

INSTRUCTIONS TO LIBRARY

The Senior Thesis of Sylvin L. Wolf

Entitled: "Significance of Hillel for the

History of the Halakah"

- 1) May (with revisions) be considered for publication () (✓)
yes no
- 2) May be circulated () () () ()
to faculty to students to alumni no restriction
- 3) May be cons. lted in Library only (✓) (✓)
by faculty by students
(✓) ()
by alumni no restriction

March 14, 201
(date)

Alexander G. G. G. G.
(signature of referee)

I hereby give permission to the Library to circulate my thesis

(✓) ()
yes no

The Library may sell positive microfilm copies of my thesis

(✓) ()
YES NO

5/9/61
(date)

Signature of author

The above-named thesis was microfilmed on

(date)

For the Library

(signature of staff member)

Report on Rabbinical Thesis of Sylvin L. Wolf
Entitled
"Significance of Hillel for the History of the Halakah"

In this essay Sylvin Wolf ably demonstrates the importance of Hillel for Rabbinic Judaism. He observes that Hillel, a great "Doctor of the Law," concentrated his efforts on the practical problems of life and was very successful in solving many of these problems.

The major part of the essay consists of discussions and evaluation of Hillel's contribution to the shaping of classical Judaism in five significant areas. In these discussions, Mr. Wolf utilizes both primary and secondary sources. His understanding of the primary sources, often obscure, is fully adequate. The secondary sources he subjects, in a number of instances, to criticism which is for the most part justified. His critical notes are usually short, even sketchy at times. He obviously did not want to devote too much of the essay to lengthy discussion of secondary literature.

Mr. Wolf does not possess the urge to advance at all cost new theories and fancy solutions to controversial issues, as some scholars feel impelled to do. Consequently he does not suggest spectacular, new answers to the problems under discussion. He prefers rather to weigh the respective merits of the existing views and then to point to the most plausible answers. His judgment is sound and therefore he is able to present a truthful and enlightening picture of Hillel's contribution to the development of Rabbinic Judaism.

I take genuine pleasure in recommending to the Faculty the acceptance of Mr. Wolf's thesis.

Alexander Guttmann
Referee

SIGNIFICANCE OF HILLEL FOR THE
HISTORY OF THE HALAKAH

by
Sylvia L. Wolf

Thesis submitted in partial fulfillment of
requirements for the Degree of Master
of Arts in Hebrew Letters
and Ordination

Hebrew Union College-Jewish Institute of Religion

1961

Referee, Professor Alexander Guttmann

TABLE OF CONTENTS

	Page
DIGEST OF THESIS	111
I. INTRODUCTION.....	1
II. HILLEL'S CONTRIBUTIONS TO THE HALAKAH	8
A. Interpretation as Method	8
B. Hillel Before Bene Bathyra.....	20
C. Additional Controversies and Implications	30
D. Proshul	34
E. Hillel's Hermeneutics	37
III. SUMMARY	40
FOOTNOTES	46
BIBLIOGRAPHY	52

DIGEST OF THESIS

This study was an attempt to examine the activity and contributions of Hillel the Elder and to discuss his specific importance and significance for the history of the Halakah.

The period in which Hillel lived was one of change and transition for the Judean state. With the Roman conquest of Palestine and the dismissal of an empowered Jewish legislature, some means had to be found to give authority to the Sanhedrin or Bet Din. This authority would, of course, be valid only in those civil and religious situations having no political significance. Unless such authority could be found, the entire Pharisaic society and way of life faced imminent destruction.

Hillel brought the method for securing voluntary fealty from the people. He produced the requisite substitute for direct legislation, emphasizing Biblical interpretation and providing rules for arriving at applicable interpretations. By resorting to Biblical interpretation, he solved the problem of authority for the new system. Certainly there was no greater legal authority than that vested in the Torah itself. And by rooting the Oral Law in the Torah, he made it possible to apply the Law liberally to changing conditions of time and society.

Hillel's method also allowed the individual scholar or rabbi to interpret and "legislate" providing he was aware of the proper rules.

Various aspects of Hillel's activity were considered in this study. These included the three passages from the Palestinian Talmud which speak of Hillel's coming to Palestine, the passages telling of Hillel deciding an important issue before the Bene Bathrya, the major controversies with Shammai, the Prosbul (Hillel's legal action based on a legal fiction) and his application of hermeneutic principles to daily living.

Through Hillel's activities, the progressive Pharisaic society and philosophy were saved. Pharisaism became the rock and foundation for the Judaism of coming centuries.

I. INTRODUCTION

The problem is to consider the significance of Hillel the Elder for the history of the Halakah. Hillel (born c. 75 B.C.E.-died c. 10 C.E.) is considered by most Rabbinic scholars as the Father of Rabbinic Judaism. Rabbinic Judaism is the product of rabbinic legislation; specifically, that legislation which is rooted in and which stems from rabbinic interpretation. Characteristic of Rabbinic Judaism are the methods the Rabbis have employed throughout the ages in their attempts to reconcile the Law, the tradition, and the constantly changing life situations.¹ To say that Hillel is the Father of Rabbinic Judaism is to imply that he made major contributions in indicating and directing methods of interpretation. Also implied, and this is most important, is that he was responsible for establishing these methods as sound, authoritative procedures. Hillel created Rabbinic Judaism and supplied the impetus for it to remain a dynamic movement. He made it the core of Jewish life for the coming centuries. He created it and gave it direction.

To be considered, then, are the situations which led to Hillel's activities, the import of these activities, and finally, his achievements and accomplishments.

Interpretation of the Sacred Text may well have been a *modus operandi* in the first years of the Second Commonwealth. It may well have been a method prior to that time, too. In

time, however, a philological interpretation of the Pentateuch no longer provided adequate solutions for the problems of life. "This conservative method yielded little...and it is not surprising that a large body of law...grew up in addition to that contained in Scripture."² In an organized society having an empowered legislative assembly,³ capable of legislating directly to cope with new situations, interpretation was replaced with what Guttmann terms "direct legislation."⁴ Direct legislation did not necessarily rest on Biblical interpretation. Conversely, it was grounded in "the authority of the people promulgating it."⁵

Guttmann writes:

The direct way, i.e., making or endorsing the changes by legislation, was feasible only as long as the legislators were vested with the authority to enforce their decisions by the ruling powers.⁶

Hillel and his contemporaries were confronted, however, with an altogether different state of affairs.

Cabinus, the Roman governor of Syria, had successfully quashed the revolt led by Alexander II.⁷ As a result, the kingdom was virtually destroyed; independence was lost. Gone, too, were any "self-governing and legislative powers."⁸ Gabinus also limited and weakened the powers and activity of the Sanhedrin or Bet Din. "It could no longer boast of any political power, for that was now in the hands of the Romans."⁹

The assembly never regained the official status of previous years. Its condition was even more impaired by Herod.¹⁰ The institution of the Bet Din, or more commonly, the Sanhedrin,¹¹

created by the Great Synagogue¹² was a Pharisaic stronghold. Control of this institution enabled the Pharisees to assert themselves and their philosophy. This Pharisaic body served to unify the masses under the banner of Pharisaism. No doubt, the loss of official standing severely hampered the activities of this assembly. Without the right to legislate, not only the assembly, but Pharisaism itself was threatened with extinction. This was not a threat to a single institution. A movement, or better, a philosophy was in a fight for survival.

As a national institution expressing the will of the majority, the assembly continued to function in an unofficial capacity.¹³ They were permitted to decide upon only those religious and civil policies which had no political significance.¹⁴ Not having official authority, the assembly's authority was "based on voluntary fealty."¹⁵

This created a crisis. Without the power to legislate directly, the "Pharisaic leaders...had to achieve their ends through the transmitting of the teachings of old and by interpreting them."¹⁶ This required a procedure which would be practicable and which would at the same time reflect the authority of the past. Hillel brought the definite procedure for accomplishing these ends. In so doing he not only alleviated the troubles of his day; he saved Pharisaism and made it the rock and foundation for the Judaism of the coming centuries. He faced Pharisaism in a new direction, equipped with a new mode of authority. He led it away from the confines of limited activity. Hillel made it possible for Rabbinic Judaism

to cope continuously with new issues.

A major contribution made by Hillel was that his method allowed the individual scholar to interpret and thereby to "legislate." There was no longer any need for a legislative assembly to have support of the political government. "...a tradition in law or custom did not have to rest on a school regulation or on legal enactments but could be traced back to its origins in Torah. In this area Hillel's activity was decisive."¹⁷ Such has been the design of rabbinic activity.¹⁸

No wonder that the Talmud compares Hillel with Ezra.¹⁹ Centuries earlier Ezra averted a crisis and established a Judaism for his day. Hillel in his own day did the same. In light of the fact that both Ezra and Hillel apparently made the Torah the basis for all life, the comparison is proper.

