amorites." However, Cohen can find no proof for the absolute identity of the "chapter" referred to in the Talmud and the present text of the Tosefta.

We have preferred the translation "Chapter of the Amorites" because in 7:16 the word אַמֹרִיטָא occurs, where it can only mean "Amorite;" and אַמֹרִיטָא is the regular Aramaic gentilic plural ending.

The basis of the Hebrew text here transcribed is the text given in Zuckermannel's edition of the Tosefta. We have compared Zuckermannel's text with the variants which he himself mentions, and with the variants found in parallel passages and such MSS as have been utilized by writers on the Tosefta.

For the text itself we have chosen the reading that yields the

best sense; and our translation is based on that text. For the sake of accuracy we have, however, added a critical apparatus in which the divergent readings are given. There is still too little known about the subject of ancient Palestinian superstition to be absolutely certain that one rather than another reading is to be preferred.

The following texts have been utilized in the preparation of this edition:- (The Hebrew letter is the sign by which the source is indicated in the critical apparatus.)

First Printed Edition, quoted by Lieberman,
Tosefta Rishonim, Part I, ad loc.

א

Babylonian Talmud, Sabbath 67b.

ב

Printed Text of Tosefta in Hilkhoth Rab Alfes,
Vol. I, Vilna, Romm, 1881.

ג

Yalkut Shim'oni to the Pentateuch, 1898,
Vilna, Romm, paragraph 587.

ד

London MS, quoted by Lieberman, op. cit. ad loc.

ה

Variant readings given by Zuckerman, op. cit.

ו

Schwarz: Die Tosifta des Tractates Sabbath,
Karlsruhe 1879.

ז

Tosefta, ed. Zuckerman, Pasewalk 1881.

ח

Unless otherwise stated, the text throughout is that of
Zuckerman, pp. 117-119.

פ ר ק א מ ר א י

והוא כולל פרקים 6 ו 7 בתוספתא שבת, הוצאת צוקערמאנדעל,
דפים 117 עד 119,

ערוך מחדש, עם תקונים והערות, וגם תרגום אנגלי ופירוש,

ע"י

יעקב יוסף פסחובסקי

פרק אמוראי

מפתח הסימנים .

- א דפוס ראשון של התוספתא, הובא ע"י ליבערמאן בספרו
תוספת ראשונים, חלק א.
- ב תלמוד בבלי, מסכת שבת, דף סז:
- ד התוספתא בנוסח הנדפס בהלכות רב אלפס, ווילנא, ראם,
1881.
- י ילקוט שמעוני על חמשה חומשי תורה, סעיף תקפז,
ווילנא, ראם, 1898.
- ל כ"י לונדון, הובא ע"י ליבערמאן בספרו הנ"ל.
- צ שנויי-נוסחאות הנמצאים בהוצאת התוספתא
של צוקערמאנדעל.
- ש הנהגות הרב א. שווארץ בספרו די תוספתא דעם טראקטאטעס
שבת, קארלסרוהע 1879.
- ת הוצאת התוספתא של צוקערמאנדעל, פאזעוואלק 1881.

פרק אמוראי

6:1. אילו דברים מדרכי האמורי המספר קומי והעושה
בלורית והמנבח לגודגדין (א) והמגוררת בנה לבין המתים
והקושר מטולטלת על ירכו וחוט אדום על אצבעו והמונה
ומשליך צרורות לים או לנהר הרי זה מדרכי האמרי :

6:2. המספק והמטפח והמרקד לשלהבת הרי זה מדרכי
האמרי, נפלה פתו מפיו (ב) ואמר החזירוה לי שלא תאבד
ברכתי, הניחו נר על הארץ כדי שיצטערו המתים, אל
תניחו נר על הארץ שלא יצטערו המתים, נפלה הימנו
ניצוצות (ג) ואמר אורחין לנו היום הרי זה מדרכי האמרי :

6:3. היה מתחיל במלאכה ואמר יבוא איש פלוני שידין
קלות ויתחיל בה, פלוני שרגליו קלות ויעבור לפנינו,
הרי זה מדרכי האמרי; כחבית או בעיסה אמר יבוא פלוני
שידין מבורכות ויתחיל, הרי זה מדרכי האמורי :

6:1. (א) בד: והמנבח לגודגדין.

6:2. (ב) כך איתא בש"דף 38 בשם הגר"א. זכ"י: נפלה
פתו ממנו, תחת ת: ניטלה פת הימנו. וכרסכ"ם
הלכות עכו"ם 11:4: האומר הואיל ונפלה פתי מפי.

(ג) כ' : צרורות.

6:4. הפוקק את החלון בסירא והקושר ברזל בכרעי המיטה של חיה והעורך לפנייה שולחן, הרי זה מדרכי האמרי; אבל פוקקין את החלון בגלופקרין או בעמיר ונותן לפנייה ספל של מים וקושרין לה תרנגולת שתחא לה לצות, ולא מדרכי האמורי:

6:5. האומר שחטו תרנגול (ד) זה שקרא בערב (ה), תרנגולת זו שקראה כזכר האכילזה כרבלתה שקראה כזכר, הרי זה מדרכי האמורי:

6:6. קרא עורב ואמר צרה (ו), קרא עורב ואמר לו חזור לאחריך, הרי זה מדרכי האמרי:

6:5. (ד) כך נא ובצ תחת ת: סקלו תרנגולת.

(ה) ב': כעורב; וברמכ"ם הלכות עכו"ם 11:4: שקרא ערבית.

6:6. (ו) כך כל תחת ב, ד, ת: צרה. (אבל עיין התרגום האנגלי והפירוש שם). וב סמשיך: ולעורכתא שריקי והחזירי לי זנביך לסוכה.

8:9* (י.ז) לז לז לז לז: לז.ל.

(.X) C. TEL: 441010 01010.

(.) CL: A4X ULXZ.

(a) C. ICL: 84 U.AI.

(u) CL: AULXZ.

L:9° (1) 5, 15L: 5.41.

UL. 11 Q15L :

[illegible]

אָז, וויל אָנזען, וויל, וויל אַלע, וואָס, אַז עס אָז וואָס, וואָס

8:9* וַיִּשְׁלַח אֱלֹהִים אֶת מֹשֶׁה וְאֶת אָהֳרֹן לְדַבֵּר אֶל הָעָם בְּשֵׁם יְהוָה וַיֹּאמְרוּ אֲלֵהֶם (ו.ע)

ALLC. UNQIL. :

ԱՆԻՔԱՆՈՒՄ՝ ԱՀ ՄԹԵ ԱՀ ԲԾԸԼ ԹՀՏ ՄԽԱ ԿԶՑՍ ԱՆԻՔԱՆՈՒՄ՝ -- ԷԼ. ԴԱ

[illegible][illegible]

ပုလဲ (၁)၊ နှင့် ပ.ပ. (၁) ငါး (၁) နှင့် ပ.ပ. (၁) ငါး (၁)

אז נאמר, אלא (1) אלא וכן הוה.

[illegible]

6:9. האומר אל תפשיל ידך לאחוריך שלא תאמר עלינו
מלאכה, הרי זה מדרכי האמורי :

6:10. החוסם אור בכותל (יג) ואומר הדה, הרי זה
מדר' הא' ; ואם בשביל ניצוצות, הרי זה מותר :

6:11. השופך מים ברשות ואומר הדה הרי זה מדרכי האמורי ;
ואם אמר מפני עוברים ושבים, " הרי זה מותר :

6:12. הזורק ברזל מפני הקברות הרי זה מדרכי האמורי ;
ואם מפני חרשין, הרי זה מותר :

6:13. הנותן מקל של אור (יד) תחת ראשו הרי זה מדרכי
האמורי ; ואם בשביל לשמרן, הרי זה מותר :

6:10. (יג) כך כל ; וכת: האומר חתום. כ' : התופס
חור בכותל. וכד: התופס אור בכותל.

6:13. (יד) כך כ', כד וכצ, תחת ת: אור.

6:14. המצוונחת לתנור בשביל שלא תינפל הפת, הנותן
 קיסמין (טו) באזני קדירה בשביל שלא תהא מרתחת (טז)
 ושופעת לאחוריה, -- הרי זה מדר' הא'; אבל נותנין קיסם
 של תות וזכוכית לתוך הקדירה בשביל שתתבשל מהרה; אבל
 אסרו חכמים בזכוכית מפני סכנת נפשות :

6:15. השותקת לעדשים והמציצת לאורז והמטפת לנר הרי
 זה מדר' הא' : (יז)

6:16. נפל נחש על גבי מיטה ואמר עני הוא וסופו להעשיר,
 עברה היא זכר יולדת, בתולה היא לאדם גדול נישאת, -- הרי
 זה מדרכי האמורי :

6:14. (טו) כב: המשתנת בפני קדירה בשביל שתתכשל
 מהרה יש בו משום דרכ' הא'.

(טז) כך כצ, תחת ת: מרתעת.

