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The RESPONSA of R. BENJAMIN b. MATATHIAS,

as illustrating

the Development of the Halaha between the Age of R. Asher b. Jehiel, Author of the Turim (1250-1328) and R. Joseph Karo, Author of the Shulhan Aruch (1488-1575);

and as a source for the

Political, Religious, Communal, Economic, Social and Cultural Conditions in the last quarter of the 15th Century and the first half of the 16th Century, in the South East of Europe.

presented by

Chapter Barnett Joseph. B.A., C.F.

as a Thesis in the Faculty of Arts for the Degree of Doctor of Philosophy in the University of London.



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ABSTRACT OF THESIS.

This work essays to depict the political, religious, economic, and social, including the cultural conditions, of the latter half of the fifteenth century and the first half of the sixteenth century in S.E. of Europe. This description is based on the Responsa written and collected by R. Benjamin b. Matis-yahu of Arta. The material contained in these Responsa were not yet utilised, neither by general historians nor by monographic writers who described the history of the Jews in this period and in this part of Europe. The age of our author as well as the geographical position of the Communities in which the Communal and individual events depicted in the Responsa took place, are from many aspects, of special interest and importance. In the first place, the fifteenth and sixteenth centuries saw changes in the History of Europe generally and in that of the Jews particularly, e.g., the final fall of the Byzantine Empire with all its consequences (1453), the rise of the Ottoman Empire introducing a new epoch in the History of Europe with the beginning of the Turkish Conquest on this Continent, the expulsion of the Jews from Spain and Portugal, and finally the war between Turkey and Venice. Each of these historic events could not fail to make a lasting impression on the destiny of the Jews in the provinces, once under the rule

of Byzance and now under Turkish sway. Such changes of world historic importance left their impress on the political conditions under which the Jews lived. The disappearance of the Greek Empire did not mean the end of Greek environment and yet the Turkish rulers brought gradually new and hitherto unknown methods into the life of all the inhabitants and among them the Jewish Communities. The drawback of the political status was that with such a short period of transition no new organization of Communal life could grow up in such a short space of time. The old organization under which the Jews lived for centuries under the Byzantine Emperors collided with the new order of things and it took almost a century till organised life could again be consolidated.

Another harmful influence arising out of these new circumstances was the deterioration in the relationship between the Greeks and the Jews. The subjugated Greeks, never too friendly towards the Jews, in their midst became even more hostile when they were forced to live under Turkish sway. This will account for some darker events in the political life of the Jews to be depicted in this work.

Another serious trouble in the inner life of the Communities arose from the mixed composition of the individual settlements. The fall of Byzance paved the way for a more tolerant rule of the newly established Ottoman Empire in Constantinople. This new rule opened the gates to the immig-

ration of persecuted and tortured survivors of the Spanish and Portuguese Inquisitions. The newcomers raised the economic and cultural standard of the now greatly enlarged Communities. However beneficial such an influx may have been, it was found to clash with the religious life and customs of the older Jewish settlers whose ancestors founded these Communities many centuries ago. The Sefardi Jews and the original inhabitants called the Romanian Jews (רומניו) were bound, owing to their different origin and habits, ways of living and religious practices, to seek supremacy one over the other. Finally, we notice that the Sefardi element triumphed over the original inhabitants who, in the course of centuries, entirely disappeared or left only slight traces of their early glory. Yet in turn the newly established Communities in which the Sefardi spirit predominated also declined so that every Jew of the once flourishing communities like Arta, Corfu, Janina, Lepanto, Tricola, Larissa, died out or gradually deteriorated. It will be one of the main tasks of this work to search for the reason for this decline. In order to find an answer to this query, special attention has to be paid to the economic and social conditions prevailing in this period and in these provinces which open the way to the better understanding of the history of the Jews in this south-eastern corner of Europe. Political freedom and the more or less profound religious life in the communities, economic prosperity and a higher standard of living

could not safeguard the existence and future destiny of these communities, for all these advantages and attainments were darkened by a gloomy social and moral standard. It can be stated, however, as a general rule, and other historical experience confirms this, that social disunity and moral defects were ultimately leading to the destruction of communal life even where political freedom, religious fervour, and economic well-being were in full vogue.

II.

A few words may describe the nature of the material on which this essay very largely is based. The main sources are the Responsa of R. Benjamin b. Matisyahu, published under the title **שו"ת בנימין זאב** printed in Venice in the Printing Establishment of Daniel Bomberg of Antwerp **אנא'ירא**. begun on Thursday, 11 Tishri 1538. R. Benjamin's Responsa throw some light on and gain some additional illumination from Responsa and works of some of his contemporaries which were fully or partly utilised. Such works are Responsa of R. Elijah Mizrahi (1455-1525)¹, the Responsa of R. David b. Hayim HaCohen (**שו"ת חידושי**), the Responsa of the author's son-in-law, R. Samuel Kalai, known as **חפצי שמואל** and the **כבוד חכמים** of R. David b. Judah Messer Leon (15th century).

(1) Recent biography of Mizrahi by Obadiah **אבן** in Vols. 3 and 4 (incomplete)

(2) edited by S. Bernfeld, Berlin. 1899.

Occasional references will be found to the works of R. Moses Almosnino (אל מושנין 1518-62) who, though younger than R. Benjamin, incorporates many details which synchronise with the conditions described by our author and his contemporaries. The information gained from R. Moses אל מושנין's works is derived from an article by Isaac Malko entitled רבי משה אלמושנין חביו חתירות לקהלת סלוניק ב חמדת השושן עשרת which appeared in the periodical חביו חתירות לקהלת סלוניק (רמק) Vol. 4, pp. 245-256 (גני).

It must be pointed out at this stage that R. Moses Almosnino's activity in establishing the organization of the Jews in Salonika based on the privileges granted by the Emperor of Turkey marks the final stage of a long struggle and is confined to one community, viz., that of Salonika. Yet the antecedents have many parallels to the struggles, and movements in the time of R. Benjamin and his contemporaries and in all other communities of the Greek provinces. It is therefore justified to utilize the material hidden in the works of this scholar and communal leader.

The essay further endeavours to describe the life and activity of R. Benjamin, to give an account of his origin, his family, his education, and his contemporaries, his literary sources and character as far as our information goes. It may be proved that R. Benjamin came from a great and well-known French family of scholars and ecclesiastical dignitaries. His

the Rabbis mentioned above, may enable the historian of genealogy can be traced far back to the beginning of the fourteenth century and survived to the early seventeenth century. The Responsa are a veritable mine of literary sources which are fully described in a special chapter of this essay showing, incidentally the rich literature partly in print but mostly in MSS. at the disposal of a fifteenth and sixteenth century scholar.

Finally a few words may be added about the grouping of the material in the second part of the essay. It consists mainly of four chapters, the first of which is devoted to the description of the political life of the communities in the Balkans in the days of R. Benjamin. This is followed by a collection of the material which allows an insight in the Religious activities and conduct of the Jews in the period under review. The Religious life was greatly influenced by the general political conditions under which the Jews lived and suffered. Besides the political influence, the Religious movements described by R. Benjamin were also also greatly influenced for good or evil by the economic and social advantages and disadvantages under which the Jews in the latter half of the fifteenth century and the beginning of the sixteenth century worked and lived. Thus we are enabled to reconstruct fairly completely a picture of the inner and external life of the Turkish Greek Jews in this not unimportant corner of European Jewry. The numerous details culled from the works of

the Rabbis enumerated above, may enable the historian of the Jewish people to gain information which is otherwise hidden and overlooked.

INTRODUCTION

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latter half of the fifteenth century and the first half of the

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Chapter 3. Characteristics.

(a) Composition and Subjects.

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events depicted in the Responsa took place, are from many aspects

of special interest PART II. In the first place, the fif-

teenth and sixteenth centuries saw changes in the History of

Chapter 1. Political Conditions.

Chapter 2. Religious Life.

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Continued, the expulsion of the Jews from Spain and Portugal, and

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

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Greek Jews in this not unimportant corner of European Jewry.

The numerous details culled from the works of the worthies enumerated above may enable the historian of the Jewish people to gain information which is otherwise hidden and overlooked.

AUTHOR AND HIS WORK.

The Author of our Responsa was R. Benjamin, the son of Matathias. At the end of each Responsum he signs his name

in full, for example זעיא דמן חניא העני בנימין בכ"ה חמיה ז"ל ה'ה
העני בנימין בכ"ה חמיה ז"ל ה'ה

The author indicates in the preface to his collection that he comes from a pious and learned family. In the intro-

duction he speaks of his ancestors in the following terms:-

ח'ם נשענתי בתסדי ה יגיד ובזכות אבותי ואל אשר
לסדתי חרבותי

which is a plain allusion to the merit of his ancestors, who had been great men in Israel in their time! An even

clearer reference to his forefathers is to be found on the same page and reads thus: ורשמי אלה הדברים בזכות אבותי הרעם

Surely he would not have used such an adjective as without good reason known to him and his readers; although hidden from posterity. A third reference to his learned

ancestry is to be found in the heading of No. 176 (p. 272b)

where his paternal uncle ביתס ובמעכה is styled לכ"ז

In spite of these more or less vague references we are enabled by conjecture to link up our author with a well-known family of scholars in the fifteenth and fourteenth

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Correspondence is given in Responsa ascribed to R. Isaac b. Sheshet part 1 p. 7. R. Matathias. Munkacs, No. v. also about these Responsa, essay of Ignaz Lipp in Jahrbuch der Jüdisch-Literarischen Gesellschaft, 1882, pp. 1-43. & also Responsa of R. Isaac b. Sheshet nos 268-272. Grätz, Geschichte der Juden 1903, Leipzig, Vol. 8 pp. 251, 47, 70.