Hillel's significance lay in the fact that he produced the requisite substitute for direct legislation. He emphasized Biblical interpretation.²⁰ Most important, he provided the rules for arriving at applicable interpretations. By resorting to Biblical interpretation, he solved the problem of authority for the new system. Certainly there was no greater legal authority than that vested in the Torah itself. Further, by rooting himself in an authority no less than the Torah, he "made it possible to apply the law liberally to new conditions of time and society."²¹

Of utmost importance was Hillel's activity to prove by virtue of his logical methods that the legislation and customs of the past, more commonly known as the tradition of the fathers, were themselves embodied in the Torah. "Hillel declared that Scripture itself included the tradition of the fathers; and that it did so...precisely if read as, on the most up-to-date teaching of the philosophical schools, a code of laws ought to be read."²²

Several scholars believe that Hillel intended to propose Midrash Torah as a defense against sectarian charges that the Pharisaic tradition departed from Torah. Whether the sectarians were strong enough to warrant such polemics is questionable. In Hillel's time the influence of the Sadducees had been considerably diminished.²³

Hillel's primary purpose must have been to insure development.²⁴ Weiss comments, "His chief purpose was expansion of the law."²⁵ Such expansion of the law was vital to any future growth or life of that society. Further, it was indispensable because it equipped the Pharisaic teachers with the tools they required to maintain their influence. With the powers of direct legislation denied to them, they had either to invent a new system which would allow them to maintain their influence by permitting them to function meaningfully, or else they would have had to withdraw from the scene altogether. "Life is always ahead of the written law...and Jewish law and life form no exception."²⁶ Hillel enabled the law to keep pace with life.

...The scope of Biblical interpretation was almost unlimited. Practically every new practice and law could be associated with a verse of the Torah if a suitable method were utilized. Although Biblical interpretation was used on a large scale by the leaders of Rabbinic Judaism for they recognized its utility, they saw, too, its implicit dangers. If unrestricted and undisciplined, its natural consequences would have been chaos. This danger lay not only in simple exegesis but even more in the very techniques of interpretation. Thus, when Hillel publicized the seven Middoth, his aim was not merely to promote Biblical interpretation as a source of the Halakah, but also to exclude other methods which were in vogue among scholars of extraneous groups.²⁷

Waxman indicates that the rules accomplished five ends. They standardized methods of midrash. They made it possible to derive new laws from the Torah. They were a check against haphazard midrash by providing a yardstick against which the soundness of new laws could be measured. Equipped with these rules of interpretation, the Rabbis were able to attach already established customs and legislation to the Torah. Most important, the rules made it possible to adjust the law to life.²⁸

Because of these rules, the Oral Law could not be accused of being arbitrary. "It became more universal and reasonable in its tendency, and might be looked upon as originating from Holy Writ itself."²⁹

...far more important was his (Hillel) logical derivation of the statutes of the Law observed in his time. He traced them back to their first principles, and raised them out of the narrow circle of tradition and mere custom to the height of reason. The traditional law, according to Hillel, carries within itself its justification and binding power; it does not depend on authority alone.³⁰

Hillel...had given to Judaism a special garb and form, or rather had given to it the character of the Law which had always been peculiar to it. He was the first to develop...a sort of Jewish theology or nomology. He was the founder of Talmudic Judaism...Hillel...endeavored to bring into harmony those precepts which were apparently opposed to the Law. Those which had been considered as only customary and traditional...Hillel had shown these to be of Biblical origin. His seven...laws of interpretation, had on the one hand confirmed the laws which had been introduced by the Sopheric and Pharisaic teachers, and on the other hand, had given them new scope to develop.

The written Law...and the oral Law...were brought into close relations with each other, although the new rendering certainly did violence to the words of Scripture. But as the text was explained, not on a philological basis, but in order to elucidate the laws, it was not possible to keep simply to the written words; it was necessary to interpret them so as to render them suited to the new conditions of life.⁵¹

To fill the gap left by the absence of direct legislation, Hillel returned directly to Torah to find solutions for problems. The seven rules permitted him to rise far above the literal meaning of Torah. And thus he was, indeed, able to apply Torah to all new situations. The fact that the Pharisaic leaders could no longer legislate officially meant that their very position and movement were threatened. By providing them with the rules for "interpretative legislation" and by making the rules authoritative, Hillel established Rabbinic Judaism as the classical norm for centuries.

II. HILLEL'S CONTRIBUTIONS TO THE HALAKAH

A. Interpretation as Method

Hillel recognized the need to bridge the chasm created by the absence of direct legislation. Political matters were decided by the Roman authorities. Religious and civil affairs having no political implications were left to the Jews to settle. These latter decisions, though, could not be readily enforced. Hillel sought to remedy this ill by designing a reliable legislative substitute which would answer the society's needs. Such a program would receive approval and acceptance. The people would voluntarily accept the "legislators" as authoritative if they could provide a good solution to the problems of the day. The reliability of any proposed program would depend upon its ability to claim both authority and authenticity.

Hillel accomplished these ends. First, he provided the legislative substitute which kept the law up-to-date. Secondly, he infused this method with authority. Because of his activity, the Pharisaic teachers had a new mode of authority which permitted them to assert themselves. Being so equipped, they were in a position to avert the imminent disintegration of the society. They laid the foundation for a new social order united under their dominant control.

By reverting to Midrash Torah, i.e. interpretation, Hillel resorted to an older method which had in time ceased to be practicable.³² By applying the hermeneutic principles, however, he gave new scope to the older method. He thereby widened its applicability and stripped away its older, essentially limited character. He delivered a master stroke by proving, through his methods, that the Oral Law, the product of the now defunct direct legislative process, could likewise be derived by interpretation.

As Moore observes: "The Book of the Law of Moses might be a final law, but it was not a finished law."³³ This was the Pharisaic argument for the justification and validity of the Oral Law, that the Law of Moses required learned interpretation. A result of Hillel's activity directed toward establishing Rabbinic Judaism was that the Oral Law was infused with authority and with unlimited potential. By making the Mosaic Law the constitution and by providing the means for expanding it and making it applicable, Hillel did accomplish his ends. Pharisaism and the Oral Law were firmly rooted. Future opposition did not prove effective.

Hillel sought to find in the Torah itself a source for the Halakah.³⁴ Discussing Hillel's choice of Midrash Torah as method, Guttman writes:

The major reason undoubtedly was the lack of an official Sanhedrin empowered to legislate according to the needs of the time, as well as to decide controversial matters. Therefore, whatever clarification, endorsements or new legislation were required, had been based, whenever possible, on an authoritative source; either the Bible or a tradition

originating with a person or body possessing legislative power, might serve as such a source.

The scope of the latter category was limited by its nature. While it could re-establish a forgotten practice or clarify a law whose real meaning and details had become controversial, it seldom sufficed to introduce or endorse a new practice. The scope of Biblical interpretation, however, was unlimited.³⁵

It was unlimited, proper and authoritative if it followed along the logical, rational lines Hillel proposed as rules of interpretation. Weiss describes Hillel as holding on to the Tradition, but at the same time reflecting upon the Tradition. Hillel wanted to know the factors responsible for traditional Halakoth. Hillel had an appreciation for the historical situation, its influence and impact on legal development.

Thus he would investigate the old Halakoth... In regard to every new matter which came to his attention...where he saw that according to reason it was proper to deviate from the old Halakah, he had no fear, he deviated.³⁶

He explained and purified the older Halakah. He distinguished between periods and events by virtue of reason...he sought the reason for the matter and on the basis of his investigation he would either uphold or nullify...³⁷

The Palestine Talmud (Pesachim VI,1:33a) cites three passages which purport that the purpose for Hillel's coming to Palestine was to clarify and reconcile apparently contradictory Biblical passages, thereby to confirm certain already established Pharisaic practices. The passages indicate that Hillel's conclusions, arrived at logically, were in accord

Rosenstein likewise includes the reasoning behind the third decision.