6:15. (יז) כך כצ, תחת ת: והמציצת לאורז. כד:
 המשתקת והמצננת לאורז.
 וכב: המרקדת לכותך והמשתקת לעדשים והמצוונחת
 לגריסין יש בו משום דרכי האמורי.

7:1. האומר יממא וביצא הרי זה מדרכי האמורי.

ר' יהודה אומר יממא ובוצצא :

7:2. האומר דגן וקדרון הרי זה מדר' הא'. ר' יהודה

אומר דגן על שם עבודה זרה שנ' דגון אלהיהם :

7:3. האומר דני דני הרי זה מדר' הא' . ר' יהודה

אומר דן על שם עבודה זרה שנ' ואמרו חי אלהיך דן :

7:4. השואל במקלו ואומר אם אלך אם לא אלך הרי זה

מדר' הא' ; ואף על פי שאין ראייה לדבר זכר לדבר, עמי

בעצו ישאל ומקלו יגיד לו :

7:5. האומר מרפא הרי זה מדרכי האמורי. ר' אלעזר

בר' צדוק לא אמר מרפא מפני בטל תורה. של בית רבן

נמליאל לא היו אומרים מרפא :

7:6. האומר יתיר ונותר הרי זה מדר' הא'. ר' יהודה

אומר אל יהי בביתו (כא) יותר ונותר :

7:7. האומר שתו והותירו הרי זה מדרכי האמורי : (כב)

7:6. (כא) כך כל וכד, תחת ת: בכיתי. ועיין הפירוש לקמן.

7:7. (כב) וכב: אשתה ואותיר.

6:2 (CL) 4600 LER! 14600 UZD.L.U!.

6:7. (C) כח יו, : מולד ו... זכור לך! ו... ומולד

8:2. (C2) 22 10: 1101 11. 2610 1111.

21:2. -- וְהָיָה כִּי יִשְׁמַע ה' אֶת-קוֹלְךָ, וְיִשְׁלַח אֶת-יָדוֹ וְיִקְחֶךָ, וְיִשְׁמְרֶךָ.

21:2. -- וְהָיָה כִּי יִשְׁמַע ה' אֶת-קוֹלְךָ, וְיִשְׁלַח אֶת-יָדוֹ וְיִקְחֶךָ, וְיִשְׁמְרֶךָ.

: אַז, ווען ער האט געזעהן דאס פארשטאנד ער זיך צו קומען צוריק צו זיין שולד.

11:2. וְהָיָה כִּי יִשְׁמַע אֱלֹהִים בְּרוּךְ הוּא אֶת הַקּוֹל הַזֶּה וְהָיָה כִּי יִשְׁמַע אֱלֹהִים בְּרוּךְ הוּא אֶת הַקּוֹל הַזֶּה

ՀԱՄԱՐ 1 :

ገጽ ፩ ንግግር ገጽ ፩ ንግግር' ፡ ለገጽ ፩ ንግግር ፡ ለገጽ ፩ ንግግር

01:2. UNICOL ZN ZN UL, UU QLLC, UXUUL, 1X6 6Z G. AX.1

[illegible]

6:2. ԱՆՈՒ ԸԼԸ. ԴՇ.ԵՄ ԱՆՈՒ ՕՐԱՍ ԶԵՐ ԼՈՅ ԸՅ ՍԸ.Ա

8:2. QULI ULULI ULULI ULULI (UL) UL, UL, :

7:13. איזהו מנחש ? האומר נפלה מקלי מידי, נפלה פת
מפי, וקרא איש פלוני מאחריי, וקרא לי עורב ונבח בי כלב
ועבר נחש לימיני ושועל לשמאלי ופסק צבי את הדרך לפני,
אל תתחיל בו (כה) שהרי ראש חדש שהרי ערב שבת ומוצאי
שבת הוא :

7:14. מעונן. איזהו מעונן ? ר' ישמעאל אומר זה
מעביר על העין. ר' עקיבא אומר אילו נותנים עתים כגון
אלו אומרים היום יפה לצאת מחר יפה ליקח, היום חמה נחפת
מחר גשמים יורדים; כגון אילו האומרים לימודי ערבי
שביעות להיות יפות, עיבודים קטניות להיות רעות (כו).
וחכמים אומרים אילו אוחזי העינים :

7:15. סוקרין את האילן בסיקרא וטוענין באבנים ואינו
חושש לא משום שביעית ולא משום דרכי האמרי :

7:13. (כה) הנוסח הזה נמצא בספרי לדברים 18:10,
והובא בש"ד 39; תחת ה'; וד': אל תתחיל בי
שהרי שחרית הוא ראש חדש הוא מוצאי שבת הוא.
ודרך טעות סופר איתא "שחרית" במקום "שהרי".

7:14. (כו) כך הובא ע"י לוי: מארנענלענדישער
אבערנלויבע, דף 136, בשם הגמרא. תחת ה':
ועקורות קיטיות להיות רעות.

מִשְׁכָּנוֹ עַם לְעַם יִזְכָּר שְׁמוֹ עַם אֲחֵרָה :

וְיִלְכֹּד מִלְּפָנֶיךָ יְהוָה וְיִשְׁתַּחֲוֶה לְפָנֶיךָ וְיִשְׁתַּחֲוֶה

22:2 • יִשְׁתַּחֲוֶה לְפָנֶיךָ יְהוָה וְיִשְׁתַּחֲוֶה לְפָנֶיךָ וְיִשְׁתַּחֲוֶה

אֶת הַיָּדָיו וְיִשְׁתַּחֲוֶה לְפָנֶיךָ יְהוָה וְיִשְׁתַּחֲוֶה :

12:2 • וְיִשְׁתַּחֲוֶה לְפָנֶיךָ יְהוָה וְיִשְׁתַּחֲוֶה לְפָנֶיךָ וְיִשְׁתַּחֲוֶה

אֶת הַיָּדָיו וְיִשְׁתַּחֲוֶה לְפָנֶיךָ יְהוָה וְיִשְׁתַּחֲוֶה :

וְיִשְׁתַּחֲוֶה לְפָנֶיךָ יְהוָה וְיִשְׁתַּחֲוֶה לְפָנֶיךָ וְיִשְׁתַּחֲוֶה

02:2 • וְיִשְׁתַּחֲוֶה לְפָנֶיךָ יְהוָה וְיִשְׁתַּחֲוֶה לְפָנֶיךָ וְיִשְׁתַּחֲוֶה

61:2 • וְיִשְׁתַּחֲוֶה לְפָנֶיךָ יְהוָה וְיִשְׁתַּחֲוֶה לְפָנֶיךָ :

וְיִשְׁתַּחֲוֶה לְפָנֶיךָ יְהוָה וְיִשְׁתַּחֲוֶה לְפָנֶיךָ וְיִשְׁתַּחֲוֶה :

וְיִשְׁתַּחֲוֶה לְפָנֶיךָ יְהוָה וְיִשְׁתַּחֲוֶה לְפָנֶיךָ וְיִשְׁתַּחֲוֶה

לְפָנֶיךָ יְהוָה וְיִשְׁתַּחֲוֶה לְפָנֶיךָ וְיִשְׁתַּחֲוֶה

וְיִשְׁתַּחֲוֶה לְפָנֶיךָ יְהוָה וְיִשְׁתַּחֲוֶה לְפָנֶיךָ וְיִשְׁתַּחֲוֶה

81:2 • וְיִשְׁתַּחֲוֶה לְפָנֶיךָ יְהוָה וְיִשְׁתַּחֲוֶה לְפָנֶיךָ וְיִשְׁתַּחֲוֶה

וְיִשְׁתַּחֲוֶה לְפָנֶיךָ יְהוָה וְיִשְׁתַּחֲוֶה לְפָנֶיךָ וְיִשְׁתַּחֲוֶה :

71:2 • וְיִשְׁתַּחֲוֶה לְפָנֶיךָ יְהוָה וְיִשְׁתַּחֲוֶה לְפָנֶיךָ וְיִשְׁתַּחֲוֶה

יִזְכָּר שְׁמוֹ עַם אֲחֵרָה :

91:2 • וְיִשְׁתַּחֲוֶה לְפָנֶיךָ יְהוָה וְיִשְׁתַּחֲוֶה לְפָנֶיךָ וְיִשְׁתַּחֲוֶה

7:23. לוחשין על העין ועל הנחש ועל העקרב ומעבירין את העין בשבת. רבן שמעון בן גמליאל אומר בדבר שניטל בשבת; אין לוחשין בדבר שדים (כז). רבי יוסי אומר אף בחול אין לוחשין בדבר שדים. וכן היה ר' יוסי אומר אין לך מן הכרכין רע יותר מן הסדומי (כח), שכל זמן שאדם רע קורין אותו סדומי (כט), ואין לך בכל העממין קשה יותר מן האמורי, שכל זמן שאדם קשה קורין אותו אמורי :

7:24. ר' נהוראי אומר אין לך בכל הכרכין יותר מתון מן הסודמי, שכן מצינו שחזר לו לום על כל המקומות ולא מצא מתונה בסדום, שנ' אברם ישב בארץ כנען ולום ישב בערי הככר :

7:25. רבן שמעון בן גמליאל אומר אין לך בכל העממין מתון יותר מן האמרי, שכן מצינו שהאמינו בהקב"ה וגלו (ל) לאפריקי ונתן להם המקום ארץ יפה בארצם והיתה ארץ ישראל נקראת על שמם :

7:23. (כז) כך כד ובצ.