The former Yechanan (probably the son of Matathias b.

Yechanan) who was a contemporary and correspondent of centuries who played a great part in religious and intellectual life of the community before the expulsion of the Jews to whom he addressed a responsa and also of R. Joseph from France in 1394, and who later made their influence felt in the schools and academies of Italy and in the Balkans. My identification is based on a hypothesis He was a brother of Matathias, the author's father, and supported by names that recur among members of the author's also the brother of R. Caleb about whom I shall speak

family. We know that Matathias was the son of Johanan.

Now it does not seem far fetched, first of all, to connect this Johanan with the well-known Johanan b. Matathias who officiated as Chief Rabbi of Paris (1360-85) and who was engaged in a literary feud with R. Meir Halevi of Vienna, who introduced the Morenu title into our scholastic life, and who decreed that besides his nominee R. Hoshaya, no other scholar should have the right and privilege of Rabbinic jurisdiction in France.³

After the expulsion of the Jews from France, the head of the family (Matathias) with his children found refuge in Northern Italy. An Halahic writer (X. b. Raphael)

who lived and wrote in that part of Italy preserved the name of Yechanan Treves and of his son Joseph.

3. This correspondence is given in Responsa ascribed to R. Isaac b. Sheshet par: 11 p. 17 ed. Musiatyn: Munkacs, 1901, v. also about these Responsa, essay of Jayin Lauer in Jahrbuch der Jüdisch-literarischen Gesellschaft, Vol. XXIV pp. 1-43. v also Responsa of R. Isaac b. Sheshet nos 268-273. Graetz, Geschichte der Juden, 1913, Leipzig, Vol. 8 pp. 25f. 47, 70,

The former Yochanan (probably the son of Matathias b. Yochanan) who was a conemporary and correspondent of Raphael, the father of the unknown Italian Halahist to whom he addressed a responsum and also of R. Joseph Colon. The latter, his son , R. Joseph b. Yochanan is also mentioned by this unknown Italian Halahist. He was a brother of Matathias, the author's father, and also the brother of R. Caleb about whom I shall speak later. R. Joseph was the father of three brothers, who liberally supported R. Benjamin when he stayed in Venice in 1538-39 to publish his Responsa. The three sons were Yochanan, Menahem, and Moses, and are referred to by R. Jacob b. Matathias Pava (פּוּאָה), the writer of a rhymed postscript to the whole book in the following terms.

הַעֵיר רוּחַ הָאֲנָשִׁים הַמְהוּלָּלִים אֲנָשֵׁי חַיִּל וּפְעֻלָּם לַהוִיָּל
 בְּשֵׁמִי נְדִיבוֹתָם וְלִפְתוּחַ אֵמִיהֶם וְאִצְרֵיהֶם לְהַדְפִּים חִיבוּרָם זֶה אֲשֶׁר חָתַם
 תְּלִמְדוֹ יוֹחָנָן הֵם הַגְּבוּרִים אֲשֶׁר חָעוּלָם לְבוּשֵׁי סִכְלוֹ כּוֹלֵם נִשְׂא וְנִעְלָה
 הֵי נִכְבֵּד הָרַ' יוֹחָנָן יוֹחָנָן עָשָׂהוּ כִּי מְהֵרָא בְּמַלְאכַת קֹדֶשׁ חָתָן וְאֲשֶׁר
 מִלְחָמָה הָיָה לָוֶה אֲחֵיו הָרַ' מֵתָם מְפֹאֵר וְטוֹב נִתְחַד עֲבוֹתָן אֶל
 נִאֲחִיָּהֶם הַמְּפֹאֵר הָרַ' מֵשֶׁה מְחֻוֵּק בְּמַלְאכָה לְבָל תִּנְשֶׂה אֵלָה
 הָאֲחִיִּים הַנְּעִימִים וְהַנְּאִהָבִים שְׁלֹשָׁתָם כְּאַחַד

sub. 57, 81: pag. 223, 1923, 2: אלא: ג. חכם ופוסק אסתר: Haimonstein: 4

⁵ Nepi Gerundi identifies one of these three brothers with a scholar of the same name who occurs in the Responsa of חה"ר of Padua⁶ and who was author of a work קמח דאבישונא (a commentary on the Italian מחזור) and also a commentary on the Mordecai, printed in Venice.^{7, 8, 9}

Another supporter of the printing of R. Benjamin's Responsa was his nephew, Matisyahu b. Moses in Venice. We read: ¹⁰ ואם המכניז המנוגד ה"ר' חמיתיו בן ה"ר' משה ז"ל. אחי ה"ר החמור יחננו ה"ר. All these men who contributed generously towards expenses incurred in the printing of the Responsa in 1538, were praised for their help by this R. Jacob b. Matisyahu פון אחי for we read: "מה רב טובם ושכרם כי דרשם החמור הזה בעתם"

פ"ש ר'הם שהחזיקו במצוה רבה לא יבוש כל העוסק יבנה

R. Caleb, the uncle of our author is known to us from R. Benjamin's Responsa. From one Responsum,¹² we gather that R. Caleb lived and exercised his authority in Corfu.

ואדו"ה חזו זכורנו גומן ושהיו בקבל קורפו שני עשרות הניב המרוקים מעליהם הנהג דהי"א הגאון חוה"ר דמ"י ה"ר' כלב

⁵ Nepi Gerundi תולדות גדולי וטרמא p.167.

⁶ Responsa R. Meir Katzenellenbogen No. 59. 86.

⁷ Nepi Gerundi , p.178.

⁸ BenJacob אבישונא Vilna, 1880. by ק' דאבישונא

Johanan ben Joseph Treves (1545-1552)

⁹ M. Brull: Jahrbucher , for the family of Treves v. Vol. I pl17-121.

¹⁰ 574b.

¹¹ 575a.

¹² 107.

¹³ 208.182.

that this R. Yedidiah lived in Lepanto, but the grade of his family relationship is not indicated in our sources.

Our author addresses him thus⁷

שאלה חסני קרובי ידוד ה' ה' יחידה אג'ר היום אג'ר

and further¹⁸

אג'ר קרובי ידוד ה' ה'

and again¹⁹

חידעו וקרובי תא ה' יחידה נחמדי

and finally²⁰

שאלה חסני נשא ונעלה יחידה ידוד ה' קרובי ה' יחידה

The family, after the emigration from France, settled in Northern Italy for which there is good evidence as shown above, but whether R. Benjamin was born at Padua, the home of many refugees from the Spanish peninsula and Germany, or not, as suggested by earlier writers, cannot be substantiated.

A similar difficulty arises when we try to settle the year of his birth. Most bibliographers²² suggest the year 1485.

Michel²³ in אג'ר החיים doubts this date, on the ground that since R. Benjamin finished writing his Responsa in 1534, it is quite unlikely that a young man or middle-aged scholar could have compiled such a work. This contention has many internal and external supports which we glean from a careful study of the Responsa. These are: (a) it is unlikely that a young man should have achieved such fame and exercised such authority as is manifested by the number of his Responsa and the large circle of his correspondents (b) R. Samuel Kalai is mentioned

⁷ Mortara חסני לבני יאטלי

¹⁸ Rosanis תולדות היהודים ושבטאיהם p.114.

¹⁹ D. Conforte קריא הדורה

²⁰ Azulai שם הד חיים

Steinschneider: catalogue s.v.

ed. Cassel, Berlin, 1846, p.34

s.v.

as a son-in-law of our author before 1527, and his children are enumerated and are styled as official dignitaries in the Community. Since the children of this issue namely, Jacob Kalai, Moses Kalai, Johanan Kalai, and Matisyahu occupied responsible positions in 1530, therefore presumably Samuel Kalai married about 1500.²⁴ Surely their grandfather, R. Benjamin could not have been only fifteen at the marriage of his daughter and about the time of the birth of his grandsons. This upsets the calculation of our chronologists and bibliographers.

Thirdly we know that R. Benjamin lost his son during his life-time. Surely there would have been some expression of regret and lament at this fact. If R. Benjamin were born in 1485, the age of his son at the time of his death would be no more than thirty three, that is *שלשים ושלשה*. Surely some reference would have been made to his early departure from this human life; and there is no record of such a reference.

Fourthly we have positive evidence for the fact that R. Benjamin studied at the academy of R. Judah Minz at Padua and received his Rabbinic authority from him. Now Minz

²⁴ 51.

²³ Michel: *Or Hahayim*; Frankfurt: 1891 p. 263 No. 601. It is true that R. David Messer Leon received the authorization at the age of eighteen, yet such an early age could not be

R. Judah Minz died about 1505-6.²⁵ Is it likely that a young man of twenty or so should have received the Rabbinic authorization from his master at Padua? It is therefore to be assumed that R. Benjamin was probably born about 1470 or 1475 or thereabouts.

R. Benjamin's teachers were: (1) R. Judah Minz (1408-1506) who officiated as Rabbi at Padua for forty seven years and from whom according to Rosanis,²⁶ R. Benjamin received his Rabbinic ordination. The references given by Rosanis, however, do not corroborate this statement. In a letter addressed to R. David Cohen,²⁷ there is clear unmistakable information that our author was fully qualified and authorised to act as Rabbi in the lifetime of his teachers. His words are:

ורשומי נקטינא חובותי ואוכל להורו אפילו שהם בחיים

This means that all or at least some of his teachers were still alive when he wrote this Responsum. Since the quarrel between R. Benjamin and R. David Cohen took place long after the death of R. Judah Minz, these words then, can be used neither for nor against his relations to the great teacher of Padua. We are on safer ground when we see in these words a reference to R. Hiya Meir b. David, Dayan in Venice, 1510-20, from whom

²⁵ Nepi Gerundi: *חובותי ואוכל להורו*. pp. 122-124.