נראה שהם אכן ראו שיש להם חובה להחליט על דבר זה
אולי נראה שיש להם חובה להחליט על דבר זה
על דבר זה. ע"פ הדעות שיש להם חובה להחליט על דבר זה
על דבר זה. ע"פ הדעות שיש להם חובה להחליט על דבר זה
על דבר זה. ע"פ הדעות שיש להם חובה להחליט על דבר זה

41a

Modern Rabbinic scholars are agreed that these passages are examples of Hillel's attempts to prove that his method of Biblical interpretation was sound. The proof was that his conclusions were the same as the already practiced Halakoth. For this reason, scholars consider these passages fundamental. Hillel was able to prove that if the Bible were read as he proposed the correct conclusions would be derived. The gap left by the absence of direct legislation would then be closed.

Tohernowitz, like the others, considers these passages to be elemental for an understanding of Hillel's contributions to the development of the Halakah. Tohernowitz understands each of these PT passages as representing a major step or activity on Hillel's part toward establishing and securing the Middoth and Biblical interpretation. Tohernowitz likewise understands each passage as representative of Hillel's activity in rooting Pharisaism firmly. This work laid the foundation for later Rabbinic leadership.

Before considering Tohernowitz's discussion more closely, let us first look at some of Rashi's comments on several of the Biblical verses in question. These may help us to better understand Tohernowitz's study.

Commenting on Leviticus 13.2: "...and then he shall be brought unto Aaron the priest, or unto one of his sons the priests," Rashi wrote: "It is an enactment of Scripture that the uncleanness and purification of leprous plagues are pronounced only by the mouth of the priest (Siphra)."

Commenting on Leviticus 13.37: "...the scall is healed, he is clean; and the priest shall pronounce him clean," Rashi wrote:

Consequently a person who is really unclean whom the priest pronounces clean is not clean [Editor's note:] It is true that the declaration is left to the priest as pointed out by Rashi on v.2---but if he erred or willfully pronounced the unclean person clean, it is of no effect, for Scripture states: he is clean and the priest then - and then only - shall pronounce him clean.

The second passage cited in PT includes Deuteronomy 16.2: "Thou shalt sacrifice the passover sacrifice unto the Lord thy God of the flock and the herd," and Exodus 12.5: "...ye shall take it from the sheep, or from the goats." Commenting on the former verse, Rashi wrote: "...And besides this our Rabbis derived many Halahic matters from this verse."

The third passage from PT is concerned ostensibly with a reconciliation between Deuteronomy 16.8: "Six days shalt thou eat unleavened bread....," and Exodus 12.15: "Seven days shall ye eat unleavened bread..." On the latter verse

Rashi wrote:

For the following is a Rule by which the Torah may be expounded: Anything that is included in a general statement and goes out (i.e., Scripture singles it out) from this general statement for the purpose of teaching something, does not go out from it in order to teach something regarding itself alone, but it goes out from it to teach something about everything that is included in the general statement.

In regard to Deuteronomy 18,8, Rashi commented that this verse must also be considered in light of the aforementioned rule.⁴²

This review of Rashi's comments on the verses cited in the PT passages reveals that these passages have either ritualistic or halahic implications. Rashi conveys the idea that these are key passages containing legal principles which can be applied in other situations.

Tohernowitz regards these PT passages in the same manner. He believes that they not only demonstrate the effectiveness of Hillel's method and arguments, but that they indicate as well that the Pharisaic position had been secured. He is of the opinion that these passages reveal the excellence of Hillel's method and activity. Hillel established himself and Pharisaic doctrine as authoritative norms.⁴³

Tohernowitz considers insight into these passages as vital for an understanding of the significance of Hillel for the history of the Halakah. Tohernowitz goes to some length to present his case. Let us now consider his presentation.

Tohernowitz rejects the notion that Hillel came to Palestine to inquire.⁴⁴ In his opinion Hillel's coming to Palestine inaugurated a new period. Tohernowitz offers the idea that in and through these three situations Hillel asserted himself and made himself and his process outstanding and authoritative. Tohernowitz believes that each of these situations reflects a controversy between the Pharisees and the Sadduceean priests. "Hillel was the arbitrator by virtue of the methods of interpretation which he brought..."⁴⁵

Tohernowitz proposes that the first of the PT passages under consideration reflects Hillel curbing and delimiting priestly authority and activity. He concludes that Hillel's purpose was to prove that the priest could but declare one already clean as clean, and one already unclean as unclean, but that the words of the priest by themselves were of little consequence. The priest had no right to make one clean or unclean by declaration. He could but proclaim what was already a fact. He could not in this sense create states of purity and impurity. Had this ever been a weapon in the hands of the priests, Hillel now disarmed them.⁴⁶

The point Hillel stressed was that states of ritual purity and impurity were governed by Halakah (the Hakamim) and that the priest merely declared the sages' decision. This is what is said in the Mishna (Nega'im 3.1):

All are qualified to inspect leprosy signs but only a priest may pronounce them clean or unclean. They say to a priest, 'Say, Unclean!' and he shall say 'Unclean!' or 'Say, Clean!' and he shall say 'Clean!'...⁴⁷

It is clear that the Hakemim reserved for themselves the right to inspect and to decide this ritual question. They merely used the priests to sanction their decisions. But the priests had no right to act independently of Pharisaic instruction. Hillel, by virtue of interpretation, gave this attitude and practice Mosaic authority.

Rashi indicated that Deuteronomy 16.2 which speaks of the Pesah sacrifice served as a halahic example to teach other matters. Tchernowitz is also of the opinion that Hillel's second interpretation was of basic importance because it supplied the Pharisaic teachers with the principle for reconciling two contradictory passages.⁴⁸ This principle would in turn help to maintain the integrity of the Oral Law. For we see in this principle the Pharisaic view toward Torah and interpretation:

Namely that the Halakah is derived not from the lone word where it is found... there may be a contradiction to it somewhere else...it is therefore said that one verse comes to teach concerning the other.⁴⁹

This point of view was salient in the Pharisaic argument against Sadduceean interpretations and opposition to the Pharisaic concept of Oral Law,⁵⁰ which had as a constituent belief the concept of Mosaic authority for the Oral Law.

Tchernowitz maintains that this second passage reflects a controversy between Pharisees and Sadduceean priests regarding the festal offering. According to Sadduceean interpretation it was considered obligatory. The Pharisees on the other hand argued that it was optional. Hillel's intention

was to prove that the Sadduceean interpretation was in error; that the festal offering was not obligatory.⁵¹ This treatment of the Biblical text, interpretation according to logical principles, justified Pharisaic practice.

This second passage also may indicate that there was a decline in the status of the priesthood. An area of religious life formerly controlled by the priests now passed to the control of the Pharisees. The net result was less control by the priests over the people, who were then represented by the Pharisaic leaders.

If Hillel was not directly responsible for this ruling, he was at least indirectly responsible for it. He was concerned with establishing the supremacy of his method and his movement. As we saw in the first passage, he did minimize priestly function and status.

The third passage is another example of the need to reconcile contradictory verses. Here, though, the contradictions are not resolved by one verse but by several.⁵² Tchernowitz suggests that the controversy here is between the Pharisees and the Sadducees as to the correct meaning of *מחר מחר*, "from the morrow after the day of rest," as found in Leviticus 23.11,15. The question was when does the counting of the Omer begin. The Pharisees maintained that it began the second day of Passover, interpreting Shabbath here to mean the festival day. The Sadducees, on the other hand, interpreted *מחר מחר* literally. The question was important because the date for Shavuoth depended

on when the counting of the Omer began. The main point of this controversy, Tchernowitz suggests, was control of the calendar. According to Tchernowitz, they argued over who had the right to fix the date for the festival.⁵³ This was important because the group that had that right would obviously be recognized as the authorities. This is another example then, of the Pharisees wresting the situation from the Sadducees and establishing their own position. Here again Hillel figured in the forefront of the battle.

Tchernowitz maintains that the latter two PT passages are derived from the hermeneutic principle, *Binyan Ab*. (see note 48) Whether Hillel was responsible for these interpretations as they are given in PT does not seem to be as important as what is implied. In each situation, as Tchernowitz has shown, there was controversy between Pharisees and Sadducees which involved position and authority. In each of the situations the Pharisees were the victors. They were able to maintain their point of view because of the ability to rely on total Scripture for support.

Whether Hillel decided these particular issues is not as important as the fact that he had established the method by which the Pharisees could maintain their leadership and control. By doing so in his own day he furthered the cause of Pharisaism and gave it the ability to meet future situations. This resulted in Pharisaic control of the society. A major social breakdown was averted. The Pharisees were able to give the society a character of stability and order.