(כח) כד: מסורסיין. והנוסח שלנו על פי צ, תחת ה: סודמי.

(כט) כך כצ; כד: סורמי, ובה: סודמי.

7:25. (ל) כד: דגלו.

THE CHAPTER OF THE AMORITES

Tosefta Sabbath, chapter 6:-

6:1. These are the things (reckoned as being) "of the ways of the Amorite": If one trims the front of his hair like a fringe on the forehead (XOHH'), and lets the curls hang down on the temples; if one shaves his head to the crown ¹⁾; - and if a woman drags her child among the dead; and if a man ties a pad to his hip, and a red thread

6:1.

- (1) The shaving of the head, says Lewy (Morgenländischer Aberglaube, p. 24f.), became fashionable at the beginning of the 3rd century with the Roman Emperors themselves, just as it had previously been the fashion of athletes and Stoics. The shaven head also plays a part in the cult of the Syrian goddess, and was a practice also known to the Egyptian priests. Among the Romans, those saved from shipwreck used to shave off their hair. Cf. JUVENAL, XII, 81 f:-

"gaudent ubi vertice raso
garrula securi narrare pericula nautae."

Lewy sees proof for his contention that it was this Greco-Roman fashion of coiffure, against which the rabbis legislated, in b. Baba Kamma 83a: "He who shaves off the front of his hair completely follows in the ways of the Amorite; only Ptolemy bar Reuben had permission to do so, for he had dealings with the government." (Cf. also b. Sotah 49b; and Maimonides, Yad, Hilkhoth Akum 11:3.)

The prohibition of shaving the head is, of course, already found in Lev. 19:27; 21:25; and Ezekiel 44:20. In these cases, too, we seem to have to deal with a reaction against heathen practice; and it appears to us that our Tosefta is merely the adaptation of an old halakhic ruling to the requirements of the times.

on his finger ²⁾; - and if one counts and tosses pebbles into the sea or the river ³⁾, -- all this is "of the ways of the Amorite".

6:2. If one claps his hands and dances before a flame ⁴⁾, -- it is "of the ways of the Amorite". If bread falls from a man's mouth, and he says: "Give it back to me so that my blessing may not perish ! "; (or if he says:) "Place a lamp on the floor so that the dead be troubled."; (or:) "Do not place a lamp on the floor so that the dead be not troubled." ; if, when sparks have fallen down, a man says: "We shall have visitors to-day."; -- all this is "of the ways of the Amorite".

6:3. If one is about to start work, and says: "Let A come, whose hands are light and let him start it ! "; (or:) "Let B, whose feet are swift, pass before us ! ", -- then this is "of the ways of the Amorite". If one is about to work with a wine barrel or with dough, and says: "Let A come and start, because his hands are blessed!", this is "of the ways of the Amorite".

6:1.

(2) See Note (22), below.

(3) Counting pebbles and throwing them into the river was a method of DIVINATION. Cf. Maimonides, Yad, Hilkhoth Akum 11:6:
 יֵשׁ מִן הַקִּסּוּמִים שֶׁהוּא מַעֲשֵׂה שֶׁחֹל אוֹ בְּאֵבִי' :

6:2.

(4) "... so that it burn well." -- Bialik & Rawnitzky in Sefer Ha-Aggadah, p. 633.

6:4. If one stops up a window (in the house of a woman in confinement) with thorns ⁵⁾, or if one ties iron to the feet of such a woman's bed ⁶⁾, and sets a table before her, -- this is "of the ways of the Amorite". But one may stop up the window with blankets or with a sheaf of corn, and one may set before her a jug of water, and bind to her (bed) a hen to keep her company, -- and this is not of "the ways of the Amorite".

6:5. If one says: "Slaughter this cock, because he crowed in the evening!"; (or:) "(Slaughter this) hen, crowing like a cock! Let her eat her comb, because she crowed like a cock!" ⁷⁾ -- this is "of the ways of the Amorite".

6:6. If a raven cries and one says: "(This means) trouble!"; (or) if a raven cries and one says to someone: "Turn back, (because you won't succeed)!" -- this is "of the ways of the Amorite". ⁸⁾

6:4.

(5) As if to say, "Thorns in the eyes of the Shedim!" - Bialik & Rawnitzky, op. cit., p. 633.

(6) Goldziher, in his "Eisen als Schutz gegen Dämonen", cites parallels from other literatures, showing that iron was generally considered to have the potency of driving away demons. PLINY (Hist. nat. XXXIV c. 44) speaks of using iron tools contra noxia medicamenta and adversus nocturnas lymphationes.

6:5.

(7) Since the hen, crowing like a cock, was considered to be an evil omen, it was believed that such omen could be averted by the procedure here outlined.

6:6.

(8) The translation is based on the interpretation given by Lieberman, Tosefeth Rishonim, p. 127.

6:7. If one says: "Eat this date-shaped lettuce that you may remember me thereby!", (or:) "Don't eat it lest you get cataract of the eye!"; (or:) "Kiss the coffin of the dead that you may see him!"; (or:) "Do not kiss the coffin of the dead that you may not see him at night!"; (or:) "Put on thy shirt the wrong way round that you may have dreams!"; (or:) "Do not put thy shirt on the wrong way round that you may have no dreams!"; (or:) "Sit on the broom that you may have dreams!"; (or:) "Do not sit on the broom that you may not have dreams!" --- all this is "of the ways of the Amorite".

6:8. If one says: "Do not sit on the plough lest the labour be (too) heavy for us!", -- this is "of the ways of the Amorite". "Do not sit on the plough lest it break!", -- this is "of the ways of the Amorite". But (if one says so), because it would really break, then it is allowed.

6:9. If one says: "Do not fold thy hands on thy back lest we be prevented from work!", -- this is "of the ways of the Amorite".

6:10. If one strikes a fire-brand against a wall, and shouts:

"Away!", -- it is "of the ways of the Amorite". But (in order to warn the passers-by) of the (flying) sparks, it is permissible. 9)

6:11. If one pours out water in a public place and says: "Away!", it is "of the ways of the Amorite". But in order to warn the passers-by, it is allowed.

6:10.

- (9) The translation of הָלֵךְ as the exclamation "Away!" is adopted from Lewy, op. cit., p. 34. Lewy connects the word הָלֵךְ with הָלַךְ and הָלַךְ , the Talmudic and Targumic forms of the Hebrew הָלַךְ , "thither, further on, away from here!"

This would fit both the first instance, which might be construed as a frightening away of the demons, and the second instance, where the passers-by are to be warned. We translate the word in this sense in all the following occurrences.

Cf., however, J. Perles (Etymologische Studien, in MGWJ, XIX - 1870 -, p. 428) who reads הָלַךְ , which form also appears as a variant in Zuckermann's edition. This word, according to Perles, is the Persian word for God, chôda, from which, incidentally, he also derives the German word Gott.

The striking of the fire-brand against the wall is taken by Blau (Zauberwesen, p. 55) as akin to homeopathic magic, which works on the principle that the damaging object can heal the damaged one. Here it would be a case of preventing the danger of fire.

6:12. If one throws iron among the graves, -- it is "of the ways of the Amorite". But if it is for the workmen, it is allowed. ¹⁰⁾

6:13. If one places a wooden poker and iron under his head ¹¹⁾, -- it is "of the ways of the Amorite". But if it is for the purpose of keeping watch over them, it is allowed.

6:12.

- (10) Here we follow the translation of Lewy, op. cit., p. 34, which, while a little far-fetched, is at any rate plausible. Blau, on the other hand, translates: "But if it is because of the sorcerers....." (op. cit., p. 66).

He rightly says that up to the present day the cemetery is the appropriate place for witchcraft, because the spirits of the departed dwell there. Iron has the power of both driving away the demons and of breaking the spells, which latter he takes to be the meaning of our passage.

But this gets him into difficulties, for he is unable to explain why the use of iron in driving away demons should be prohibited, while it is allowed in the case of breaking a spell. As a possible reason for this hetter Blau sees the desire not to disturb the rest of the departed.

Lewy's translation, which we have adopted, requires less ingenuity in interpretation, because it creates fewer problems.

6:13.

- (11) Goldziher, op. cit., believes that this custom may have easily been borrowed from the Romans.

See also Note (6), above.

6:14. If a woman shouts into the oven that the bread may not fall apart, (or) if one places chips into the handles of a pot, so that it should not seethe and run over, -- it is "of the ways of the Amorite". But one may put into the pot the chip of a mulberry tree and glass, so that it should boil faster. However, the Sages have prohibited the use of glass, on account of the danger involved.