R. Judah Minz was also the teacher of Judah del Medigo and Elia b. Elkana Capsali both of which latter had literary feuds and Rabbinic disagreements. Graetz: *Geschichte der Juden*, Leipzig, 1913, Vol. 9. p. 34.

It is true that R. David Messer Leon received the authorization at the age of eighteen, yet such an early age could not be

our author certainly received his ordination. This is borne out by his own words written to R. Bendit, saying ²⁷

דאגה עשית את חייך מאמר וחייך עשה אורי

He styles others by the title חורי, for example his uncle

R. Caleb is called דודי וחורי but it is doubtful whether

this is a title of honour or respect or a real indication of actual relationship between teacher and student and nephew and uncle.

(2) Another teacher of R. Benjamin was R. Nathan b. Menahem, Dayan of Venice, to whom No. 101 of the Responsa was addressed and in which the following indications are given:

(a) R. Nathan is addressed in the following way:

אתה אורי וישעי אורי האדון ר' נתן שלי אף שאני סמוך
למוריך לפני החמה ולא להכריע כי אין תלמיד כמוי חכמיך

(b) R. Benjamin in conclusion, signs himself thus :

This makes it sure that R. Nathan was also one of R. Benjamin's teachers. Further evidence of this relationship is supplied

by our author, when he addresses his teacher saying : ²⁹

אתה אורי וישעי טובינה דחביהו חרמנו דלית בה שימי
כרמי ופולי אלופי האורי כ'מי נתן שיתיה גלום לחור
ולמוריך שלי כחבני לי תלמידך לעיין על דיון
והשנים לאורי האדון ר' נתן שלי כותב ושמחה חתום תלמידך
and ends:
בנימין

regarded as general or the usual age for Rabbinic ordination or qualification for the Rabbinate.

²⁶ Rosanis : תולדות אדמו"ר זצ"ל p. 114

Responsa Benjamin Ze'eb No. §0. 39.

²⁷ 248.375b.

²⁸ 239.

²⁹ 1031170.

R. Nathan has no reference to this R. Nathan. R. Nathan is mentioned in the Responsa of אורי of Padua, in Son. 11, 21.

A third instance³⁰ of this relationship is given when

R. Nathan is addressed as:

ואמר החכם האוסף ריחוק הטוב נודע בנשימים אבות מור
ואמר חסד' נמן שיחיה

and the writer signs with the words:

ושלום ורחמים אמר ישיחיה באתר יר רחמידיץ העני בנימין בן ח'

There is a further reference to R. Nathan,³¹ who is mentioned

among the galaxy of scholars residing in Venice, about whom

R. Benjamin says: והישיב הגאון רחמי' נמן תחכמוני אחריו
אמר מל

Responsum No. 306 contains a letter written by R. Nathan

b. Menahem of Eger א"ש א"ל to the community of Arta. The

Responsa of R. Benjamin report that R. Nathan signed a document

on Wednesday 29th II Adar, 1531 in Venice together with two

other Dayanim, viz. R. Isachar b. Shemuel and R. Menahem b.

Isaac. In the same year 1531, he wrote a letter to our

author which is signed נאמן בן חננים ו"ל איש

אמירא כ"ב חט רצ"א לפ"ק פה עיר וונציה

All these indications show clearly that R. Nathan was a

teacher of our author.

Finally there is a reference to R. Joseph Taitzak being
one of R. Benjamin's teachers.³² The term used may be no

more than a mere title of respect or it may actually imply
a relationship existing between teacher and student.

The passage reads: ואמר ר' חיון בנימין כורע ומשתנה

³⁰ 213.206a

³¹ 71.134b.

Nepi Gerundi has no reference to this R. Nathan. R. Nathan
is mentioned in the Responsa of חת"ת of Padua, in Nos. 11, 21.

חיותו לאדני ארמה נל רבה דע חיה הדבר נא
 דאומתיה רבא איכא גאון ויפיה לוי באורייתא
 תמרה נל חזין טובא לנפשיה גאון חיה יוסף
 טייטצאין שוחר הבית והסדר ישחיהו מעלה ועל עולם
 פיר ונניא והוא אשר הלחיץ קרה נקרה
 R. Benjamin married the daughter of R. Solomon b.

R. Samuel Kalai. This inference is derived from the Res-
 ponsa³³ where we read: ואנכי כלת אחד חתם נכח בתורה
 גאון חרי חמו חנה' שלמה ז' לבן חנה' שמואל זעול ואשר
 נדעו והנה היטב בהיותו ושב בקין איטא וגם חתו
 תורה קבלה

Incidentally we learn that R. Samuel Kalai lived in Arta and
 was a teacher of R. David Cohen. Further we learn³⁴ that
 R. Solomon Kalai was also one of R. Benjamin's teachers, for
 he writes: (קבלה חנה' חמו אלופי ר' שלמה
 זעול)

As far as we know, R. Benjamin had a son and a daughter.
 The former is mentioned in a Responsum³⁵, confirming a decision
 of his father which shows his scholarship and authority. In
 1530, he signs a document in which the title דין is
 attached to his name. This incident is, as was shown earlier,
 further proof for dating R. Benjamin's birth earlier than is
 usually done by previous chronologists and bibliographers.

Finally we find him mentioned as a poet. At the end
 of the book³⁶ composed by חנה' ב' בנ' ח' are appended. Then we
 know that חנה' died before the completion of the print-
 ing of the Responsa. The father lamented in a long elegy

³² 42a.
³⁴ 78.
³⁵ 573a.

³³ 247.345a.
³⁶ 97.163b.

the death of his son. The lamentation begins with the words:³¹ *בְּהַעֲדָר חַסְדֵּי הַה' חֲמִינִי וְנָלַץ*

The daughter married R. Samuel Kalai b. Moses Kalai. The identity of this R. Moses cannot be established with certainty. He may have been a brother of R. Solomon Kalai or a brother of R. Benjamin's wife. Since our literary documents do not furnish us with the father's name of R. Moses, therefore both possibilities are open to consideration.

Samuel b. Moses Kalai had ^{four} ~~three~~ sons. Jacob is mentioned in a responsum³² as Dayan in Arta in 1530. His name occurs in Responsum 17 of *שְׁמוֹנֶה עָשָׂר*, where his father explains a difficulty in the work of Maimonides about which Jacob asked him. Moses is also mentioned in the same Responsum as his brother dated 1530. Johanan Kalai may or may not be implied in the signature *יְהוָנָן בֶּן שְׁמוּאֵל*. A fourth son Matisyahu b. Samuel Kalai was instrumental in collecting and revising his father's Responsa *חֲסִידוֹת*.³³ He is further known from his father's Responsum addressed to him in reply to an enquiry on the Talmudic phrase *אֵלֶּי וְאֵלֶּי דְּרַבִּי יְהוֹשֻעַ*. His son (Moses b. Matisyahu was the final collector of R. Samuel Kalai's Responsa under the title *חֲסִידוֹת שְׁמוּאֵל*, which appeared in Venice in 1599.

³¹ Davidsohn's *Thesaurus of Mediaeval Hebrew Poetry* Vol. 4. p. 451. (Thesaurus of Mediaeval Hebrew Poetry)

³² ³³ p. 63-end of 47a.

R. Samuel b. R. Moses Kalai had a brother Elijah b. Moses Kalai, whose signature figures in the same Responsum as

ד'י' in 1530.⁴⁰

The Responsa of R. Benjamin supply plenty of material for the characteristic and literary importance of R. Samuel Kalai. First of all, the Responsa contain a number of letters written by Samuel himself.⁴¹ One of the letters⁴² is addressed to R. Benjamin and is signed by R. Samuel Kalai and is dated Arta 1529. R. Benjamin is addressed as

האזנה חסיד חסד
זה דעתו לו הצעיר
שמואל לבית קלעי ב'ל'ח'א' כחוריה משה קלעי ז'ל'ה'ה
שנת רפ"ט לפ"ק פה קק ארטא

We find his signature on a document dated 1530. Another

decision among the Responsa of R. Samuel Kalai is mentioned in No. 79. Here the writer refers to his father-in-law,

saying
וכבר האריך במין זה אדני חסיד חסד האזנה
חוריה בניחין ב' חגמהו

Another Responsum of R. Samuel addressed to his father-in-law is published in our collection.⁴³ A reference is made to a

letter written by R. Samuel Kalai in his father-in-law's affair against

שמה פלגה. Further a Responsum of R. Samuel Kalai,⁴⁵ written in Venice in 1525, is addressed to

R. Yedidiah, his relative, whom he styles
אחיו קרובו ידד
חוריה בניחין

⁴⁰ 51.

⁴¹ Nos. 39, 78, 94, 249, 290, 400, 463.

⁴² 39.

⁴³ 94.

⁴⁴ 249.

⁴⁵ 290.

and who is probably identical with Yedidiah, ⁴⁶ אביר הרופאים
the doctor, and a relative of R. Benjamin.