B. Hillel Before Bene Bathyra

Hillel was concerned with establishing a sound, effective and authoritative legislative process which would permit Pharisaic control of the society. The PT passages cited show how Hillel employed Biblical interpretation to accomplish his goals. There is another important passage which demonstrates Hillel at work using interpretive principles to reach a decision. The passage further states that Hillel was appointed *Nasi* as a result of his decision.

We do not know to what extent the Talmudic accounts of the reason for Hillel's becoming head of the Sanhedrin are accurate. Nevertheless, they reveal more clearly than any learned conjecture, where Hillel's distinction lay. At the same time, they shed light on certain conditions which existed at the beginnings of Rabbinic Judaism.⁵⁴

The particular source referred to is B. Pes. 66a, Hillel before the Bene Bathyra discussing the Passover sacrifice and its relation to the Sabbath. Guttman has analyzed the passage in terms of its development. The analysis is as follows:

1. The Bene Bathyra did not know whether the (sacrificing of the) Pascha supersedes the Shabbath or not.
2. It happened that the fourteenth of Nisan fell on Shabbath and they (the Bene Bathyra and all others present) forgot the law (whether the Pascha etc.).
3. To the question of the Bene Bathyra, whether anyone knows the law, the reply is given that there is a man from Babylon, Hillel the Babylonian by name, who has studied with the two greatest men of the generation, Shemaiah and Abtalion, and he knows the law in question.

4. They send for him and put the question before him.
5. He replies: Yes, just as is the case with more than two hundred other sacrifices during the year.
6. He is asked to prove his point.
7. He uses the analogy to the Tamid, a gezerah shavah.
8. Then he applies a gal vehomer, again referring to Tamid.
9. Immediately the ones present appoint him Nasi over themselves.
10. All that day he expounds the laws of Pesah.
11. He rebukes the listeners: Why was it necessary for me to come from Babylonia to you? Because of your laziness in not having studied with Shemaiah and Abtalion.
12. They ask him the law in the case in which one forgets to bring the knife before the Shabbath (coinciding with the fourteenth of Nisan).
13. Hillel avers having heard the Halakah, but admits having forgotten it. He advises their observing the practice of the people. The people let the animals carry their knives in a certain way.
14. Hillel, seeing this, recalls the Halakah and asserts that this practice is indeed the Halakah he received from Shemaiah and Abtalion.
15. The gezerah shavah is clarified.
16. The gal vehomer is refuted.
17. Whereupon the (anonymous) Amora conjectures that Hillel first applied the gal vehomer and then, after its refutation, advanced the gezerah shavah.
18. In reply to the question, why did not Hillel utilize the gezerah shavah to begin with, an Amora replies:
Hillel admitted that his opponents were justified in rejecting the gezerah shavah since they did not possess it as a tradition; therefore he suggested to them that they accept his gal vehomer, for which no tradition is required. Nevertheless, his gal vehomer was rejected as faulty.⁵⁵

The PT (Pes. VI, 1: 33a) treats this same incident. Although it is a shorter version, it should be considered in light of the discussion because of what it offers to the

total discussion.

According to PT, Hillel used a heqesh first, an analogy, reasoning that since both Tamid and Pesah are congregational sacrifices (qorban zibbur), Pesah supersedes Shabbath just as Tamid does. PT does not give this reasoning at all. The order of arguments in PT is then: gal vehomer, gezerah shavah. While in BT, the refutation of the gal vehomer and rejection of the gezerah shavah are in the Amoraic section, in PT they appear as part of the original account. The refutation of the gal vehomer is also somewhat different though not essentially. Of greatest significance is the following section in PT:

Even though Hillel expounded for them (gave them interpretations) all the day, they would not accept (his Halakah) until he related them as a tradition from Shemaiah and Abtalion. Only then did they appoint him Nasi.⁵⁶

Rabbinic scholars who have written about the importance of Hillel as regards development of the Halakah consider these passages regarding Hillel's interpretations before the Bene Bathyra as essential for an understanding of the conditions of the times and the implications of his contributions. We are able to consider several interpretations. There are differences in points of view, but all help toward gaining an insight into Hillel's activity.

Having considered Guttman's analyses, let us now consider what he says regarding this passage. A look at the sources reveals that the law under discussion, whether the Pesah supersedes the Shabbath, was forgotten. Guttman proposes that during an earlier period this had been the practice⁵⁷ but that when for a short period the Sadducees

regained control under Aristobulus it ceased to be the popular practice. This would seem to indicate that the mere fact that the problem was now again up for discussion was evidence that the Sadducees were no longer powerful but that the Pharisees were retaining their position of leadership.

Guttmann suggests that a "tolerant High Priest" may have permitted the Pharisees to make their own arrangements.

The Tose'f'a gives us the place of the discussion the Azarah, i.e., the Temple Court. This would not have been possible had the priesthood objected. We adduce, also, the Semikah controversy which occurred in the Temple, and in which Hillel and the Shammaites, i.e., only Pharisees, were the active participants. The Priesthood which performed the act of sacrificing is not mentioned, which indicates that they refrained from any interference in legislation, limiting themselves to practicing their craft when they were called upon to do so.⁵⁸

The suggestion that there may have been a "tolerant High Priest" seems questionable on the basis of what is said in the above quote. Rather, it would appear that the priests had been stripped of any official power. In ritual matters they continued to function when called in by the Pharisees and to perform the duties the Pharisees assigned to them, as indicated by the passages in PT. The very fact that the Pharisees were in the Azarah may be adduced to show that they were deciding issues formerly in the hands of the priests.

In the course of things it doesn't appear natural that the Sadducees who had been the arch foes of the Pharisees would relinquish willingly the power to involve themselves

in the legislative procedure. Certainly they would not refrain, if they could participate in sacrificial issues which pertained to them so directly. It would appear that the Pharisees had been able to assert their influence. Now, they would not permit the priests to participate in these important decisions. The priests were to be functionaries only, without any ruling power whatsoever.

Guttmann does not agree with those who say that the Bene Bathyra opposed "the 'new' Halakah that Pesah supersedes the Shabbath; they oppose Hillel's interpretive technique."⁵⁹ Guttmann maintains the basic historicity of the accounts, that the law was forgotten. He proposes that the Bene Bathyra opposed Hillel only in that they questioned the applicability of the rules to this case. They did not oppose, in Guttmann's opinion, either the idea of Pesah superseding the Shabbath or Hillel's interpretive techniques as a means of effective legislation. Hyman, too, believes that the Bene Bathyra were not opposed to Hillel. He argues that they would not have abdicated in his favor had they been in opposition to him in principle.⁶⁰

Eventually, as the sources indicate, Hillel relied upon the authority of a tradition; his decision was accepted.

Why? Because his listeners wanted only to know the authoritative law; they knew they had no power to establish a new law. But Shemaiah and Abtalion, as we know, possessed authority backed by the ruling power. Whatever they decided was official and recognized as binding.

Why did not Hillel begin with a reference to this tradition? In our opinion, the most plausible answer is that Hillel was eager to develop Torah interpretation as an effective substitute for straight legislation, i.e., for legislation by a body supported by a ruling power. We have referred above to a passage in PT stating that the very reason for Hillel's coming to Palestine was to demonstrate that Bible interpretations can clarify the Halakah. By giving his tradition only after having advanced several interpretations to the same legal effect, he demonstrated his thesis, i.e. that interpretations are a reliable source of Halakah. In the specific cases of Pesah his interpretations, though rebutted, nevertheless point to the correct Halakah.⁶¹

Guttmann discusses some of the technical aspects of the sources in closer detail. He concerns himself with the appearance and usage or lack of some of certain hermeneutic terms. He notes that it is important to understand why Hillel argued that a gezerah shavah need not be traditional. The argument reflects an aspect of Hillel's general philosophy.

According to the older version, as preserved in PT, Hillel does not admit that a gezerah shavah need be a traditional one...When Hillel recommended the hermeneutic rules, he certainly wanted them applied whenever feasible. But a gezerah shavah that requires tradition is not a tool capable of furthering necessary developments. It is merely another tradition.⁶²

As is obvious from the discussion, Guttmann accepts the basic historicity of the events recounted. He considers them as firsthand reports of conditions which existed in Hillel's time. The sources also reveal Hillel's activity, procedure, and purpose.