6:15. If a woman, (boiling) lentils, demands silence, or chirps (while cooking) rice, (or) claps her hands in front of a light, -- this is "of the ways of the Amorite".

6:16. If a snake falls upon a bed and one says: "He (the owner of the bed) is poor, but he will ultimately get rich."; (or:) "She is pregnant and will give birth to a boy."; (or:) "She is a maiden (now), but she will get married to an important man.", --- all this is "of the ways of the Amorite". 12)

6:17. If a woman has hens set to brood, and says: "I will have them set only by a virgin."; (or:) "I will set them only in the nude."; (or:) "I will set them only with the left (hand)."; (or:) "I will only set them with both (hands)."; or if a man lets himself be betrothed through two (messengers), or divorced through two (messengers); or if he says: "Add an additional (person) to the table!", -- all this is "of the ways of the Amorite".

6:16.
(12) The snake, according to Lewy, was considered as an appearance of the GENIUS.

6:18. If a woman places eggs and grass into a wall, plasters them over, and counts seven; -- it is "of the ways of the Amorite".

6:19. If a woman sifts chicken in a sieve, or places iron among the chicken, -- it is "of the ways of the Amorite". (But if she does the latter) because of thunder and lightning, it is permissible. ¹³⁾

Tosefta Sabbath, chapter 7:-

7:1. If one says: "YEMAMYA and BITZIYA" ¹⁴⁾, -- it is "of the ways of the Amorite". R. Judah says: "(The expression is) YEMAMYA and BUTZITZIYA."

7:2. If one says: "DAGON and KADRON", -- it is "of the ways of the Amorite". R. Jufah says, DAGON, because of the idol; as it is said (Judges 16:23): "Dagon their god".

6:19.

(13) In the first instance iron is again employed for some magical purpose, hence forbidden by the rabbis. But to a "natural" lightning-conductor no objection could be raised.

7:1.

(14) This and the following expressions are unintelligible, and the commentators are at a loss as to the exact meaning. It would seem certain, though, that it is some kind of oath or incantation.

7:3. If one says: "DONE DONE !" ¹⁵⁾, -- it is "of the ways of the Amorite". Rabbi Judah says, this is because of the idol; as it is said (Amos 8:14): "Thy god, Dan, liveth."

7:4. If one consults his stick and says: "Shall I go, or shall I not go?", -- it is "of the ways of the Amorite". And even though there is no (Scriptural) proof for this matter, there is (at any rate) an indication; as it is said (Hos. 4:12): "My people ask counsel at their stocks, and their staff declareth unto them."

7:5. If one says (to someone sneezing): "Your health!", -- it is "of the ways of the Amorite". R. Eleazar bar Zaddok did not say: "Your health!", because of the interruption (that would thus be caused) to study ¹⁶⁾. In the school of Rabban Gamaliel they did not say: "Your health!"

7:3. (15) ~~This we~~ would have to include under the preceding Note, were it not for the fact that Lewy, op. cit., p. 130, has found the word וְלִשְׂמֵחָה ("and for joy") at the beginning of this paragraph in a MS. He considers this word, no doubt rightly so, as a gloss, but it leads him to the following conjecture:
In b. Sabbath 67b this exclamation is written וְלִשְׂמֵחָה , from which we can be certain that the first vowel of the first word was pronounced as "o". This gives us a Greek "Freuden-Ruf": $\delta\omicron\nu\acute{\eta} \delta\omicron\nu\acute{\eta}$, being the same as $\eta\delta\omicron\nu\eta, \eta\delta\omicron\nu\eta$.

7:5. (16) The exclamation of pious wishes on the occasion of sneezing -- howbeit connected with a primitive concept of the soul -- was surely much too widespread among the Jews to be considered as a "way of the Amorite". Eleazar bar Zaddok's abstention from this practice is therefore given a different reason.

7:6. If one says: "Let there be added and left over!", -- it is "of the ways of the Amorite". R. Judah says: "Let there be nothing added and left over in that man's house!" 17)

7:7. If one says: "Drink and leave over!", -- it is "of the ways of the Amorite".

7:8. (But if one says:) "Drink and leave over, and the wine be to your health (lit: for your life) !", -- then it is n o t "of the ways of the Amorite".

7:9. It once happened that R. Akiba was giving a banquet for his son; and over every single barrel that he opened he said: " Wine to the health of the Rabbis and the health of their disciples! " 18)

7:6.

- (17) This text of the London MS, considered by Lieberman (op. cit., p. 130) to be the correct one, removes the difficulty of Zuckerman's text, where R. Judah is made to say: "Let there be nothing in my house!" According to the MS reading, however, R. Judah's words are to be understood as a c u r s e pronounced against him who would utter the expression "yattir venotar!"

7:9.

- (18) The account of R. Akiba's procedure is used as an argument in support of the previous paragraph. It is feasible that among those who were acquainted with the drinking shouts of Greeks and Romans, the argument that such was not "of the ways of the Amorite" would hardly be convincing.

7:10. If one says: "LO LO!" 19), -- it is "of the ways of the Amorite". And even though there is no (Scriptural) proof for this, there is an indication of the matter, (Job 21:14): " Therefore they say to God, Depart from us; and the knowledge of thy ways, LO 20), we desire."

7:11. If one binds a thread around something red, R. Gamaliel does not consider it to be "of the ways of the Amorite"; but R. Eleazar bar Zaddok does.

7:12. If one says: "Do not pass between us that our love be not terminated!", -- it is "of the ways of the Amorite". (But if he says so) out of respect, it is permissible.

7:13. What is a menabesh ? He who says: "My staff has fallen from my hand; bread has fallen from my mouth."; and " A has called me from behind."; and " A raven has cried at me."; and " A dog has barked at me."; and "A serpent has passed me on the right, a fox on the left, and a deer cut off the way before me."; "Do not start anything on it (i.e: the particular day), because it is the New Moon, or because it is a Friday, or because it is the Termination of the Sabbath."

7:10.

(19) Following Blau (Zauberwesen, p. 67), we have refrained from translating these words as "Nay, Nay."; -- in the first place, because there would be nothing "Amorite" about such an expression, and, secondly, - and this is Blau's argument - the Scripture verse would have no reference to it at all. But if LO is the name of an idol, we can understand the objection to that expression; and the Scripture verse, in Blau's translation, yields the desired effect.

(20) See Note (19) for reason of this translation.

7:14. A me'onen (augur). What is a me'onen? R. Ishmael says, one who strokes over a (sore) eye. R. Akiba says, they are the ones who give out (information about propitious) times. They say, for example, "To-day it is good to set out on journeys."; "To-morrow it is good to do business."; "To-day the sun is covered, to-morrow it will rain." They are the ones who say: "In the ante-Sabbatical years wheat ²¹⁾ is usually fine; in leap-years the leguminous plants are bad." And the Sages say, they are the ones who practice optical deception.

7:15. One may paint a tree with red paint ²²⁾ and load it with stones, and it is not considered an infringement of the laws of the Sabbatical Year (when all agricultural work is prohibited), nor as coming under the heading "of the ways of the Amorite".

7:14.

(21) We must understand here, with the Vilna Gaon, the word "wheat", as, otherwise, the passage would imply that it is reprehensible to praise the produce of the ante-Sabbatical year in general. In the light of Lev. 25:20f this is clearly impossible. It is different, however, when only one product is singled out, which would be the case if we read "wheat".

7:15.

(22) Red, according to Lewy (op. cit., p. 136f), was used as the color of protective magic, as it was also the color of the inimical demonic power. In Egypt it was the color of SET-TYPHON, and practically the synonym of Evil. That, nevertheless, the rabbis permitted its use in this case, is explained by Lewy as being due to the fact that they "glaubten an die Wirkung und legten sich die Sache in ihrer Weise zurecht." Cf. b. Sab. 67a:
 כִּי הֵיכִי דְּלִי חֲזִיָּה אִנְשֵׁי וּלְבָעוּ עָלֶיהָ רַחֲמִים

7:16. One may let wine and oil run in gutters before bridegrooms and brides; -- and it is n o t "of the ways of the Amorite".

7:17. It once happened that Judah and Hillel, the sons of Rabban Gamaliel, came to Kabul; and the inhabitants of that city let wine and oil run in the gutters before them.

7:18. One may make burnings at (the death of) kings, -- and it is n o t "of the ways of the Amorite"; as it is said (Jer. 34:5): "Thou shalt die in peace; and with the burnings of thy fathers, the former kings that were before thee, so shall they make burnings for thee." And just as one may make burnings for the kings, so may one make burnings for the nessi-im²³⁾; but n o t for the laymen.

What do they burn for him (who may thus be honored) ? His bed and all his articles of service. It happened when Rabban Gamaliel the Elder died that Onkelos the Proselyte burned for him (things to the value of) more than seventy maneh.