There are several references by the author himself to
R. Samuel Kalai. We read: ⁴⁷ טעניא דזיכורו הרב הנזכר השם
ה' שמואל קלעי

It is noteworthy that here R. Samuel Kalai is not
styled 'my son-in-law'. It may be that the Responsum was
written before the marriage between R. Samuel Kalai and R.
Benjamin's daughter. In one Responsum R. Benjamin addresses
his son-in-law thus: ⁴⁸ איך דער האלדף הוה'ן עמי
דמי' ל' שמואל קלעי ז"ל

In another Responsum ⁴⁹ R. Samuel Kalai
is styled דמי' החושב בנאם האלדף החינאם
שמואל קלעי

In yet another ⁵⁰ R. Benjamin glorifies his son-in-
law as צבי קדש במלכות המעשר בכ"ז בסוכה גביר
דשחרן אלן ליה אהו האלדף העמי במיה דמי'
החינאם ל' שמואל קלעי ז"ל

The Responsa of R. Samuel b. R. Moses Kalai appeared in print
under the title of ⁵¹ משפטי שמואל, Venice 1599-1600, con-
taining novellae and decisions.

R. Benjamin wrote his Responsa partly in Arta (or Larta)
and partly in Venice. In the former place, he held an
official position as spiritual guide to the various commun-
ities. First he exercised his authority together with

⁴⁶ 290.
⁴⁷ Ben Jacob.
⁴⁸ 222. 317.
Ben Jacob.

36.85a.
אוצר הספרים, Vilna, 1880, p.387. No. 258

⁴⁹ 403.
Responsa and an index to the Turim, Venice, 1599-
1600, decisions and novellae.

R. Abraham Obadiah ^{ה'רס"ח}, the Spanish Haham in this place as his junior and after R. Obadiah's death, he enjoyed full authority and leadership. In spite of his occupation and prominence as spiritual leader, we have evidence that R. Benjamin was also engaged in business. His business affairs brought him to Venice where however, he found leisure and opportunities to pursue his literary activities. This can

be gathered from the following remark which is to be found in our Responsa: ^{והמעון בדידו הדיוט היה עובדא עם גוי אחד}
^{שטעה מעצמו בסתירה שמתה לו ומן זי יתיר והכנה}
^{כחיו אצל גוים בגוף השוק והחזקה לו ואמרו האדם}
^{זה עם זה ראו כחם אפנים יש לו ראיות}
⁵²

Incidentally we learn here of R. Benjamin's close and intimate business contact with non-Jews. Further it is recorded that R. Benjamin had business dealings with R. Menahem of Corfu.

A third reference⁵⁴ to our author's business activity is given in a Responsum where we learn that R. Benjamin lost a hundred and forty golden ducats on account of Solomon the Quarrelsome, ^{פלגא}, whom R. Benjamin rebuked and thereupon this Solomon the Quarrelsome informed against him to the political authorities. ^{ובקוואתינו תיבום בטביל שהנאמן}
^{תפסיד לי מחמי ק'ח זהובים כאשר הוא ידוע לאנשי}
^{קהל}

Finally in the introduction⁵⁵, we have an allusion to the fact that his chief pre-occupation was in business.

^{ואני מחדושים לא מחדושים בעדנא נאלא מעט חתובה כי כל}
^{נמי אדלתי בסתירה ולפי זה היה ראוי לו למנוע עצמו}
^{ולשונך ידו חתובה לא שהיא חתובה שמים}

This seems to convey the impression that R. Benjamin did not

serve the Communities where he was active as a salaried official. This is the more remarkable since some of R. Benjamin's well-known contemporaries like R. David Cohen and R. Judah Messer Leon derived fixed salaries for their Rabbinical activities. Thus we know that both of these scholars received seventy מנא each per annum, as stipends for their Rabbinical office in Corfu and Velona respectively.⁵⁴

R. Benjamin was not the only one in his time who combined business activities of some kind or other with study and learning. Among his contemporaries, Isaac Abarbanel (d. 1509, styled מלך המלכות)⁵⁵ who distinguished himself as financier and merchant, left a number of literary works as a proof of his studies. There were further many doctors whose literary output of various kinds, for example on grammar and philosophy survive up till this very day. Graetz⁵⁶ records the names of the medical men of note, for example Abraham de Balmes (1450-1503) of Lecce, an friend of Elijah del Medigo and of Cardinal Domenico Grimani, Kalanymos of Naples, Judade Blanis or Laudadeus in Perugia (d. 1553), Obadia or Servadius de Sforzo (1470-1550) and the renowned Jacob Mantin (1490-1549), doctor, philosopher and linguist who migrated from Tortosa to Italy. One can safely

⁵⁴ Introduction to the Responsa of R. David Cohen by his son-in-law R. David Vital.
Wohlgegemut's Jeshurun 1923: Marmorstein, R. David Cohen and the Rabbinate in the sixteenth century.
For a Rabbi who was engaged in business as late as the end of the 18th century, v. Chayim J. Elieser (Israel Abrahams).⁵⁷ Graetz. Vol. 9, p. 34f.

assume that the combination of Rabbinic activity with worldly occupation, as in the case of R. Benjamin, was the rule and not the exception in our period.

Now we turn to his Rabbinic activity as far as this aspect of his life and work does not fall under subsequent chapters on the History of the Rabbinate in our period and the composition of the Responsa, which will be dealt with fully in its proper place. Here it will suffice to mention that his authority was more of a local than of a general character. Most of his questions were localised in Arta and Venice. Questions were also addressed to him and submitted to his judgment from Bologna, Tricola, Lepanto, Pezara and Corfu, where his authority was fully acknowledged. R. Benjamin also exchanged scholarly correspondence with the Rabbinate of Salonika and Constantinople, the chief communities in Turkey and whose ecclesiastical and judicial leaders fully endorsed his decisions and took his part against R. Benjamin's opponents, who were sometimes numerous and very loud in their outcry. A list of correspondents given in a subsequent chapter will show clearly that the numbers of scholars and leaders who sought his advice and guidance were not small. That his learning and analytical methods which will be described further on in detail, warranted his fame and fully justified his correspondents' expectations, is evident from the handling of each case in spite of tiresome repetitions and often irrelevant digressions to be found

in the collection. His work and method was often belittled by later Halahists. Thus R. Meir Katzenellenbogen of Padua, R. Azriel Dayana⁵⁹ and R. Solomon b. Jehiel Lurya,⁶⁰ three scholars of three different schools and countries, consider him unreliable and too simple. Against this may be brought forward in defence of R. Benjamin that most of his weighty decisions were approved of by the leading teachers of the age whose authority cannot be ignored even by the authorities cited. R. Moses b. Israel Isserlis, great codifier of Ashkenazi Jewry mentions in his introduction to *דרכי רשב"י*, R. Benjamin Ze'eb among the authorities whose decisions were omitted by R. Joseph Karo, the codifier of the Halaha for Sefardi Jewry which induced R. Isserlis to supplement the Shulchan Aruch glosses.

R. Hayim Benveniste in his *הגהות* printed in the Vilna edition of the Babylonian Talmud,⁶¹ records a methodological rule of R. Benjamin referred to in our collection.⁶²

A further appreciative reference to our author's work is given by R. Abraham Oppenheimer in his commentary on the Shulchan Aruch in *דעת* חכמת נדב"ס' *קצ"ה סעיף ח'*

⁵⁹ Responsa of Yomtov Zahalon No. 148, p123b.
 Maleahi Cohen in *דרכי רשב"י* par. 43. p.199b.
⁶⁰ Solomon Lurya in *שו"ת* Baba Kama chap. 8, par. 72.
⁶¹ Berachoth, 49b.
⁶² 303.

However that may be, it is not our purpose to defend R. Benjamin and to reestablish his authority: our purpose is to reconstruct contemporary life from his Responsa and to offer a picture of the intellectual, religious, cultural, social, economic and political life, based on the material embodied in R. Benjamin's Responsa.

We have not established as yet the date of our author's demise. An indication is however, preserved in the Responsa of his son-in-law⁶³, where a document is signed by our author together with R. Elijah b. Moses Dayan, and R. Jehuda b. Menahem. Unfortunately the date of the document is missing; yet since all the earlier documents referring to this case, viz. to R. Judah Bibas of Corfu are dated 1541-1542, and the case itself happened in 1538, we are on safe ground in asserting that R. Benjamin was still among the living in 1541 or 1542.

We turn now to a description of the general characteristics of our Responsa, their collection and the method of their composition.

⁶³ Mishpetai Shemuel: No. 81. p.75a.

(7) In No. 298, to No. 276.
GENERAL CHARACTERISTICS OF THE RESPONSA

The Responsa were collected and printed by the author himself. He finished the collection on Thursday, Nissan 6th, 1534, in Arta, and numbered them 1-450. Some numbers contain more than one Responsum. There are frequent cross-references made by the author himself. Examples of references to the numbered Responsa in other parts of the collection are appended here.

- (1) In No. 107, R. Benjamin refers to No. 34.

כרבתו ככה' ה' בסיון ל' ד

- (2) In No. 108, he refers to No. 70.

להבאתי בשאלה ביהוה חתולה סיון ע'

- (3) In No. 367, to No. 365.

להבאתי בשאלה החתולה .. סיון שס"ה

- (4) In No. 355, to No. 309.

אפרוש דפיונות פרושה' .. סיון שט'

- (5) In No. 196, to No. 200.

להבאתי בשאלה .. סיון ה'

- (6) In No. 102 to No. 93.

אפרשמו אני התדיון ש

סיון י"ל

(7) In No. 199, to No. 176.

המצאנו בשאלה ... סימן קנ"ו

(8) In No. 158, to No. 148.