Glatzer sees in Hillel's appearance before the Bene Bathyra the beginnings of a new period. Glatzer writes: "The unsuccessful attempt before the Elders of Bathyra was indicative of a trend towards a profounder examination of the Torah as the source of Judaism."⁶³

Lauterbach in his study defends the thesis that Midrash Torah had never fallen into disuse. He is of the opinion that in time the abstract Halakah supplemented the Midrash but that Midrash from the time of Ezra had been a method used for acquiring new legislation. Lauterbach explains that the appearance of Hillel before the Bene Bathyra represented a trend toward broadening and extending the Midrashic method. In his opinion, Hillel represented a phase of natural development of Midrash as a well established procedure.⁶⁴

He seems to be alone in this opinion. Zeitlin sees in this situation of Hillel before Bene Bathyra the probability that Hillel wanted to equip the Bet Din with hermeneutics so that they could function where there was a case without precedent.⁶⁵

It can be seen then, that although there may not be total agreement as to the meaning of the passages, there is the agreement that Hillel was trying to accomplish something new; that he was interested in changing the character of the legislative process.

Weiss believes that the situation of Hillel and the Bene Bathyra reveals that the Pharisees were not of one point of view. He is of the opinion that the Bene Bathyra relied wholly on the tradition and had no regard for Midrash Torah. (This is the view that both Guttman and Hyman rejected.) So Hillel showed them that the tradition, and the hermeneutics, and Midrash Torah were compatible.⁶⁶

Kaminka does not accept these passages which speak of Hillel and the Bene Bathyra as reliable for halachic significance. Kaminka says that it makes no sense at all that Hillel alone suddenly remembered the Halakah. Surely there were others, Palestinians, who could remember whether Pesah supersedes the Shabbath. Kaminka is of the opinion that the story is a late one and that its only purpose is to teach a character lesson--namely, that a man should control his anger. Kaminka argues that there are too many problems for this incident to be a reliable one. He believes that a later preacher wove a story around Hillel in order to teach a lesson to his listeners.⁶⁷

Kaminka argues that the point in question, whether Pesah supersedes Shabbath, could not have been a new one. This situation must have occurred prior to Hillel's appearance before Bene Bathyra. Someone would have known what was proper. Further, he argues, the priests themselves would have decided as Hillel decided. Nevertheless Kaminka regards Hillel as the Founder of Rabbinic Judaism because of his contributions to

interpretation and because of his activity in elevating the Hakamim over the priests; but he doesn't consider this particular passage important for an understanding of what Hillel did for the Halakah.⁶⁸

Aside from Guttman's rebuttal,⁶⁹ it seems that if this were a story with only an ethical teaching as its purpose, then it contains too much extraneous material which would but conceal the ethical teaching, making it difficult to discern.

Tohernowitz does regard this as a significant passage. Like Guttman, he goes to some length to interpret it for its meaning and import.⁷⁰

Tohernowitz, like Kaminka, is fully aware of the problems contained in the passage but he is not ready to dismiss the passage as being unimportant. He, too, is puzzled by the fact that apparently there were no others who knew the correct answer. Tohernowitz feels there is a difficulty in trying to comprehend why the Bene Bathyra step down in favor of Hillel. He says that it isn't logical to assume that they would give up their position because they were unable to answer one question or because they lacked the knowledge of one tradition. By the same token, it is difficult to imagine that simply because Hillel did have the knowledge of one Halakah or one tradition that he would have been appointed to a position of high leadership.

Regarding the question of the carrying of the knives, Tohernowitz points out that the Mishna (Mid. 4.7) speaks of "the Chamber of Slaughter-knives, for there they used to keep the knives." Tohernowitz raises the question of whether this was really a problem. He goes on to suggest that if the people could be relied upon to answer something as relatively unimportant as that, then surely they could have been relied upon to know a more important tradition, whether Pesah superseded the Shabbath.

Tohernowitz understands the passage to indicate that a great debate was going on between Pharisees and Sadducees in which the whole priestly tradition was being challenged.⁷¹ He considers this passage, too, as fundamental for an understanding of the Pharisaic teachings.

Tohernowitz says that these passages dealing with the Pesah question reveal the historical situation. The Sadducees had been the recognized authorities throughout a very long period. With the decline of the Hasmonean dynasty, the Sadducees also experienced a decline of position and authority. The result of all this was that at the time of the Pesah question, the Pharisees were in a position to reassert themselves. And, as Guttmann has indicated, the Pharisees had need of a legislative program and procedure which would support them and which would allow them to maintain their position.

Tohernowitz recognizes Hillel as being the first to give any substance to the new Pharisaic program. By enlarging upon the principles by which the Torah could be explained, Hillel insured the future of the Rabbinic authorities.

We noted previously that Tohernowitz recognized in the third passage in PT a controversy between Pharisees and Sadducees over the correct meaning of *לפני מוצאי*. It is obvious that the leading group would have control of the calendar. Tohernowitz sees in the Pesah question the same controversy, over the meaning of *לפני מוצאי*. He explains that according to Sadduceean calculation it would not be possible for this situation to occur.⁷² The Sadducees would not have had the problem; but, for the Pharisees who did not interpret *לפני מוצאי* literally, the problem could arise. The fact that it had to be considered indicates to Tohernowitz that the Pharisees were now in a position to assert themselves over their opponents. Hillel by virtue of his hermeneutics and his knowledge of the tradition was able to establish the Pharisaic philosophy.

C. Additional Controversies and Implications

We have been considering Hillel's contributions to the Halakah. Our considerations thus far have been Hillel's method of Biblical interpretation guided by logical principles, the hermeneutic rules, and his work toward creating Rabbinic Judaism as an effective movement. As seen previously,

the passages dealing with Hillel and his activity have been understood by Rabbinics scholars as revealing a state of affairs which Hillel tried to correct and for which activity he has been called the Father of Rabbinic Judaism. Interestingly, even when these scholars differ in their respective opinions about the meaning of any one passage, they are in agreement as to Hillel's contributions as far as Biblical interpretation and hermeneutics are concerned. For this reason, these passages are considered not merely the narrative of some lone experience but rather as examples of conditions or situations or attitudes to which Hillel addressed himself.

The passages thus far considered have emphasized Hillel's activity in having Biblical interpretation based on hermeneutics accepted. We have come to understand what the historical situation required and what Hillel was trying to accomplish. He was trying to give order and form to a society on the verge of collapse and, at the same time, he was equipping his colleagues with the tools and weapons needed to remain leaders and the guiding force of the society.

According to the sources, Hillel figures in five different controversies along with Shammai. These have been considered not merely as controversies but rather as reflections of basic attitudes and contributions. The first is found in Hagigah II,2, the famous Semikah controversy wherein statements are made concerning the five pairs, that for each member it says either *pinof* or *pinof kl*.

Eduyoth I,1,2,3 registers three controversies between Hillel and Shammai (also found in B. Shabbath 15a). The first deals with menstruants; the second has to do with how much dough obligates the dough-offering; the third has to do with how much drawn water affects the ritual purity of the Immersion-pool. The final one, found in B. Shabbath 17a, considers Shammai and Hillel in controversy over the susceptibility of grapes and wine to ritual impurity.

The Semikah controversy has received considerable consideration by Rabbinics scholars as to its real meaning and significance; and for the most part it seems to remain a mystery. There seems to be little unanimity, although there may be agreement on aspects of the discussion.⁷³ Ginzberg understands the controversy as indicating a conservative and a progressive point of view among the Pharisees. He is of the opinion that *pinof* is to be understood literally as laying the hands upon the head of a sacrifice. He further sees as the real issue in the controversy four basic questions which reveal the respective conservative and progressive points of view. The problems that he suggests are contained herein are (1) to what extent Biblical exegesis is to be a source for new law; (2) how great should be the participation of the public in the Temple service (thereby diminishing the power of the priest); the third and fourth questions, Ginzberg suggests, have to do with encouraging people to return to Palestine and with a consideration of the status of those in and out of the Holy Land.⁷⁴ He does not

suggest that Hillel is in any way especially involved here, except for having been a member of one of the pairs and being of the progressive point of view in these issues.

Zeitlin⁷⁵ suggests that most scholars have completely misunderstood the Semikah controversy. He maintains that the question is whether to rely on the authority and innovations of past authorities (again, a dispute between conservative and progressive points of view). He does not take the meaning of *pasul* and *pasul* to be at all literal in this instance. And in this situation Hillel would be one who would choose to rely on the authority of past teachers and their innovations, thereby finding basis for himself, as a teacher now, to make innovations.

In the same study Zeitlin goes on to consider the other four controversies in which Hillel is involved. In his opinion each of these controversies reflects some innovation by Hillel for the development and embellishment of the Law.