7:18.
(23) We have left the word nessi-im untranslated, as we believe it to be a terminus technicus here. The question of "burning for the kings" would come up when the instances sanctioned by the Bible were compared with contemporary heathen practice. But what to do with the "princes" of the Bible was no longer of topical interest. On the other hand, since the burial rites of Gamaliel the Elder are specifically mentioned, and we know that Gamaliel held the office of nassi, and since, moreover, the nessi-im in our passage are contrasted with the hedyototh, it is clear that the o f f i c e of the nassi is here referred to.

7:19. One may hamstring (animals) at a king's (death); -- and it is n o t "of the ways of the Amorite".

7:20. Every hamstringing that affects the vitality of the animal makes the animal forbidden as food, but allowed for other profit. And that which does n o t affect the animal's vitality makes it permissible as food, and, needless to say, for other profit. And what kind of hamstringing affects the animal's vitality ? From the knee down.

7:21. One may shock a person in convulsions, or in an attack of vertigo, -- and it is n o t "of the ways of the Amorite".
If a bone sticks in one's throat, one may take of the same kind and place it on his head ²⁴⁾.

7:21.

- (24) This is a clear instance of what Frazer calls "Contagious Magic". (Golden Bough, one-volume edition, 1947, pp. 37ff.) "Its physical basis, if we may speak of such a thing, is the material medium of some sort which, like the ether of modern physics, is assumed to unite distant objects and convey impressions from one to the other."

We must, however, bear in mind that the rabbis were the children of their times; and what appears to us as sheer Magic may have been considered good medical practice by them.

In 7:23 we have another instance of magical procedure which was sanctioned for medical purposes.

7:22. And these are the things that are permissible:- When one begins his work, he may give thanks and praise to God. (If one works) with a wine barrel or with dough, he may pray that blessing, and not curse, should enter therein. ²⁵⁾

7:23. One may whisper (a charm) over a (sore) eye, and over (a wound caused by) a snake or a scorpion; and one may stroke over a (sore) eye on the Sabbath. Rabbi Simeon ben Gamaliel says: "(But only) with an object that one may take on the Sabbath. One must not whisper with a word of the Shedim." Rabbi Jose says: "Even on a week-day one must not whisper with a word of the Shedim."

Furthermore ²⁶⁾ R. Jose used to say: " Of all the cities there is none worse than the Sodomite; for every time (we come across) an evil man, we call him a 'Sodomite'. And among all the peoples there is none more cruel than the Amorite; for every time (we come across) a cruel man, we call him an 'Amorite'. "

7:22.
(25) This is the contrast to 6:3. In the former case it was Magic pure and simple. Here the element of Religion enters into it; and we recognize the fine dividing line which the rabbis tried to set up between the two; and this example supports Trachtenberg's characterization of the rabbinic discrimination between the two forms of Magic. (See Chapter Five, above.)

7:23.
(26) On the surface there does not appear to be any connection between R. Jose's legal ruling and the following venture into ethnic psychology. Probably we are dealing here with a common rabbinic procedure of quoting unrelated statements made by the rabbi of whom a maxim, in a certain field, has just been mentioned. It is, however, possible that these statements have been added because of the characterization given in them of the "Amorite", in order to explain the expression darke ha-emori.

7:24. R. Nehorai said: "Of all the cities you will not find a more cautious ²⁷⁾ one than the Sodomite; for thus we find that Lot went through all the places, and found none of them as cautious as Sodom; as it is said (Gen. 13:12): 'Abram dwelt in the land of Canaan, and Lot dwelt in the cities of the Plain, and moved his tent as far as Sodom'."

7:25. R. Simeon ben Gamaliel said: "Of all the peoples there is none more cautious than the Amorite. For thus we find that they believed in God, that they removed to Africa, and that God gave them (there) a land as beautiful as their own; and the Land of Israel was called by their name." ²⁸⁾

7:24.

(27) The Hebrew word יָחִיד permits of a multitude of interpretations. Thus Lewy, op. cit., p. 139 f, takes it in the sense of "yielding". This would make excellent sense if we took Simeon ben Gamaliel's statement in 7:25 to be a defense of the Amorite character vis a vis the harsh characterization of them by R. Jose in 7:23. In that case the Amorites would be praised for their "yielding" quality, believing, as they do, in God, and being amply rewarded by Him.

Schwarz, op. cit., p. 40 f, takes it in the sense of "pedantic", and believes that these statements were added to explain why the heathen customs were called "Ways of the Amorite". "Palästina führt den Namen der nach Afrika ausgewanderten Amoriter, und darum werden die in Kanaan mit Peinlichkeit beobachteten Heiden-Sitten 'amoritische Bräuche' genannt."

In translating the word as "cautious", we have tried to preserve the vagueness of the original Hebrew term, thus leaving it open to the various interpretations.

7:25.

(28) This would refer to the designation of Palestine as eretz k'na'an (Gen. 13:12 and passim), since k'na'ani and emori are often used interchangeably. It could also refer to such biblical passages where the "seven nations", or some of them, are enumerated as a description of the Land (e.g. Ex. 13:5).

ADDITIONS:-

In the parallel enumerations of the "Ways of the Amorite" in b. Sabbath 67a,b, and the Yalkut Shim'oni, chapter 587, a number of practices are discussed of which there is no mention in our text of the Tosefta. A few are found to be no "ways of the Amorite" at all. But the following two are thus designated, and we add them here for the sake of completeness. They are given in both sources mentioned above:-

הַאוֹמֵר גַּד גְּדִי וְסִנּוֹק לֹא אֶשְׁכִּי וְבוֹשְׁכִי יֵשׁ בּוֹ מִשּׁוֹם דַּרְכֵי הָאֻמּוֹרִי;

If one says: "Be lucky, my luck, and tire not day and night," it comes under the category of "the ways of the Amorite".

(The translation is based on Jastrow, Dictionary, p. 210, s.v. גַּד)

הוּא בִּשְׁמֵהּ וְהִיא בִּשְׁמוֹ יֵשׁ בּוֹ מִשּׁוֹם דַּרְכֵי הָאֻמּוֹרִי;

If a man and his wife exchange names, -- it comes under the category of "the ways of the Amorite".

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NOTES TO CHAPTER ONE

- 1) Cohon: Theology and Religion, p. 87; based on K.F. Smith in H.E.R.E. Vol. VII, p.271 f.
- 2) Cohon, op.cit., p.73.
- 3) Kaufman: Tol'doth ha-Emunah hayisr'elith, Part I, p.2 f. Kaufman gives this as a resume of the Wellhausen school; not as his own view.
- 4) Moore: Judaism, Vol. I, p.223.
- 5) Maimonides: Yad, Hilkhoth 'Avodath Kokhabim, chapter 6, par.6.
- 6) Sifré, shof'tim, Piska 146 (p.103b).
- 7) beginning with ואי חוקה, and cf. S.T. Rubinstein's comment to Hilkhoth Akum, 6:6. Page 159 in Rabbinovitz' edition of the Sefer hamMadda'.
- 8) Kaufman, op.cit., part I, p.11.
- 9) Kaufman, op.cit., part I, p.257.
- 10) Kaufman, op.cit., part I, p.533.
- 11) Cf. Cohon, op.cit., p.90 - with reference to Judges 11:24.
- 12) Cf. also Deuteronomy 4:19 in the LXX, which seems to be original. (bene el)
- 13) Sanhedrin 39b.
- 14) Cf. also: Leviticus 18:30: חקות התועבות
Jeremiah 10:3: חקות העמים הבל הוא
Jeremiah 31:35: חקות ירח וכוכבים
Jeremiah 33:25: חקות שמים וארץ
Micah 6:16: חקות עמרי
- 15) Lieberman, Hellenism in Jewish Palestine, p.135, translates minim in this passage as Gentiles, for reasons stated in his "Greek in Jewish Palestine," p. 141, n.196.
- 16) Otzar Leshon haMishnah, vol. I, p.739.
- 17) Kohut: ARUCH COMPLETUM, vol. III, p.478.
- 18) Lieberman: Hellenism in Jewish Palestine, p.135.

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19) פ' שלא יעשה מעשה ע"ז מן ולא תלכו בחוקות הגוי (ויקרא כ' כ"ג).

20) Sifra, behukkothai, perek 8:4 (p.112b).

21) Sifra, behukkothai, perek 8:10 (p.112c).