ואני התדיוט הוכחתי ... סימן קמ"ח

(9) In No. 126, to No. 154.

המצאנו בשאלה ... סימן קנ"ד

(10) In No. 281, to No. 214.

ואני האריכתי בדק זה ... סימן קי"ד

(11) In No. 118, to No. 109.

והבאתי לחעלה ... בסימן ק"ט

(12) In No. 118, to No. 90.

והבאתי לחעלה ... בסימן צ'

(13) In No. 118, to No. 108.

והבאתי לחעלה ... ק"ח

(14) In No. 148, to No. 154.

ובשאלה המחלוקת ... סימן קנ"ד

(15) In No. 249, to No. 282.

ואני האריכתי בפסקיו ... סימן רפ"ב

and to No. 69.

וע"ן בסימן ס"ט

and in No. 110.

אפסוק' שפסוק' . . . ומצאנו בסימן ק"י

(16) In No. 393, to No. 239.

ובשובה החתולה . . . סימן רכ"ט

(17) In No. 234, to No. 191.

ואנכי והדיוט הארכאי . . . במצאה סימן קכ"א

(18) In No. 132, to No. 412.

ואנכי והדיוט בניחין היחבאי . . .

סימן ה"ב

(19) In No. 43, to No. 80.

הלוא הוא כתובה . . . בסימן פ'

(20) In No. 112, to No. 110. the same Responses thus :-

אמת היה עיין עיין בסימן ק"פ

and to No. 128.

ואנכי והדיוט הארכאי . . . סימן קכ"ח

(21) In No. 258, R. Benjamin refers to Nos. 292, 69, 110,

(23) 282, 287 and the subjects that are therein dealt with :-

ולא הצפין להעתיק פעם שנית . . .
על הענין כללית בצורת המצאה בסימן קכ"ב . . .
על אשר נפשוה האשה קודם שמתצו . . . בסימן ס"ט
על אשר נשאת האשה לאיש שנחשדה מעתה . . . בסימן ק"י
על אשר אני חנדה בלתי מסכחים עמי בסימן רפ"ב
בסימן רכ"ז

(30) In No. 121 to No. 113.

(31) In No. 359 to No. 359.

(22) In No. 370 to No. 356.

ואני היחבתי זה... בסמן שלי

(23) In No. 36 to No. 103.

ואני בניחין כחבתי... בסמן ק"ה

(24) In No. 203 to No. 191.

הבאתי בשאכה... סמן קי"א

(25) In No. 303 to No. 93.

פנשינו... סמן צ"ה

(26) In No. 253 to No. 243.

ואני היחבתי בדין זה... סמן ק"ה

The collection contains a number of Responsa written
and again a reference to the same Responsum thus :-

(1) R. Abraham... כלך בשמי...
סמן ק"ה

(27) In No. 50 to No. 90.
תחצא... בסמן צ'

(28) In No. 120 to No. 108.
בירחתי... בביאור כתב...
סמן ק"ה

(29) In No. 189 to No. 151.
הבאתי את לשוני... סמן ק"ה

(30) In No. 121 to No. 118.
והנה כתבתי לך נוסח הגמ'...
סמן ק"ה

(31) In No. 359 to No. 369.
הוא עונדע הבאתי...
סמן ק"ה

(31) In No. 359, to No. 369.

(10) R. Issachar b. R. Shmuel wrote number 95.

(11) R. Issachar b. R. Shmuel wrote number 23.

(32) In No. 398, to No. 355. wrote number 175.

(13) R. Meir b. R. Isaac wrote number 22.

(33) In No. 361, to No. 225. wrote number 302.

(14) R. Meir b. R. Isaac wrote number 75.

(15) R. Moses Basha of Navarre wrote number 300.

(17) R. Nathan b. R. Menahem of Nger wrote numbers 24, and 306.

(18) R. Samuel ibn Mayor b. R. Isaac ibn Mayor wrote

The collection contains a number of Responsa written by various authors other than R. Benjamin. They are :-

(1) R. Abraham b. R. Moses wrote numbers 16, 237, 238.

(2) R. Abraham b. R. Yomtov Yerushalmi wrote number 406.

(3) R. Abraham wrote number 2.

(4) R. Abraham Obadiah wrote numbers 14 and 202.

(5) R. Eliezer or R. Bendit Acsildrai Ashkenazi wrote numbers 10, 11, 12, 27, 299, and 307.

(6) R. Gershon b. R. Joseph Bonefacio wrote number 177.

(7) R. David b. R. Hayim wrote number 1.

(8) R. Hiya Meir b. R. David wrote numbers 15, 38, 298, and 391.

(9) R. Joseph b. R. Solomon Taitzak wrote numbers 7, 8, and 9.

contained in numbers 126-139.

(10) R. Isaac / אהרן b. R. Shabbetai / אהרן wrote number 95.

(11) R. Issachor b. R. Shemuel wrote number 23.

(12) R. Calëb b. R. Johanan wrote number 176.

(13) R. Menahem b. R. Isaac / אהרן wrote number 25.

(14) R. Menahem b. R. Shemuel wrote number 308.

(15) R. Moses b. R. Elijah Kapsali wrote number 75.

(16) R. Moses Bashan of Navarre wrote number 300.

(17) R. Nathan b. R. Menahem of Eger wrote numbers 24, and
306.

(18) R. Samuel ibn Mayor b. R. יצחק Isaac ibn Mayor wrote
number 17.

(19) R. Samuel b. R. Moses Kalai wrote numbers 39, 79, 94,
and 290.

(13) Laws relating to the Ban and Excommunication contained
in numbers 233-235.

(14) Laws dealing with Criminal and Private Rights of Possess-

The Responsa are arranged according to the following

subject matters :-

(1) Evidence of Gentiles contained in numbers 1-28.

(2) Marriage Laws contained in numbers 29-53.

(3) Laws of Marriage Contract contained in numbers 54-64.

(4) Levirate Marriage contained in numbers 65-87.

(5) Divorce Laws contained in numbers 87-125.

(6) Laws relating to Women and prohibited degrees of

Marriage, Qualifications of Women as Witnesses,

contained in numbers 126-139.

- (7) Laws of Menstruation and purification contained in numbers 140-159.
- (8) Laws about writing and using the Holy Scrolls, Phylacteries, Mezuzah and the Prayer for Mourners contained in numbers 160-174.
- (9) Laws of Sabbath, Fast-Days and Festivals contained in numbers 175-232.
- (10) Laws relating to Shofar and Circumcision contained in numbers 233-235.
- (11) Laws concerning the Status of Scholars contained in numbers 236-258.
- (12) Laws dealing with Oaths and Vows contained in numbers 259-281.
- (13) Laws relating to the Ban and Excommunication contained in numbers 282-289.
- (14) Laws dealing with Communal and Private Rights of Possession contained in numbers 290-310.
- (15) Ritual Laws contained in numbers 311-347.
- (16) Laws concerning Wine, Vinegar, and New Wine (or literally sour grapes) contained in numbers 348-354.
- (17) The Law of Interest and Deposits affected by the prohibition of usury contained in numbers 355-374.
- (18) Laws concerning Partnerships and Pledges contained in numbers 375-399.
- (19) Laws relating to Informers contained in numbers 400-405.

- (20) Laws relating to Heretics and Apostates contained in numbers 406-409. is included in one number.
- (21) Laws concerning Suspicion of Fellowmen contained in numbers 410-415.
- (22) Laws concerning Documents presented before Gentile Courts contained in numbers 416-420.
- (23) Laws relating to Last Wills contained in numbers 421-427.
- (24) Laws concerning Loans and Deposits contained in numbers 428-450.

Response by different authors, for example Response by R. Hiya
 R. David and two Responses by R. Benjamin appear in
 this number COMPOSITION and SUBJECTS.

R. Benjamin does nowhere betray the reason for following
 R. Benjamin sometimes treats different subjects under
 this order or why he grouped the material under these headings.
 one heading or number: thus

- (1) No. 108 contains a Responsum to R. David Cohen and a Responsum dealing with the problem of an Apostate, who married a Jewess and then refused to give her a divorce.
- (2) No. 102 in the first part deals with a conditional divorce of a dying priest and in the second part deals with conditional divorces of any person.
- (3) In No. 19, R. Benjamin brings two similar cases under one number.
- (4) In No. 114, many subjects are included in one number.
- (5) Nos. 47, 54, 64, 19, 47, contain two Responsa, and there

are other instances, too numerous to record here where
more than one Responsum is included in one number.

Nos. 255 and 256 are completely missing. Their omission is

regarded thus כ אשר נשאל הספר הסדרת חסדו הכתוב שמה

בס"מ רמ"ה וס"מ רמ"ז חפ"ז חפ"ד

They probably dealt with controversial points and may have
references to R. Benjamin's quarrels with his contemporaries
and were accordingly omitted so as not to produce provocation
or disunion in the Community.

Interesting is No. 38, where under one number, we have
Responsa by different authors, for example Responsa by R. Hiya
Meir b. R. David and two Responsa by R. Benjamin appear in
this number.

R. Benjamin does nowhere betray the reason for following
this order or why he grouped the material under these headings.

It must be noted that the titles of the subjects do not always
cover the manifold questions embodied or dealt with under
these general titles or names. At the end of each section

he summarises in a shorter or longer poem the subject matters
discussed. He probably followed in this a well-established

custom to present Halahic teachings in a rhymed form. The
purpose of such presentation may have been to facilitate the
memorising of more or less difficult Halahic subjects. Such

attempts to express Halahic conclusions in poetic form go
back to Gaonic times and were very frequent in our author's

time. We may compare such poetic compositions by Hai Gaon and Halahic poems by R. Judah b. R. Abraham b. R. Solomon b. R. Jehudah Kalaz, with these poems."