In these four controversies four principles are involved with which Hillel proposed to start a new development in the Oral Law.⁷⁶

The four principles are: the seyag; leniency in law; semikah (according to Zeitlin's definition); intention.⁷⁷ However, as the sources themselves indicate, "it would appear that these views were not adopted at that time."⁷⁸

In contrast to this last statement, Guttman writes:

However, interpretation alone, although the principal method for keeping Judaism alive, could not meet every situation. It required supplementation by other methods. This was already true in Hillel's time.

Various factors determined the extent to which methods other than interpretation were used. Examples of such methods are the legal fiction, *seyag*, *takkanah*, *gezerah*, and the dictum that *minhagim* have a binding character. The determining factors might be political, economic, or social needs...⁷⁹

D. Prosbul

Hillel was sensitive to the needs of his day. No doubt this sensitivity, coupled with his skill and learning, is what motivated him to do all that he did in giving an expanding character to the law. Hillel must have been aware that interpretation had to be supplemented where the conditions demanded other available methods.⁸⁰

During this period of Hillel's life a change was occurring in the society. There was a gradual shift from an agricultural society to an urban commercial economy. The Bible dealt with a predominantly agricultural economy. Methods other than Biblical interpretation were necessary for the operation of the society.

Hillel is famous for solving two problems by issuing *takkanoth*, one based on interpretation and the other based on a legal fiction. The latter (Prosbul) is better known and stands out as the example of rabbinic attempts to meet the needs

of the time, even though there is apparent maneuvering of the Text.⁸¹

In predominantly commercial society the uninterrupted flow of capital is essential. This might, however, be hampered if there were some regulation regulating the loan procedure, thereby imposing an unnecessary risk on the lender. According to the laws of the Sabbatical year (Deut. 15.2 and 3), all loans not repaid by the advent of the Sabbatical would be considered null and void without any obligation to repay.

Hertz comments:

...This law was intended for an agricultural community, in which each family had its homestead. A debt would only be contracted in case of misfortune. The loan was, therefore, an act of charity, rather than a business transaction. Circumstances had altered altogether when economic life became more complex and people engaged in commerce. Debts contracted in the course of trading belonged to quite a different category, and this law could not be fairly invoked for their cancellation. Consequently in the first century of the present era, Hillel instituted a method whereby the operation of the year of release did not affect debts that had been delivered to the Court before the intervention of the year of release...This institution was known as Prosbul...⁸²

Glatzer writes concerning the Prosbul:

Enactments such as...the prozbul show Hillel's concern with the social problems of his day. His reforms, utilizing public, legal institutions for the benefit of the individual members of society were not envisaged as final solutions...But they offered a basis for an improvement of life in a community where little help was to be expected from the state...⁸³

The second of Hillel's takkanoth is based clearly on the interpretation of a text, and certainly seems to address itself to the improvement of a social situation. Leviticus 25.29 reads: "And if a man sell a dwelling-house in a walled city, then he may redeem it within a whole year after it is sold; for a full year shall he have the right of redemption." Leviticus 25:30 reads: "And if it be not redeemed within the space of a full year, then the house that is in the walled city shall be made sure in perpetuity to him that bought it throughout his generations."

The Mishna (Arakhin IX,4) reads:

If the (last) day of the twelve months was come and it was not redeemed, it becomes his forever...Beforetime the buyer used to hide himself on the last day of the twelve months so that (the house) might be his forever; but Hillel the Elder ordained that he (that sold it) could deposit his money in the (Temple) Chamber, and break down the door and enter, and that the other, when he would, might come and take his money.⁸⁴

Here we have two examples of Hillel directing himself to meet two very specific situations. We see that his guiding philosophy must have been the situation of the society and not the strict letter of the law. He bent the law to fit the social situation.

E. Hillel's Hermeneutics

Hillel is probably most famous for the hermeneutic principles he proposed. We have left these for our last consideration of what Hillel contributed to the development of the Halakah. The seven Middoth are listed in Tosefta Sanhedrin 7 end and Abot deRabbi Nathan, ch.37. They are simply exegetical rules to be applied when interpreting the Bible. By making these authoritative Hillel insured the expansion of the law and also insured that Midrash would be standardized.

It is commonly accepted that Hillel did not invent these rules. They were no doubt in vogue and he had contact with them. He most likely saw their applicability in other areas and thought them to be applicable to Torah as well. By following these principles, exegesis and expansion of the law were rooted in reason. Moore comments:

...(they) had doubtless been thus applied by scholars before his time, but with Hillel they became a method, defining certain ways in which logically valid conclusions in the juristic field are derivable from the written law.⁸⁵

It is interesting to note that several scholars hold the opinion that Hillel's efforts in establishing these hermeneutics as authoritative reveal the Hellenistic contact and influence. E. Baba Mez. 104a speaks of Hillel in Alexandria. It has been understood from this that Hillel was never in Babylonia but in Alexandria which was included in the term "Babylonia" and that while there he had contact with

Hellenistic methods which influenced his thinking.

Daube feels certain that the rabbinic methods of interpretation, especially these hermeneutics, are rooted in Hellenistic tradition.⁸⁶ Daube sees that Hillel was faced with certain problems and that he relied on the hermeneutics to overcome them and then to build a sound legislative program.

Daube presents what he considers to be the seven main points underlying Hillel's program.⁸⁷ First, Hillel wanted to have the law rest on "rational, intelligible consideration"⁸⁸ rather than on tradition or on a past authority. According to Daube, the second consideration Hillel had in mind was to be able to fill any gaps in Scriptural law with the help of certain methods of reasoning. It follows naturally that the third consideration would then be that the interpretation "was to be of the same status as the text itself, was to be treated as if directly enjoined by the original lawgiver."⁸⁹

This reflects a stage where the law evolved by interpretation was so different from, and so much fuller than, the statute law to which it attached that it had practically buried the latter and usurped its place.⁹⁰

The concept of Oral and Written Law was an important assumption in that the oral was but an extension of the written and that the oral gave substance to the written. Daube cites parallels in Graeco-Roman law which indicate the relationship between oral and written laws in these other societies.

The fifth concept that Daube indicates is that the oral law is of divine origin and equal to the written law, and that it contains its own potential for expansion. Daube points out that this concept is not unique to the Rabbis, but comes to them as Hellenistic inheritance. Sixthly and seventhly, it is the duty of the lawmaker "to lay down basic principles only, from which any detailed rules may be inferred"⁹¹ and "if he wants to regulate a series of allied cases, [then he has] to choose the most frequent and leave the others to be inferred on the ground of analogy."⁹²

Daube speaks of Hillel's legal philosophy.

Hillel's jurisprudence, then, i.e. his theory of the relation between statute law, tradition and interpretation, was entirely in line with the prevalent Hellenistic ideas of the matter. The same is true of...the methods he proposed...⁹³

At this point in his discussion Daube goes on to show in detail by comparisons and analogies and parallel situations how each of the hermeneutics derives from an older Graeco-Roman methodology.

There is some reason to question whether Daube is altogether correct in making the relationship so close and direct. Nevertheless, Daube's study does indicate Hillel's genius and ability in giving new direction and authority to the Law.

III. SUMMARY

Guttmann wrote:

Fully to understand the foundations of Rabbinic Judaism, we must examine closely its beginnings, particularly the activities and achievements of Hillel and his contemporaries.⁹⁴

This study was an attempt to examine Hillel's activity and contributions, and to discuss his specific importance and significance for the history of the Halakah.

The period in which Hillel lived (c.75 B.C.E.-10 C.E.) was one of change and transition for the Judean state and for the Jewish people. The dynasty was absorbed with its own problems of distrust, intrigue, and interpersonal struggles for rule and power. The welfare of the state and the people were not important to the royalty who were more interested in themselves and their own station. Unfortunately, the royal house suffered from the inability to solve its own dilemmas, and turned to Rome for assistance. Whether calling Rome merely hastened what was eventual is at this point a guess. Nevertheless, the invitation to Pompey to arbitrate a major dispute was, in effect, title and deed to Palestine, put into Roman hands by the Jewish leaders.

In a last attempt to secure some power and station, Alexander II led the revolt which resulted in the loss of independence and political autonomy for the Jewish state and people. Naturally, the national affairs-political, economic, social, religious-were affected. Of Roman necessity their

complexion had to be altered. Previous rights and powers vested in the national institutions representing the people were stripped away. There could be no further competition with the Roman Empire.

The society was weak. Without a representative body to work on their behalf, the people had nowhere to turn for support and guidance. Chaos threatened the spheres of national and personal life. The people began to look for solutions to personal and national affairs. There were a variety of solutions. Different groups were active trying to solve the problems in one way or another. Some of the people secluded themselves. Some tried to supplement the old belief with a new one which promised to lighten the burden. Some stood their ground and decided to meet the situation head-on. We are concerned primarily with those of the latter designation. The Pharisees would neither run off to the desert nor turn to another promise of salvation and reward. They were determined to find in their own traditions and past some method for countering the forces which threatened the very existence of their state and their religion (and we must remember the relationship between religion and the state in those years).