NOTES TO CHAPTER TWO

- 1) On the meaning of "abominations" see below, in this chapter.
- 2) On the Jewish evaluation of the Amorites, see Chapter Five, below.
- 3) Jeremiah 44:16-19.
- 4) II Kings 18:22.
- 5) Pfeiffer: Introduction to the Old Testament, p.537 f.
- 6) ibid.
- 7) Mishnah Sukkah 5:4, with obvious reference to Ezekiel 8:16.
- 8) כי הם לא המירו אלהיהם וישואל המירו כבודו בלא יועיל:
- 9) Sanh. 39b: כמתוקנים שבהם לא עשיתם כמקולקלן שבהם עשיתם
- 10) Cowley: Aramaic Papyri of the 5th Century B.C., p.147f., Document No. 44. This is an affidavit, the record of an oath taken in the law court. The document is not dated, but one of the names re-appears in another document which is dated 416 B.C.E.
- 11) Cowley, op.cit., p.xviii f.
- 12) ibid.
- 13) Cowley, op.cit., p.xix f.
- 14) ibid.
- 15) Albright: From the Stone Age to Christianity, p.286 f.
- 16) Klausner: Historiyah shel habayith hasheni, Vol. II, p.74 f.
- 17) Sanh. 38b.
- 18) Isaiah 45:7.
- 19) Klausner: op.cit., Vol. II, p.53 f.
- 20) Klausner: op.cit., Vol. II, p.60.
- 21) Weiss: Dor dor vedorshav, Vol. II, pp.11 ff.
- 22) Schorr: Hehalutz, Vol. VII, p.16 f.
- 23) idem, pp.17 ff.
- 24) idem, p.13.

- 25) *idem*, p.12.
- 26) Isaiah, chapter 57.
- 27) For this interpretation of the passage we are indebted to Dr. Nelson Glueck. See also notes on the fuller treatment of the word to'ebhah below.
- 28) Cheyne: Jewish Religious Life after the Exile, pp.60 ff.
- 29) *ibid*.
- 30) Dr. Julian Morgenstern informs us, in an oral communication, that he believes the Holiness Code to be composed of three different strata. The laws of kedushah and the particularism manifest in the strict separation from the nations and their practices belong, according to Dr. Morgenstern, to the last stratum. This is supposed to have been composed between 458 and 424 B.C.E. by "the school of Ezra." There is, no doubt, a certain attractiveness in this hypothesis, since it would make a smooth reading of the history of the time and fit the legal development into the same general pattern. On the other hand, it seems rather bold to make Ezra alone responsible for the whole trend of aversion from the hukkoth hagoyim, and Ezra's own endeavors would be more intelligible if we assume that he was already in possession of some kind of legal code on which to base his actions.
- 31) See below, Chapter Four.
- 32) Moore: Judaism, Vol. I, p.21 f.
- 33) Letter of Aristeas, 151-153.
- 34) We mention Deuteronomy after the time of Ezra partly because, from a historical point of view, this legislation could and did take full effect only then, and partly because - according to Doctors Morgenstern and Glueck - the particular passages with which we are dealing, have been written, or at any rate glossed, after the time of Ezra, and under his influence. --- It might, of course, equally be argued that the Deuteronomic Reformation in 621, especially in view of the steps taken by Josiah as mentioned in II Kings, ch. 23, evidences a much earlier promulgation of some kind of anti-hukkoth hagoyim legislation, possibly identical in substance with the passages here considered.
- 35) We are indebted to Dr. Nelson Glueck for this interpretation of the word to'ebhah and for drawing our attention to passages in which it occurs, by permitting us to make use of his unpublished study of that word. He cannot, however, be held responsible for the way we utilize this material.
- 36) Dr. Glueck points out that verse 12a and verse 12b do not belong together. In 12a to'ebhah designates the abominably acting person,

and in 12b the abominable act. 12a is used elsewhere in an entirely different connection; cf. Deut. 22:5; 25:16.

- 37) Weiss: Dor dor vedorshav, Vol. II, p.10.
- 38) ibid.
- 39) Kaufman: Toldoth ha-emunah hayisr'elith, Vol.I, p.9 f. and throughout the book.
- 40) Kaufman: op.cit., Vol.I, p.268.
- 41) Cf. also the "mourning for Hadadrimmon" mentioned in Zechariah 12:11.
- 42) Kaufman: Op.cit., Vol.I, p.270 f.

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NOTES TO CHAPTER THREE

- 1) Weiss: Dor dor vedorshav, Vol. II, pp.11 ff.
- 2) Schorr: Hehalutz, Vol. VII, p.26.
- 2a) Dr. Samuel S. Cohon has drawn my attention to two different versions of an essay by Kaufman Kohler which show Kohler's change of mind regarding the Parsee influence. In his paper "The Origin and Function of Ceremonies in Judaism," (published in the CCAR Yearbook, Vol. XVII, 1907, pp.205-229) Kohler expresses his approval (p.217) of the work done by Rappaport and Schorr in tracing the benedictions to a Parsee model. He says (p. 218): "As has been shown convincingly in the seventh and eighth volumes of Schorr's 'He Haluz', the whole Pharisaic principle of investing life with ceremonial observances and corresponding benedictions is taken over from Parseeism." - When this same paper was reprinted in 1916, in Kohler's "Hebrew Union College and Other Addresses," pp.297-322, the recital of the Shema and its blessings are merely stated to have been traced to Parsee influence (p.309). But this thought is developed along the lines later taken by Kohler in his "Origin of Synagogue and Church" (See Notes 8 and 9 below). There is, however, no mention of either Schorr or his "Hehalutz" and the views expressed therein.
- 3) Klausner: Historiyah shel habayith hasheni, Vol. II, p.62.
- 4) ibid.
- 5) ibid.
- 6) In the standard edition of Josephus, Book II, chapter 40.
- 7) Berakhoth 33a.
- 8) Kohler: Origin of Synagogue and Church, pp.53-60.
- 9) Kohler: op.cit., p.57. The underlining is our own.
- 10) Bickermann: Die Makkäbaer. More or less the whole book is devoted to the substantiation of this view.
- 11) Since, according to Oesterley (in his introduction to the book, in Charles' edition of the Apocrypha & Pseudepigrapha, Vol. I, pp.59-66), I Maccabees was written by a Palestinian Jew in Hebrew, we may assume that the original employed some such terminus technicus as hukkoth hagoyim.
- 12) literally: "they drew forward the prepuce" (Oesterley).
- 13) Charles, in his edition of the Apocrypha & Pseudepigrapha, Vol.II, p.1, regards this book as having been written in Hebrew by a Pharisee

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between 135 and 105 B.C.E. -- Pfeiffer (History of New Testament Times, P.70) mentions that the suggested dates for this book range from the 5th century B.C.E. to 60 C.E. He himself believes that the book was written in the second half of the second century B.C.E.

- 14) Jubilees 15:34.
- 15) Bickermann, Op.cit., p.29 f.
- 16) ibid.
- 17) Bickermann, Op.cit., p.30, adds: "Nobody celebrates those Greek festivals any more; but the candlestick with eight branches - again a symbol imitating a heathen custom - is burning on the 25th of Kislev all over the world."
- 18) Bickermann, op.cit., pp.53 ff.
- 19) Schürer: Geschichte des jüdischen Volkes..., Vol. II, p. 57 f.
- 20) L. Venetianer: "Die Eleusinischen Mysterien im jerusalemischen Tempel." It is this study which we are summarizing in the following lines.
- 21) Moore: Judaism, Vol.II, p.45.
- 22) Mishnah Sukkah 4:9; 5:1-4; Tosefta Sukkah 4:1-9; and b. Sukkah 50a-53b.
- 23) Schorr, for example, is convinced that the water libation is borrowed from a Parsee custom. (Hehalutz, Vol. VII, p.39.) Similar claims could no doubt be made for other sources.
- 24) Mishnah Shekalim 3:2.
- 25) Lieberman: Hellenism in Jewish Palestine, p.129 f.
- 26) See also Notes 6 and 7 to Chapter One, above.
- 27) Lieberman, op.cit., gives a great number of illustrations to prove this point.
- 28) Mishnah Ma'aser Sheni 5:15. - Danby (ad loc.) identifies Johanan the High Priest with John Hyrcanus (135-105 B.C.E.).
- 29) Tosefta Sotah 13:10 (ed. Zuckermann p.320); reading with Zuckermann's variant לפני רבי יוחנן בן זכאי for לפני יוחנן כהן of the text.
- 30) Lieberman, op.cit., pp.140 ff.
- 31) ibid.

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- 32) Lieberman, op.cit., p.142 f.
- 33) Psalm 44:24.
- 34) Romans 2:17 ff.
- 35) Radin: The Jews among the Greeks and Romans, Chapter XI.
- 36) See especially chapters 13 through 15.
- 37) Cf. III, lines 499 ff.
- 38) Cf. especially Fragment III, 21-31; Book III, 29-31; 586-590; Book V, 75 ff.
- 39) Pfeiffer: History of New Testament Times, p.185.
- 40) ibid.
- 41) Josephus, Antiquities, Book 15, ch.8, No.1.
- 42) Schürer, Op.cit., Vol.II, p.15.
- 43) idem, p.18.
- 44) idem, p.28
- 45) idem, p.29 ff.
- 46) idem, p.33 ff.
- 47) idem, p.32 f.
- 48) Even Josephus, when describing Joppa (Wars 3-9-3) says in quite a matter-of-fact way:
" Now Joppa is not naturally a haven, for it ends in a rough shore, where all the rest of it is straight, but the two ends bend towards each other, where there are deep precipices, and great stones that jut out into the sea, and where the chains wherewith ANDROMEDA was bound have left their footsteps, which attest to the antiquity of that fable."
- 49) Schürer, op.cit., Vol.II, p.42.
- 50) Mishnah 'Abodah Zarah 1:3.
- 51) Krauss: Talmudische Archaeologie, Vol.III, pp.123 ff.
- 52) Here we have to note that the שרפה, in the sense of "cremation," refers exclusively to the Roman custom. The שרפין על המלכ'א of Tos. Sab.7:18 is not cremation, but the burning of the deceased's utensils.