As a general characteristic of our Responsa can be observed the following features :-

(1) Every question of Law or Rite is traced back to its Talmudic origin or source. Then the attitude, taken up by the codifiers or commentators of the Talmud is recorded. This throws light on the general standard of education in the time of our author.

(2) Secondly the author takes great pains to elucidate the Talmudic texts philologically as well as from the Halahic point of view. For the former, he makes great use of the Aruch by R. Nathan b. R. Jehiel of Rome. These references are :-

- | | |
|-----------|--|
| No. 228b. | ובנה'א פירש הרב רבינו נחמן בעל הערוך |
| No. 191a. | בעיד דם ראשון |
| No. 257a. | שפורש הערוך בעיד פתא |
| No. 256a. | וכן פירש הערוך לפתא ראשון בעיד קרש |
| No. 197b. | וכן מצאנו ... בעיד ששטן והבואו הערוך עיד סרה |

No. 398b.

No. 75a.

No. 23a.

No. 132a.

No. 107b.

No. 116a.

No. 358b.

No. 388b.

No. 380a.

No. 279b.

No. 268b.

No. 242b.

No. 244a.

No. 287b.

ובעריו פירש פירך געד
כדס' הערוך בערך אלסקם
כדס' היבטמן בעל הערוך ערך נחיש...
פירין בערוך פירין...
הרב הערוך פירש בערך חל...
ופירש הערוך בערך פירש חל...
כן פירש הרב הערוך ערך פירש...

ובעריו פירש פירך געד
כדס' הערוך בערך אלסקם
כדס' היבטמן בעל הערוך ערך נחיש...
פירין בערוך פירין...
הרב הערוך פירש בערך חל...
ופירש הערוך בערך פירש חל...
כן פירש הרב הערוך ערך פירש...

The description of the sources used by R. Benjamin will supply ample evidence for the widespread knowledge and skilful mastery of this literature by our author from the earliest times up till his own days.

(3) Many divergences can be noted though they are introduced by suitable apologetic notes, like

כיון דאמא לידו אפיש לך... ומהו ליעניא...

This latter phrase ending a digression is very frequent. They nevertheless are disturbing digressions which may have not increased the popularity of our author or contributed to the usefulness of the work as was probably intended

- No. 357b. כתב הרב ר' שמעון בעל הערוך בערך צריגות
- No. 360b. בערך כל רביעי
- No. 366a. וכן הבואו הערוך בערך פלן שני
- No. 171a. והערוך ערך סיום ראשון
- No. 173a. והערוך פירוש בערך מבני
- No. 328a. ערך כל רביעי
- No. 345b. ע"ן בערוך ערך קחו שלשים
- No. 388b. כדפי הערוך ערך גונו מא
- No. 380a. בערך היסוד
- No. 279b. כתב הרב ר' שמעון בעל הערוך ערך הפס
- No. 268b. שבע
- No. 242b. וכן הבואו הרב ר' שמעון בעל הערוך
- No. 244a. כדפי הערוך בערך רבב ...
- No. 287b. ומ"ה זה הערוך בערך רב ראשון ...
- אביא גם כן ... הרב בעל הערוך ביש עיר
- סדן ששי

The description of the sources used by R. Benjamin will supply ample evidence for the widespread knowledge and skilful mastery of this literature by our author from the earliest times up till his own days.

(3) Many divergencies can be noted though they are introduced by suitable apologetic notes, like כ"ן דאמא לידו אפיש כך ... והחזור לענינו ...

This latter phrase ending a digression is very frequent. They nevertheless are disturbing digressions which may have not increased the popularity of our author or contributed to the usefulness of the work as was probably intended

Another drawback of the presentation of the material must have been the numerous and tiring repetitions of certain Halahic principles which are repeatedly elaborated in the course of the work. Thus the well-known Talmudic rules of

65a
ועל קמח
דינא דמלכותא דינא
אלו ואלו דברי ר' שמעון ח"ס
 are described very frequently. These divergencies and repetitions do not fully agree with the avowed or confessed purpose of the compilation, which was to serve as an easy guide to the manifold subjects spread in the sea of the Talmud and the Codes.

וכן זה עשיתי כדי שיהיה נקל לכל למצוא
אשר יחפון למצוא במקומם דברי חפץ וכוונתו
ונושא דברי אחר

It is quite true that by giving full quotations and by the method of citations, the author guides the student to the subject matters in all their varied aspects but by his repetitions and by turning from one subject to another without any strict sequences, he made it more difficult for the student to find his way in the labyrinth of the subjects dealt with in his work than was necessary.

The three aims pursued by the author are clearly laid down by him in his Introductory Remarks: Firstly, the alleged decrease in scholarship necessitated a new thesaurus or compilation of this kind. Secondly, the compilation was to serve as an easily accessible source to satisfy his own

practical needs.⁶⁶ Thirdly and finally, R. Benjamin saw in his work the fulfillment of a religious duty and the payment of a vow to his Maker.⁶⁷

It is not our task to judge the author and his literary and Halahic attainments. Ours is to draw from his four hundred and fifty Responsa welcome material for the reconstruction of Jewish life in all its manifold and varied aspects. For this purpose, we turn first to the examination of his sources, which enables us to link up our author with Scholarship and Learning of the generations which preceded him, and secondly to register a list of about one hundred and forty scholars who came into contact with R. Benjamin, either as teachers or colleagues, pupils or antagonists. Some of them are well-known as authors of books and leaders of the Community from other sources. Others left behind little or no traces of their identification or activities except the references to their names and characters, given in our Collection.

In reviewing the sources used by our author, one has to bear in mind the following important facts: (1) that chronologically, he has to be placed between the two most important attempts of the codification of the Halaha, viz.

⁶⁶ 14b.

⁶⁷ 15a.

he stands between the four Turim compiled by R. Jacob b. R. Asher (before 1340) and the Shulchan Aruch of R. Joseph b. R. Ephraim Karo (1488-1575). The very fact that a little more than two centuries after the Turim, a new endeavour for compiling a more up to date guide for teachers and judges, Rabbis and Decisors became necessary, is of great significance on the one hand for the development of the Law and on the other hand as a mirror of the manifold upheavals and changes which occurred in the meantime.

Our author lived in the latter half of this period and both for a wider survey of the literature of this age and for the vicissitudes of history, his material offers a welcome source of information. Secondly in attempting to account for these sources, one must not lose sight of the fact that the printing of Hebrew books was exercising its first influence on Jewish scholarship and learning. Yet in spite of the new light appearing in the works, issuing from the printing offices, many works of literature, hitherto in MS. enriched posterity after the age of our author by being circulated in later printed editions.

After these preliminary remarks, we now turn to the sources used R. Benjamin's Responsa.

SOURCES.

The same observations can be made about the sources used by our author.

The main and most important of R. Benjamin's work was the Babylonian Talmud, which is quoted and copied extensively and on every page. How far he used the Palestinian Talmud as a first hand source in the original is difficult to decide, judging from the scanty references to the Yerushalmi. Moreover he seems to have drawn them from second hand sources.

בירושלמי דפסחים ט' חקוק שנהגו וחייתיה נח' סח'ה

בלאון סימן ט"ו.

ואחריתן בירושלמי דתעניות שעה פ"ג וקמיתיה נח' סח'ה

בעשאין סימן קי"ה.

וכהניא דירושלמי דפ"ק דיבמות והביאה סח'ה

בעשאין סימן נ"ב.

והביאו סח'ה בלאון ריש סימן רפ"ד משם הירושלמי

דבירושלמי והביאו הלן ז"ל פ' אין מעמידין.

ואחריתן נח' פ"ק דערושלמי דשקלים וכן בירושלמי

דפ"ע"פ' ונח' לה נח' ה"ן גב"כ פ' המציה פטוה.

כמו שכתב תמידכו משם הירושלמי פ"ק דין מא

והכי איתא בירושלמי וחייתיה לה ספר האגודה

פ"ק דיומא

וספר האגודה כתב שם סוף סימן ל"ה

משם הירושלמי

כדפתי ספר האגודה פ' דיבמות סימן קמ"א .. ונדע

דבירושלמי שולח ופחות וחייתיה לה האגודה פס' וספר

אגודה שם סימן קמ"ה

483a

14.3b

397b

282b

104a

R. Benjamin accepts the rule formulated by earlier writers that Talmudic teachings or rules omitted by Alfasi are not authoritative.

authoritative.

ואם ר' אלפסי ז"ל לא הביא דברי ר' הונא משום דסבירא

דלאו הכנה ניהו משמע חזיו דכל דאין מביא בהלכותיו אין מופשו להלכה

וכיון שדחה אותם האלפסי איה הלכה אבל ויהי

שסובר שכן הלכה הביא פא.

ודרכו של הרב אלפסי הוא דכל חו. שאין מופשו

להלכה אין מביא בפסקיו.

וכמה חז"ל בכמה דוכתי דדרכו של הרב אלפסי

הוא דכל חו. שאין מופשו להלכה אין מביא

R. Benjamin accepts the ruling of Alfasi that wherever there is a clash or difference of opinion, the older Palestinian Talmud and younger Babylonian Talmud, we are directed to follow the younger Babylonian Talmud. This is based on the rule that the view of the younger sources have more authority than that of the older teachers, because the younger teachers were guided by fuller information on the subject.