This determination to wrest victory from the situation and from whatever opposition there was had to be organized into a program of activity. There had to be a philosophy which could be translated into deeds. The Pharisees required a program of action whereby they could act on behalf of the people; and thereby maintain their leadership and control and

put some order and stability into the society.

We know that Pharisaic Judaism and the product of its later natural development, Rabbinic Judaism, were the authoritative norms for centuries of Jewish life. Rabbinic Judaism remained influential from the time it won its early battles because it was equipped to keep itself in touch with the people and with the problems of the day. Hillel was responsible for this development. He provided the method and the program which led to the strengthening of Pharisaism and the creation of Rabbinic Judaism.

Pharisaic Judaism had been marked by the official control of the Pharisees. They had received official governmental support. As representatives of the majority, the leaders met in legislative assemblies to decide and legislate issues. The Romans had altered this situation. The Pharisaic leaders no longer had official standing of the same degree. They could no longer legislate as they had before. Yet they were in a position of control and leadership even if unofficial; and they were intent on maintaining that status. In order to do just that they had to have a way of keeping in touch with the people. The best way was to provide solutions for problems of the day. Through Hillel and his program, the Pharisaic and later Rabbinic movements were victorious.

The Pharisaic leaders were accepted by the people as their representatives. If they did not have the official standing of earlier years, they were supported at least by the authority given to them by the people who turned to them

for guidance. Hillel provided the method and program which permitted the Pharisaic leaders to continue their leadership. He showed them how they could maintain their position by continuing to be a source of inspiration and guidance to the people. He showed them how they could continue to answer the social needs, even if unofficially.

Hillel raised Biblical interpretation and the hermeneutic principles to the level of authority. Combined, these two were the tools and equipment the Pharisaic leaders required if they were to accomplish their ends. We know of the long struggle between the Sadducees and the Pharisees over the Oral Law. The concept of Oral Law was basic to the Pharisaic philosophy (we may not fully understand how basic it was). Hillel not only gave the Pharisees a method for development of the Written Law; he grounded the Oral Law in the Torah, showing Pharisaic interpretation to be superior and thereby establishing and maintaining the Pharisaic point of view. This has been established through the analyses and discussions of Talmudic passages which indicate Hillel's intention in setting up his methods and procedures.

Another characteristic of Rabbinic Judaism is that the individual rabbi or scholar is thought of as having authority to decide issues. This can be traced to Hillel who maintained that if one had the proper method, he alone could decide and establish a decision and a point of view. And along with this Hillel made the concept of development and growth a basic aspect of the Law. Because the Law was so

important, those who could interpret it could maintain control. Hillel showed those in that position just how this could be accomplished, thereby infusing the Halakah with an expanding and growing spirit.

We have considered five important areas of activity which are indicative of Hillel's influence. The three passages from PT which speak of Hillel's coming to Palestine and the passages telling of Hillel as deciding the important issue before Bene Bathyra have been understood as examples of Hillel proving the authority and authenticity of Biblical interpretation and the hermeneutics and likewise giving Mosaic sanction to the concept of Oral Law, thereby securing firmly the Pharisaic position.

The major controversies with Shammai have been understood as examples of Hillel's progressive point of view with regard to development of the Halakah. They have also been understood as indicating specific developments contributed by and emphasized by Hillel.

The Prosbul, Hillel's legal action based on a legal fiction, remains the classic example of rabbinic ability and willingness to contribute solutions to the social problems of the day. The concept that the Law was more important than the man does not seem to be a part of Hillel's philosophy. The Law was rather a tool for man's use in improving the social situation.

Hillel was a legalist of the first order. His knowledge of the hermeneutics, his ability to classify and make them authoritative in Jewish life certainly entitles him to be called Doctor of the Law. But he was not a theoretical jurist. On the contrary, he was concerned with the practical problems of life. His ability to produce a method which was able to cope with such situations was superior.

The presentations, discussions, and analyses of the primary and secondary sources show Hillel to have been in the lead in establishing and strengthening the Pharisaic and later rabbinic movements. Hillel rooted the Halakah, its future development, the Hakamim and the Rabbis in the Torah itself. He supplied the first method by which this was accomplished. Any later rabbinic developments found their precedents in the work of Hillel the Elder.

FOOTNOTES

1. Alexander Guttman. "Foundations of Rabbinic Judaism" (Hebrew Union College Annual XXIII:part one) Cincinnati, 1950-51. p. 472.
2. David Daube. "Rabbinic Methods of Interpretation and Hellenistic Rhetoric" (Hebrew Union College Annual XXII). Cincinnati, 1949. p. 241.
3. S. Zeitlin. in Jewish Quarterly Review, Vol. XXXVI, pp. 314-315. Suggests that the term Sanhedrin was not used until after the fall of the Temple in 70 C.E.
4. Guttman, op.cit., p. 453.
5. Daube, op.cit., p.242. "Significantly the dibhere sopherim ...are never supported by any arguments."
6. Guttman, op.cit., p. 453.
7. H. Graetz. History of the Jews (transl. edit.) Vol. II. Philadelphia: Jewish Publication Society of America, 1893. p. 70.
8. Ibid, p.71.
9. Ibid, p.71.
10. Ibid, p.89.
11. See footnote no. 3.
12. S. Zeitlin. "The Halaha: Introduction to Tannaitic Jurisprudence" (Jewish Quarterly Review NS XXXIX) Philadelphia: Dropsie College for Hebrew and Cognate Learning, 1948-49. p. 32.
13. A. Kaminka. "Hillel's Life and Work" (Jewish Quarterly Review NS XXX) Philadelphia: Dropsie College for Hebrew and Cognate Learning, 1939. p. 110.
Hazaken = "a name for the great savants who had rather a moral authority."
14. Guttman, op.cit., p.454
Aaron Hymen. חזקת חכמי הלל. Vol. 1.
London: Express Printers, 1910. p.369.
15. Guttman, op.cit., p.454.

16. Ibid, p.455.
17. Nahum Glatzer. Hillel the Elder: the Emergence of Classical Judaism. New York: D'nai Brith Hillel Foundations, 1956. p.46.
18. Guttman, op.cit. pp.469-473.
19. B. Sukka 20a
20. Guttman, op.cit., p.456.
21. Glatzer, op.cit., p.54.
22. Daube, op.cit., p. 244.
23. Graetz, op.cit., p.58.
24. Guttman, op.cit., p.456.
25. Isaac Hirsch Weiss. 1879/ 7/3 7/3 Vol. I. Wilna: Rosenkranz and Schriftsetzer, 1893. p. 152.
26. Meyer Waxman. A History of Jewish Literature. Vol. I. New York: Bloch Publishing Company, 1938. p. 81.
27. Guttman, op.cit., p.458.
28. Waxman, op.cit., p.61.
29. Graetz, op.cit., p.98.
30. Ibid
31. Ibid, p.327.
32. Hermann L. Strack. Introduction to the Talmud and Midrash. New York: Meridian Books, Inc. (with Jewish Publication Society), 1959. p.10.
33. George Foote Moore. Judaism. Vol. I. Cambridge: Harvard University Press, 1927. p.30.
34. Weiss, op.cit., p.160.
35. Guttman, op.cit., p.458.
36. Weiss, op.cit., p.161
37. Weiss, op.cit., p.163.
38. Zeitlin, op.cit., p.18. Zeitlin cites M. Kid. I,9: "Any religious duty that depends on the Land (of Israel) may be observed in the land alone."