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- 53) Business dealings with Gentiles are forbidden three days before the festivals so far mentioned; (according to R. Ishmael also three days after.) but in the case of the following, business with Gentiles is forbidden only on that day itself. (Mishnah 'Abodah Zarah 1:1-3.)
- 54) Sifra, ahare moth, parashah 9:8 (p.85c,d.).
- 55) Sifra, ahare moth, perek 13:6-8 (p.86a.).
- 56) Romans 1:26-27.
- 57) Mishnah 'Abodah Zarah 2:1.
- 58) Tosefta 'Abodah Zarah 3:2 (ed. Zuckermann, p.463).
- 59) Weber: Jüdische Theologie..., p.65.
- 60) Josephus: Antiquities 15-2-6.
- 61) Radin: The Jews among the Greeks and Romans, p.160 f.
- 62) ibid.
- 63) Weiss, op.cit., Vol.II, p.18 ff.
- 64) ibid. Taking as his text the words of b. Yebamoth 79a:
 ג' סימנים יש באומה זו רחמנים ביישנים גומלי חסדי ,
Weiss proceeds to demonstrate how just these three Jewish characteristics were endangered by the pagan influence; and how the Jewish legislators were conscious of this fact in their elaboration of the Oral Law.

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NOTES TO CHAPTER FOUR

- 1) Jubilees 22:16-17, 19.
- 2) Letter of Aristeeas, 139.
- 3) idem, 142.
- 4) idem, 151-153.
- 5) Geiger: Kvutzath Ma-amarim, p.60.
- 6) Moore: Judaism, Vol.I, p.61.
- 7) Klausner: Historiyah shel habayith hasheni, Vol.V, p.118 f.
- 8) Klausner, loc.cit.
- 9) This complete amixia was not, however, a permanent feature. Speaking of the Passover in the year 66, in the days of CESTIUS, Josephus (Wars 6-9-3) does indeed exclude the foreigners from participation in the Passover sacrifice, on the analogy with the zav and the niddah. But, as Büchler (The Levitical Impurity of the Gentile, p. 23f.) points out, it is only from the sacrifice that the foreigner is excluded. Josephus goes as far as to allow him to come to Jerusalem to worship!
- 10) Moore, loc.cit. He also mentions the possibility that the name may just have been an "appellation in ad derogatory sense." The Sadducees use it in controversy.
- 11) Mekilta, Bahodesh, Parashah 2 (ed. Lauterbach, vol.II, p.206).
- 12) Sifra, kedoshim, Perek 9:2 (p.91d).
- 13) Sifra, ahare moth, Perek 13:22-23 (p.86d).
- 14) Sifra, kedoshim, Perek 11:22 (p.93d).
- 15) b. Ber. 27b.
- 16) for example: Leviticus 18:3.
- 17) Sifré, re-eh, Piska 60. (p.87a) Cf. also Sifra, ahare moth, Par. 9:3-4 (p.85c).
- 18) Sifra, kedoshim, Perek 11:16, 18 (p.93 b,c).
- 19) Midrash Tannaim to Deuteronomy 18:9 (ed. Hoffmann, p.109).

- 20) Schürer: Geschichte...., Vol. II, p.89. His view (op.cit., Vol.II, p.91) that "The separation was intensified still further by the belief in the pagan's impurity, due to his non-observance of the laws of purification; and that, in consequence, all contact with him defiles," is examined by Büchler ("The Levitical Impurity of the Gentile in Palestine before the Year 70."), who comes to the following conclusions (p.80 f):-

The levitical impurity of the Gentile was instituted by the rabbis about the year 1, as a novelty going beyond the law in Leviticus 15. First the rules concerning the menstruous Jewess were extended to the Gentile women; and, since the latter did not undergo the required purification, the impurity was passed on to their husbands.

Shortly before the revolution in 66, the two schools, to counteract sodomy between Roman and Jewish youths, resolved to ascribe to the Gentile the grave impurity of the Jew who has an issue. But the outbreak of the war seems to have prevented the application of this rule.

The assumed levitical impurity of the Gentile affected, as the reports show, only the priests on duty, and the ordinary Jew only when purified for a visit to the Temple, etc.

The private associations between Jew and Gentile were in no way restricted, and commercial and other relations were not affected by the levitical impurity ascribed to the Gentile. He could move about freely even on the Temple Mount, and proceed to the wall enclosing the inner forecourt; although, in the first century, this boundary was pushed back by the erection of the Soreg.

- 21) Derenbourg: Massa eretz yisra-el, p.120.
- 22) ibid.
- 23) M. Schwab: "Bet Hillel and Bet Shammai," in. J.E., Vol.III, p.116. Rabbinic sources listed there.
- 24) Tosefta Sabbath 1:17. (ed. Zuckermann, p.111.)
- 25) Klausner, op.cit., Vol.V, pp.156-158.
- 26) That the pious abstained from the wine of Gentiles already before the adoption of the "Eighteen Prohibitions" is evident from Daniel 1:8. From the point of view of Halakhah, the Talmud ('Ab. Zar.29b) derives it from the Scripture verse, Deuteronomy 32:38, where it is said of the idol "Who did eat of the fat of their sacrifices, and drank the wine of their drink-offerings...." Just as sacrifices to idols are, as a matter of course, prohibited, so is the wine. The innovation in the "18 Prohibitions" seems to have been the extension of the previous prohibition of drinking to that of hana-ah. How

seriously these eighteen prohibitions were taken can be seen from the epigrammatic statement of R. Johanan in 'Ab. Zar. 36a: "A beth din can abolish all the decisions of another beth din except the 'Eighteen Prohibitions.' For even if Elijah came with his beth din (to make them void), one would not listen to him." Nevertheless, we are told on that selfsame page of the Talmud that, while the prohibition of Gentile wine had found general acceptance, that of the oil did not. The latter was therefore abolished on the ground of R. Simeon ben Gamaliel's and R. Eleazar bar Zaddok's enlightened principle: "One does not make a gezerah for the community, unless the majority of the community are able to abide by it." Obviously, the rationale of the "18 Prohibitions" is to be found in the historical circumstances calling them into being. With the passing of that rationale a more lenient view of the law could be taken.

- 27) Mekilta, Bahodesh, Parashah 10. (ed. Lauterbach, vol.II, p.277).
- 28) Cf. Heiler: Das Gebet, 2nd edition, Munich 1920, pp.83 ff.
- 29) Moore, op.cit., Vol.I, pp.362 ff.
- 30) Lieberman: Hellenism in Jewish Palestine, pp.116 ff.
- 31) 'Abodah Zarah 54b-55a.
- 32) Lieberman, op.cit., p.120 f.
- 33) Schürer, op.cit., Vol.II, p.93 f.
- 34) Schechter: Some Aspects of Rabbinic Theology, p.141.
- 35) See Note 48 to Chapter Three, above.
- 36) Midrash Tannaim to Deuteronomy 13:8 (ed. Hoffman, p.65).
- 37) Mekilta, Kaspa, Parashah 4 (ed. Lauterbach, vol.III, p.180).
Parallel passage in Tosefta Ab.Zar. 6:11 (ed. Zuckermann, p.470).
- 38) Tertullian: De Idololatria - chapter 20, p.179 f.
- 39) With Tertullian's ruling that, when mentioning the names of idols, one must make it clear that they are idols and not God, cf. R. Eliezer's statement in the baraita quoted in 'Ab.Zar. 45b, ff.
- 40) Lieberman, op.cit., p.112; on the basis of שו"ת חות יאיר, resp. No.1.
- 41) Didache 6:2-3.
- 42) Kohler in J.E., Vol. IV, pp.585-587; s.v. DIDACHE.