דמשמע דבי מקרבא עדיפו חבט בבל ח' מאן פסקון הלכה פתח דידן מהחוא טעמא. (חשעם זה פסק האלפסי שלח עותבון דהלכותא בתלמוד דידן נגד תלמוד הירושלמי דתלמוד דידן במרא הנה שפי תלמוד ירושלמי

Finally where there is a clash between the Alfasi and the Tosafists, the opinion of the latter override that of the older Alfasi. ⁷² ונהגו העולם לפסוק כרב אלפסי בכל מקום. היכא דאיתא חולקים עליו רבותינו בעלי הגמספול. וכיון דהיושן הגמספול עם הרב אלפסי הכי הכבוד ונהגו העולם לפסוק כרב אלפסי כשאין חולקין עליו הגמספול.

In conclusion, R. Benjamin often prefers the ruling of Alfasi even to the detriment of Maimonides and Tur.

RACHI (1040-1105).

Rachi is called by our author 'Light of the World' in a number of passages. His Pentateuch commentary, Talmud commentary and Responsa are often quoted. The latter, a fair number of which are given by R. Benjamin on different subjects, come from secondary sources, for example,

⁷³ מרדכי, סמך, ס' התנומה, ה' הא דתב חידדו בחציעה פ' אהיו שך שמצא בתשובה רש"י ז"ל. ובהשגחה אחת חסידה רש"י ז"ל (הביאה ס' התנומה סמן מ"ה הלכות איסור והיתר). וא"ע"ה דרש"י ז"ל כתב בשמיעה (הביאו הר"ן ז"ל בב"ב פ' החובה פ"ד). כמו שהשיב רש"י בגמספול (הביאו חידדו בתהמות פ' החובב בב"ק

The works TOSAFOTH and PISKE TOSAFOTH. very frequently and

extensively. Sometimes they are subject to discussion

One of the most frequent used source in our Responsa and criticism. On the whole the authority of the works of Maimonides is greatly respected. of the Tosafoth is reflected in a number of instances,

examples of which may be adduced the following:

ח' מהיה ליהם לחלוין על דבריו כדרכם מחוקרים בכל הדעות
עד תבליטם.

כדכתבו פסקי גוספול פ' אחר ליהם תחמונה.

כחו שמצאתי בפסקי גוספול שם.

ו כתבו פסקי גוספול שם פ' הנזכר סימן ר"ס.

וכ' פסקי גוספול פ' החמיר אין כופין להוציא.

מ' פסקי גוספול פ' האומר סימן ר"ל פסקו.

500 (1st half of the 13th Century)

The chief function of the Tosafists was to explain the words of Rashi.

דבן דרך רבנוהינו בעלי הגוספול
להוסיף ולבאר דברי רש"י.

Besides the Tosafoth, later the Piske Tosafoth, which contain decisions arrived at in the Tosafoth and presented in and abridged form, are also frequently made use of as a source.

MAIMONIDES (1135-1204).

Maimonides' works are :-

(1) וד החזקה

(2) Commentary on ח שנה

(3) ספר החצות

78 233.

160. 263a.

80 293a

263a

360a

207a

499a.

(40).

The works of Maimonides are quoted very frequently and extensively. Sometimes they are subject to discussion and criticism. On the whole the authority of the Code of Maimonides is greatly respected.

R. MEIR b. BARUCH of ROTENBURG and his STUDENTS

R. Benjamin had the collection of important works, compiled by the pupils of R. Meir b. Baruch of Rotenburg, which supplied him with the important material left behind by the Franco-German scholars of the twelfth and thirteenth centuries. He made extensive use of the Mordecai by Mordecai b. Hillel Ashkenazi (d. 1298), the glosses on Maimuni (1147-1204)

R. MOSES b. JACOB of COUCY, the SEMAG.

5174 1147 730 1100 (1st half of the 13th Century)

R. Moses b. Jacob of Coucy's work is really a shortened compendium of the work of Maimonides. It enjoyed great popularity in the fifteenth and sixteenth centuries and influenced Halahic literature considerably. This is evidenced by the number of commentaries written in these ages by great Talmudic scholars and the extensive influence exercised by the work on Halahic writings in these centuries. R. Benjamin avails himself on almost every important item of R. Moses of Coucy's work.

The popularity of this work may be further attested by the fact that R. David Messer Leon used the Semag as a text book for his lectures to his students.⁸¹

⁸¹ Rosanis p. 87 and Kevod Hahamim p. 13.

From among contemporary commentators of the Semag, R. Elijah Mizrahi should be here singled out, for his commentary appeared in print in Constantinople in 1526.

^{82, 83} (סמ"ה ה"י"א ד"ר נמ"ן בעמ"ת סוף סימן ע"ב)

R. MEIR b. BARUCH of ROTHENBURG and his STUDENTS.

R. Benjamin had the collection of important works, compiled by the pupils of R. Meir b. Baruch of Rothenburg, which supplied him with the important material left behind by the Franco-German scholars of the twelfth and thirteenth centuries. He made extensive use of the Mordecai by Mordecai b. Hillel Ashkenazi (d.1298), the glosses on Maimuni (המורה נחנ"י) and by R. Meir HaCohen (d. 1263), ספר חמדת (Semak) or עמודי האורה by R. Isaac b. Joseph of Corbeil (2nd half of the thirteenth century), with the glosses of R. Perez b. Elijah (המורה סמ"ק) (died before 1298, probably in 1295), and finally the commentary and Responsa of R. Asher b. Jehiel (Rosh) (1250-1328).

⁸⁴ כמו שהשע רבינו מאן ז"ל
ומ"ה ה"ה רמ"דכ"י ס' המנצח

דכן ב"ה תמיד סוף הלכות גדול ..

כדכ"ה המודפ' בב"מ' א"הו נשך חשב ראבי

אמנם מצאנו חשבת הרב רבינו פרקן . עכ"ל
בהגות אשכנזית

⁸² Benjacob א"צ ר' הספרים l.c. p. 362.No. 2039.

⁸³ 202 ב.

⁸⁴ 1792.

As to the Mordecai, R. Benjamin had several MSS. at his disposal containing this Halahic compendium. This accounts

for the various designations under which the Mordecai is

quoted. Thus ^{מכדכי} ^{מכדכי} and ^{מכדכי} and again ^{מכדכי}

and ^{מכדכי} ^{קצר}. Once the Mordecai is designated as ^{מכדכי זקן}

that is an old manuscript of this work." R. Benjamin used

the Mordecai furnished with glosses, called ^{הגהות מרדכי}.

Some of the quotations from the latter are designated as

^{הגהות מרדכי קטן} and ^{הגהות מרדכי גדול}.
^{ח"ת ל' המרדכי שם ובב"ס} ^{ריש פ' השער אג גפא עלית}.

כמו שהשם ל' הוא מאן ז"ל וז"ל ל' המרדכי פ' המגלה קמא
דכן כתב המרדכי סוף הלכות גידול

ומצאתי בשם רב האו מאן ז"ל... (גביאן נמי המרדכי פ'
הגוזל קמא פשמו.

ואיתא במרדכי ארוך סען תר"ז
ואיתא במרדכי גדול בהגהה.

וכן נמצא במרדכי זקן סאד וז"ל...

וכתב שמעון במרדכי בהגהה ביבמות פ' אלמנה ככה
הערוך... וכתב המרדכי בסעודות בהגהה שם רב

האו מאן ז"ל... ^{ל' המרדכי}

The glosses on Maimuni's Halahic Code are quoted very

frequently. They are divided into two parts, namely

(1) glosses proper and (2) Responsa, attached to each of the

fourteen books of ^{תשענות} ^{ד' תיקון} which are styled

^{השוענות} ^{ל' המרדכי}. These Responsa contain a wealth of

⁸⁵About these designations and the character of these words,
V. S.D. Sassoon's Ohel David, Vol. 1. p.192.

material originating in the Franco-German schools of the twelfth and thirteenth centuries.

The third work belonging to this group is ספר מצותהטן, by R. Isaac b. Joseph of Corbeil. One of these manuscripts of the Semak is cited by our author as the Semak of Zurich, about which Leopold Zunz wrote and collected most of the references; among them those of our author were included in an article which appeared in the *הספרי*.

One or two references will suffice to show the method in which R. Benjamin makes use of the *Zurische Semak*. One or two copies of the Semak at the disposal of our author were furnished with the glosses of R. Perez b. Elijah of Corbeil quoted under the title of *הגהות מהר"ק על הסמך*.

Thus *והם סמך מהר"ק לטוב בנדרות כדמיון לה*
סימן שכ"ב

לדעת סמך כמקור של מהר"ק

*וכתב בסמך במקור האש של מהר"ק סימן קס"ד וז"ל . . .
 וכן מצאתי חששו בסמך שלו בעשה ל"ב . . .
 אחרים בסמך בסמך ל"ג בלאוין. כתב וז"ל . . .
 וכל סמך מצורף בשם ר' הקורבא וז"ל . . .
 וכן תמצא בסמך מצורף בשם רש"י . . .*

*אחרים מצאתי חשיטת חוב רבינו פרק שלא תעשה האשה
 שליה לקבציה*

*דכ"ה רבינו פ"ק [הגהות לפיוק על הסמך]
 שאין צריך שטר - שלחות .*

וכל ככתב סמך הגהות רבינו פרק וז"ל . . .

87
 157^a.
 363^a.
 462^a.
 226^a.
 182^a.
 202^B.
 179^a.

165^B.