39. Ibid, p.20.
40. Guttman, op.cit., p.457.
Tosefta Nega'im, 1, 16 (619) gives a version which is certainly more accurate than the PT version. It reads: "... This is one of the matters because of which Hillel migrated from Babylon (to Palestine)." The PT version, "because of this," (i.e., the first interpretation) is somewhat ambiguous.
41. A.M. Rosenstein. 1879/ 7/3 7/3 Tel Aviv: Achi'bed, 1953. pp.64-65.
- 41a Ibid
42. All translation of Rashi passages taken from Rosenbaum, M. and Silbermann, A.M. (in collaboration with) Blashki, A. and Joseph, L. Pentateuch with Rashi's Commentary, Vol. I and II; Shapiro, Valentine and Co., London, 1946.
43. Ch. Tchernowitz. 1879/ 7/3 7/3 New York: The Committee for the Publication of Rav Tzair's Collected Works, 1950. pp. 197-214.
44. Ibid, p.200.
45. Ibid, p.201.
46. Ibid, p.200.
47. Herbert Danby (trans.). The Mishnah. London: Oxford University Press, 1933. p.678.
48. Tchernowitz, op.cit., pp. 201-203.
Tchernowitz attributes this rule "when two verses contradict one another, the contradiction is removed by a third verse" to Hillel. He cites the Mekilta on Exodus 12:5:
R. Akiba says: One scriptural passage says: "And thou shalt sacrifice the passover-offering unto the Lord thy God, of the flock and the herd" (Deut.16.2), and another scriptural passage says: from the sheep or from the goats shall ye take it" (Ex.12.5). How can both these verses be maintained? You must say: This is a rule about the interpretation of the Torah: Two passages opposing one another and conflicting with one another stand as they are, until a third passage comes and decides between

them. Now the passage: "Draw out and take you the lambs according to your families, and kill the passover lamb" (Ex. 12.21) decides in this case, declaring that from the flock only and not from the herd may the passover sacrifice come.

Tohernowitz credits Akiba with expanding Hillel's point. Lauterbach and Strack, however, attribute this rule to Ishmael. According to Strack, this rule was the one new rule Ishmael introduced. See also Strack, op.cit., p. 288, note 7.

49. Tohernowitz, op.cit., p.202.
50. Ibid
51. Ibid, pp. 202-203.
52. Ibid, p.204
53. Ibid
54. Guttman, op.cit., p.459.
55. Ibid, p.460-61.
56. Ibid, p.461.
On p.462, Guttman indicates where various partial versions appear.
57. Ibid, p.464.
58. Ibid
59. Ibid, p.465.
60. Hyman, op.cit., p.368.
61. Guttman, op.cit., p.465.
62. Ibid, p.466.
63. Glatzer, op.cit., p.29.
64. Jacob Z. Lauterbach, "Midrash and Mishnah" (Jewish Quarterly Review NS VI) London: Macmillan and Co., Ltd. 1915-16, pp.58-80.
65. S. Zeitlin, "Semikah Controversy Between the Zugoth" (Jewish Quarterly Review NS VII). Philadelphia: Dropsie College for Hebrew and Cognate Learning, 1916-17, p. 515.

66. Weiss, op.cit., p.155.
67. Kaminka, op.cit., and Guttman, op.cit., p.462.
68. Kaminka, op.cit., p.107.
69. Guttman, op.cit., p.463.
70. Tohernowitz, op.cit.
71. Ibid, p.199.
72. Ibid, p.211.
73. Louis Ginzberg, "The Significance of the Halachah for Jewish History," in On Jewish Law and Lore, Philadelphia: Jewish Publication Society of America, 1955. pp.247-248, see notes 13 through 19.
74. Ibid, pp. 98-101.
75. Zeitlin, op.cit. (Jewish Quarterly Review NSVII)
76. Ibid, p.513.
77. Ibid
See also Zeitlin, S. "Studies in Tannaitic Jurisprudence: Intention as a Legal Principle," (Journal of Jewish Law and Philosophy I). Cincinnati: Ark Publishing Company, 1919.
"Intention in Jewish law was first recognized and given status by Hillel..."
78. Ibid, p.516
79. Guttman, op.cit., p.470.
80. See note 78. Also, Zeitlin in his article on the Halakah, JQR NS XXXIX, pp. 21-27. He enumerates sources of Jewish Law: "Torah, Halacha (codified in the Mishna) Gzera (a decree for a specific situation), Takkana (an amendment to the Pentateuch or to the Halacha 'to harmonize religion and life' p.23 Introduced by 'interpretio' or 'fiotio') Minhag, Seyag.
81. B. Gitin 34b
82. J.H. Hertz (ed.). Soncino Edition of the Pentateuch and Haftorahs. 2nd ed. London: Soncino Press, 1960. p.811.
83. Glatzer, op.cit., pp.67-68.

84. Danby, op.cit., p.553.
85. Moore, op.cit., p.28
86. Daube, op.cit., pp.239-241.
87. Ibid, p.246-247.
88. Ibid, p.246.
89. Ibid, p.247.
90. Ibid.
91. Ibid, p.250
92. Ibid
93. Ibid, p.251
94. Guttmann, op.cit., p.473.

BIBLIOGRAPHY

- Danby, Herbert (trans.). The Mishnah. London: Oxford University Press, 1933.
- Daube, David. "Rabbinic Methods of Interpretation and Hellenistic Rhetoric" (Hebrew Union College Annual XXII). Cincinnati, 1949.
- Ginzberg, Louis. "The Significance of the Halachah for Jewish History," in On Jewish Law and Lore, Philadelphia: Jewish Publication Society of America, 1955.
- Glatzer, Nahum, N. Hillel the Elder: the Emergence of Classical Judaism. New York: B'nai Brith Hillel Foundations, 1956.
- Goldin, Judah. "Period of the Talmud," in The Jews, ed. Louis Finkelstein. Philadelphia: Jewish Publication Society of America, 1949.
- Graetz, H. History of the Jews (transl. ed.). Vol. II. Philadelphia: Jewish Publication Society of America, 1893.
- Guttmann, Alexander. "Foundations of Rabbinic Judaism" (Hebrew Union College Annual XXIII:part one). Cincinnati, 1950-51.
- Hertz, J.H. (ed.). Soncino Edition of the Pentateuch and Haftorahs. 2nd ed. London: Soncino Press, 1960.
- Hyman, Aaron. דברי חיים. Vol. 1. London: Express Printers, 1910.
- Jastrow, Marcus. Dictionary of Talmud Babli, Yerushalmi, Midrashic Literature and Targumim. Vol. I and II. New York: Pardes Publishing House, Inc., 1950.
- Kaminka, A. "Hillel's Life and Work" (Jewish Quarterly Review NS XXX) Philadelphia: Dropsie College for Hebrew and Cognate Learning, 1939.
- Lauterbach, Jacob, Z. "Midrash and Mishnah" (Jewish Quarterly Review NS XVI) London: Macmillan and Co., Ltd. (for Dropsie College for Hebrew and Cognate Learning) 1915-16.

Lauterbach, Jacob Z. (ed., trans., comp.). Mekilta de-Rabbi Ishmael. Vol. I. Philadelphia: Jewish Publication Society of America, 1949.

Margolis, M. and Marx, Alexander. History of the Jewish People. Philadelphia: Jewish Publication Society of America, 1927.

Mielziner, Moses. Introduction to the Talmud. New York: Bloch Publishing Company, 1925.

Moore, George Foote. Judaism. Vol. I. Cambridge: Harvard University Press, 1927.

Rosenstein, A.M. א'נן א'נן א'נן א'נן. Tel Aviv: Achiebed, 1953.

Sonne, Isaiah. "The Schools of Shammai and Hillel as Seen from Within" (Louis Ginzberg Jubilee Volume). New York: American Academy for Jewish Research, 1945.

Strack, Hermann L. Introduction to the Talmud and Midrash. New York: Meridian Books, Inc. (with Jewish Publication Society), 1959.

Tchernowitz, Ch. א'נן א'נן א'נן א'נן. New York: The Committee for the Publication of Rav Tzeir's Collected Works, 1950.

Waxman, Meyer. A History of Jewish Literature. Vol. I. New York: Bloch Publishing Company, 1938.

No. 27, May 27, 1940. Hadass (New York), Vol. XI

No. 28, June 10, 1940. Hadass (New York), Vol. XI

Weiss, Isaac Hirsch. א'נן א'נן א'נן. Vol. I. Wilna: Rosenkrantz and Schriftsetzer, 1893.

Zeitlin, S. "Studies in Tannaitic Jurisprudence: Intention as a Legal Principle." (Journal of Jewish Law and Philosophy I). Cincinnati: Ark Publishing Company, 1919.

"Semikah Controversy Between the Zugoth" (Jewish Quarterly Review NS VII). Philadelphia: Dropsie College for Hebrew and Cognate Learning, 1916-17.

"Prosbol: A Study in Tannaitic Jurisprudence" (Jewish Quarterly Review NS XXVII). Philadelphia: Dropsie College for Hebrew and Cognate Learning, 1946-47.

"The Halaha: Introduction to Tannaitic Jurisprudence" (Jewish Quarterly Review NS XXXIX). Philadelphia: Dropsie College for Hebrew and Cognate Learning, 1948-49.