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- 43) Acts 15:23, 28, 29.
- 44) I Corinthians 8:4-13.
- 45) Mishnah Hullin 2:9. Cf. Lieberman, op.cit., p.134 f.
- 46) See above, Notes 15 through 18 to Chapter One.
- 47) Mekilta to Deuteronomy 12:30-31. (In Hoffmann's Midr. Tannaim, p.62.)
- 48) Leviticus Rabbah 22:8. Rabbi Levi's view that God instituted the Jewish sacrificial service in order to prevent Israel from following the Egyptian pattern is here quoted by Rabbi Pinhas. Maimonides develops this thought in More Nebukhim, Part III, Chapter 32.
- 49) Sifré, re-eh, Piska 81 (p.91b).
- 50) The method by which this is derived can only be the Ribbui, playing on the word eth; and, therefore, untranslatable into English. In view of this Ribbui, it is suggestive that Rashi (ad loc.) reads the name of the rabbi whose statement is about to be quoted as Akiba, and not, as in our ed., Jacob.
- 51) Deuteronomy Rabbah 7:7. In a parallel passage, Gen.R. 13:6, the same conversation is related of R. Joshua b. Karhah, and the festivals are not specified.
- 52) Jubilees 6:35-37.
- 53) Mekilta, Pisha, Parashah 2 (ed. Lauterbach, Vol.1, p.18 f): "..When it says: 'It shall be the first month of the year to y o u,' behold, there it tells you that it is commanded only to you and n o t to the Gentiles.....We thus learn that the Gentiles reckon by the sun....."
- 54) Tertullian: De Idololatria, ch.13 (p.171).
- 55) idem, ch.14 (p.173).
- 56) Constitutions of the Holy Apostles, Book II, sec.vii (p.424).
- 57) idem, Book V, sec.iii (p.446 f).
- 58) loc.cit.
- 59) Didache 8:1.
- 60) Numbers 15:37-41.
- 61) Tertullian: De Idololatria, ch.18 (p.177).

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- 62) Sifré, re-eh, Piska 81 (p.91b).
- 63) Jastrow, Dictionary...reads תולסין for תולסין, and translates "helmet", s.v. תולסין
- 64) Tertullian, loc.cit.
- 65) Mekilta, Pisha, Parasha 5 (ed. Lauterbach, vol. I, p.34).
- 66) Lauterbach does not include the word b'Rabbi in his text; but mentions that the Printed Editions have it. In the light of Lev.R. 32:5, where this thought is quoted in the name of Bar Kappara, and identifying Bar Kappara with R. Eleazar ha-Kappar b'Rabbi (cf. Strack: Introduction, p.119), the reading of the Printed Editions seems to us to be the more likely one.
- 67) Leviticus Rabbah 32:5. We have followed the correction suggested by Jastrow (Dictionary, p.699, s.v. 'ג'י'ס, 5) and rearranged the Latin names in an order more corresponding to the sound of the Hebrew names.
- 68) Mekilta, Bahodesh, Parashah 10 end (ed. Lauterbach, Vol.II, p.283).
- 69) Sifra, kedoshim, Parashah 1:10-11 (p.87a).
- 70) Cf. description and literature listed by Rachel Wischnitzer, "Judaism and Art", in Finkelstein's "The Jews, Their History, Culture and Religion," Philadelphia, J.P.S., 1949, Vol.III, pp. 984-1010.
- 71) Kohler: "Attitude of Judaism toward Art," in J.E., Vol.II, pp. 141-143.
- 72) Güdemann: Das Judenthum und die bildenden Künste, p.59.
- 73) Güdemann: op.cit., p.60 f.
- 74) E. Werner: The Conflict between Hellenism & Judaism in the Music of the Early Christian Church, p.62.
- 75) E. Werner: op.cit., p.9.
- 76) ibid.
- 77) idem, p.51.
- 78) Sifra, ahare moth, Perek 13:9 (p.86a).
- 79) See above, Note 41 to Chapter Three.
- 80) Mishnah 'Abodah Zarah 1:7.

- 81) Tosefta 'Abodah Zarah 2:5 (ed. Zuckerman, p.462). Also quoted as Baraita in b. Ab.Zar. 18b.
- 82) Tertullian, De Spectaculis, chapter 5 (p.135 f).
- 83) Tertullian: De Spectaculis, chapter 10 (p.140).
- 84) Tertullian: De Spectaculis, chapter 7 (p.137).
- 85) Tosefta 'Abodah Zarah 2:5 (ed. Zuckerman, p.462).
- 86) Tosefta 'Abodah Zarah 2:6 (ed. Zuckerman, p.462). For a detailed description of the various types of clown mentioned here cf. Krauss, Talmudische Archaeologie, Vol.III, p.120.
- 87) Tertullian: De Spectaculis, chapter 3 (p.133 f).
- 88) This translation of Moshav letzim, given by Tertullian, follows the LXX.
- 89) cf. S. Krauss in J.E., Vol.IV, p.103, s.v. CIRCUS.
- 90) for this interpretation of mithhashebh cf. Krauss, Talm.Arch. Vol. III, p.118.
- 91) Tosefta 'Abodah Zarah 2:7 (ed. Zuckerman, p.462).
- 92) ibid.
- 93) ibid.
- 94) for this interpretation of מפני שצווח ומציל נפשות cf. Krauss, op.cit., p.117.
- 95) Constitutions of the Holy Apostles, Book II, sec.vii (p.424).
- 96) Mishnah Sanhedrin 7:3.
- 97) Tosefta Sanhedrin 9:11 (ed. Zuckerman, p.429 f).
- 98) Jerusalem Talmud Sanhedrin, Perek 7, Halakhah 3 (ed. Krotoshin, p.24b).
- 99) Babylonian Talmud Sanhedrin 52b.
- 100) L. Ginzberg in J.E., Vol.II, p.643, S.V. BEHEADING.
- 101) Mishnah 'Abodah Zarah 3:4.
- 102) b. Sanh. 39b.
- 103) Sifra, ahare moth, Parashah 9:8 (p.85c,d).
- 104) cf. Jeremiah 35:6-9.

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NOTES TO CHAPTER FIVE

- 1) Sifra, ahare moth, Perek 13:9 (p.86a).
- 2) Following the emendation of RABAD (in ed. Weiss, ad loc.), who reads תנול for תנול, explaining that the Gentiles were in the habit of making themselves attractive in this manner for immoral purposes.
- 3) This was supposed to cure ear-ache. (Danby ad loc.)
- 4) If from a live jackal, it cures sleepiness, if from a dead one, sleeplessness. (Danby ad loc.)
- 5) Cures festering in a wound. (Danby ad loc.)
- 6) without scruple about the sanctity of the firstborn male. (Danby ad loc.)
- 7) a superstition that thus the beast will be protected from miscarrying again. (Danby ad loc.)
- 8) Kohler: "Amorites in Rab. and Apoc. Lit.," in J.E., Vol.I, p.529 f.
- 9) Cf. also their reputation for excessive cruelty in Tos. Sab. 7:23, below.
- 10) Boaz Cohen: Mishnah and Tosefta, p.91, footnote 11.
- 11) Cf. Amos 2:9 f., where "Amorite" and "land of the Amorite" stand for the peoples and the land of Canaan respectively.
- 12) Ehrentreu: "Sprachliches und Sachliches aus dem Talmud." He was led to this theory by Rashi's remarks on b. Hullin 77b.
- 13) Boaz Cohen, op.cit., p.91.
- 14) Cf. for example the variations introduced in the report of one single tannaitic discussion, as given by the sources mentioned in Notes 97 through 99 to Chapter Four, above.
- 15) Constitutions of the Holy Apostles, Book I, sec.ii (p.392 f).
- 16) Tertullian, De Spectaculis, ch.23 (p.150).
- 17) in a footnote to Tertullian, loc.cit.
- 18) See also Note 1 to the English section of the Appendix.
- 19) But, as Kohler (Jewish Superstition) points out, superstition transcends national and religious boundaries.
- 20) Cf. Jer. Berakhoth, Perek 10.

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- 21) Midrash Tannaim to Deuteronomy 18:13 (ed. Hoffmann, p.110).
- 22) Didache 2:1-2.
- 23) Didache 3:4.
- 24) Trachtenberg: Jewish Magic and Superstition, p.21 f.
- 25) b. Sabbath 67a.
- 26) But cf. Maimonides' recognition of the possible psychological value of superstitious "cures." He says in Yad, Hilkoth Akum 11:11:-
"If a man has been bitten by a scorpion or a snake, he is allowed to whisper a charm over the place of the bite, even on the Sabbath;--- so that he may put his mind at ease and strengthen his heart. Although this procedure is of no use whatsoever, they allowed him to do so because he is in danger, lest his mind become deranged."

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NOTES TO CHAPTER SIX

- 1) Sifré, re-eh, Piska 87 (p.92b).
- 2) Sifré, shof'tim, Piska 146 (p.103b).
- 3) Sifra, ahare moth, Perek 13:9 (p.86a).
- 4) Cohon: Theology and Religion, p.86.
- 5) Freud: Totem and Taboo (in "The Basic Writings of Sigmund Freud"), p.831.
- 6) Maimonides: Yad, Hilkhoth Akum, chapter 11:1.
- 7) Letter of Aristeeas 139.

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Abbreviations

J.Q.R. - Jewish Quarterly Review.

N.S. - New Series.

J.E. - The Jewish Encyclopedia, 12 vols., New York & London, Funk & Wagnalls, 1901-1905.