Finally extensive use was made of R. Asher b. Jehiel's works, his commentary as well as his Responsa. A few instances to show Asheri's influence on our author will suffice.

(a) Asheri's Commentary on the Talmud is quoted thus

88
 אמת הרמב"ם וז"ל בתלמוד צ"ע
 מ'ע"ה שהעיקר אצלנו דמין שלח לדבר עבירה כדאיתא בקידושין באשריו פ'
 ואגב לך חמשה ה"א והגיונו ב"ו בסור מ"א סימן נ"ט . . . חקדש

(b) Responsa. ובמהלך סוגר במש"ביו כלכל' סימן ח' וז"ל

89
 In one place, we find עין בהמות שניות פ' איזהו שך

90
 פסקי הרמב"ם by R. MOSES of BRUSSELS.

Besides these original works of Asheri and glosses attached to his Talmudic commentary, R. Benjamin quotes also the abridged Halahic decisions known as פסקי הרמב"ם compiled by R. Moses of Brussels.

To this group may be added the OrZerna, with סימני אור compiled by the son of this author, viz. R. Hayim OrZerna, which were used by R. Benjamin. Since OrZerna did not appear in print before the latter part of the nineteenth century, we may assume that our author drew his material at second hand from works previously mentioned or he availed himself of a manuscript of this important Halahic work.

89 497b.

90 Benjacob: מוצר הספרים p.491, No.1016.

91
 286^a . 287^b . 430^a . 102^a . 117^a . 118^a . 301^b . 349^a .
 293^b . 339^a . 400^b . 74^b . 40^b . 46^b . 23^a . 497^a .

The same may be the case with other products of the Halahic literature of the thirteenth century, like ⁷⁹⁰ ¹⁰¹²⁰⁰ by R. Baruch b. Isaac of Mainz (about 1200) or the Rokeah (רקה) of R. Eliezer b. Jehuda of Worms (1176-1238) and others.

THE AGUDA.

written by R. ALEXANDER SUSLIN ר' אלכסנדר of FRANKFORT.
(First half of the fourteenth century, died before 1349.)
The Aguda is one of the most frequently quoted Halahic authors in R. Benjamin's Responsa, and a comparison of the printed edition with our Responsa shows that the greater part of the Aguda is to be found in the Responsa of R. Benjamin. Here some instances of our author's relationship to the Aguda will be registered with the purpose in view (a) to show the way in which the Aguda is quoted and (b) to convey the idea of the authority attached to the Aguda by our author and (c) to show that the Aguda serves as a source for the establishment of current ritual or liturgical customs (Minhagin) and finally (d) to demonstrate that the Aguda offered a wealth of literary material to our author from the manuscripts, which were not accessible in the fourteenth and fifteenth centuries in print, e.g. Gaonic writings, Ravva, Aviasaf, ¹⁰¹²⁰⁰ ⁷⁹⁰ and others.

Just as in the case of the Alfasi or the Semag, R. Benjamin is fond of coupling the Talmudic passage with the

codification of the same by the writer of the Aguda (d. 1340)

91 והביאו ספר אגודה שם בפסוק הלכה,

והביא חיימי לוי ספר האגודה בקדושין פ' האיש מקדש סימן ח'א
ובתלמודינו פ"ב.

והביא חיימי לוי ספר האגודה בערעון פ' עושין פסין סימן כ"ה.
כ"ב ספר האגודה פ' קדושין חשם י"ו.

הדע דב"ב פ' לא יחפור והביאו ספר האגודה שם בפסוק
הלכה סימן ח'ד.

וספר האגודה כתב שם סוף סימן ע"א חשם הירושלמי
וכן פסק ראבי"ה והביאו ספר האגודה שם יבמות סימן קנ"א
וז"ל פסק ראבי"ה.

(פסקים) This applies not only to the Aguda's decisions

but also to his readings in the Talmudic text.

והביא משמע חרב האין דכל לישנא קמא עיקר
כדאיתא פ' דא"ל ובספר האגודה סוף סימן ח'א.
יש לענון זה ב' גרסאות האחד הוא שהחציה באגודה...
והנוסחה אחרונה היא שהחציה איננה ז"ל בספר הנקרא
חסכת הן עדן או פ' הן עדן והיא כעין פירק' היכלת אפיקין
הרכבות וכתוב שם בנוסח זו.
והביא גורם ספר האגודה שם סוף נ"ב זה היה מעשה דהגרי
לאפוקי גרסת ה' גרשום דלעיל.

R. Alexander, author of the Aguda, was held in high esteem

by his German contemporaries and successors.

איש לספוד על דביו ספר האגודה כאשר הוא לחזן
גדול כאשר העיד עליו תלמיד חגוב החסיד מהר"ה
חולין תמצאנו בפסוקי מהר"ק שורש קס"א
170. 272. 466. 113. 195. 258. 470.

R. JACOB b. ASHER, AUTHOR of the TURIM/ (d.1340)

The Turim were the last final codification of the Talmud before R. Benjamin compiled his work. The references are numerous and deserve as a contribution to the development of the codification of the Halaha, special attention.

92
וכן חסד יג'ה פיתן פ'צ .
וכן חסד כתב בטור י'ד הכות נדוי סימן שלח .
כדכתב חסד בח'ה סימן י'ד וז'ל .
והכי חייג' ל'ה חסד ב'ל' סימן קס' .
ואי קשיא לך חסד שכתב הרב ז'ל' והוא שיאמר
וקברתיו כבר כתב עליו חסד פא'ה סימן י'צ וז'ל .
ועל שכתב להודיעך דעת' על עצמ' היחש וכי'צד ד'
חליתתו כתב חסד י'ד סימן ע'א וז'ל .
הוא נקרא תורתו מוחמתו וכל'ה הרב בעל חסד בנו
בטור ח'ה סימן קס'ה וז'ל .

R. Benjamin used all four parts of the Turim. R. David Cohen, contemporary of our author points out simplicity of the Turim, which can be understood by any of the school-children

An older contemporary of R. Judah Minz speaks of officiating Rabbis in his time, who refused to read the Tur, which preceded R. Benjamin's own time. They are:
R. Joseph b. Solomon Colon, of Mantua, (1420-1480), the middle according to their opinion can be handled by the ordinary of the fifteenth century).
... מרביב'ל ו' א'

An opinion by a third contemporary may help us to judge the authority held by the Tur in the fifteenth century, namely R. Judah b. R. David Messer Leon.⁹⁴

In spite of these facts, R. David Cohen attaches importance to the Tur and is surprised that R. Joseph Taitzakk

omits quoting the Tur in the question sub judice,

ואנו אומר שהחמתי ונפלאהי על החכם השלם המכיר שאחרי
כמותו שכתב מה שכתבתי לחי' לא רשע כמור אץ,
בדבר זה

although R. David Cohen himself finds mistakes in the Turim

וב' עקב בעל הטורים כתב בענינים סמוכים או
שטעות נפל בספרים עד שהסיר אותם מכתביו.

R. David Cohen uses these words, which may be either read

as criticism or as an apology of the Tur;

היות הסכמותי שלא להשיב מאחרים אכן קנה קנאתי להשיב
חנם ברבינו יעקב נ"ל בעל הטורים באומרי שכתב דברים
רבים אשר בסתם חוזרים ולא דק ואמתו יאמר אל לבי
כי סמא דבואה משמוקא הייטיין לזכורא

Mention may be made here of R. Benjamin's methodical rule

as to the Tur's way of work in placing the authoritative view

always at the end when he enumerated divergent or opposing

opinions. ודוך הטור שאומר הדעה שחביא בעתו
אומר הוא דעא

This leads us to the Halahic writers of the generation,

which preceded R. Benjamin's own time. They are:

R. Joseph b. Solomon Colon, of Mantua, (1420-1480, the middle
of the fifteenth century).

R. Israel Isserlein of Beustadt, (d.1460)

R. Jacob Landau's Agur (second half of the fifteenth century.)

R. ISRAEL ISHERLON.

R. JOSEPH COLON.

In similar esteem were held the works of R. Israel

R. Joseph Colon is eulogistically referred to as

96 כ' מ' כלל גדול מהאחרונים מהר"ק .

R. Colon, just as the ancestors of R. Benjamin came from

France and settled in the North of Italy. Therefore R.

Benjamin looked upon him as one of the greatest authorities of the previous generation. In one place, he writes:

97 וה' יברך הזמנה לדי חסד שבגב מהר"ק

The Responsa of R. Joseph Colon are quoted extensively

in all parts of our collection, and his decisions are appreciated both from the practical as well as from the theoretical side, which they represent. Some of the sources used by

R. Benjamin, like the Responsa of Agheri and those of R.

Solomon b. Adret are derived from R. Joseph Colon.

98 כדכתיב הרמב"ם ז"ל פ"ו הלכות ה"א וכן דעת הרב קולון בשורש ק"פ חתומה ה"א .

ואיתא במקצת ספרו הקודם והביאו מהר"ק בשורש קכ"א ע"ב

דכן מצאתי משם גדול רבינו שלחן אר"ה והביאה אגב אמה נחמי הגאון מהר"ק בשו"ב ע"א וז"ל . . .

ודין זה תפוש בשו"ב הישג' והביאו נחמי מהר"ק בשורש צ"ד וז"ל . . .

וכן נראה מדברי רבינו יואל והביאו מהר"ק ז"ל בשורש קע"ו דליכא קפידא . . .

כדכתיב נחמי רבינו מאיר בשו"ב והביאו מהר"ק ב"ה רש קכ"א

96 79.
97 154.

(50) .

98 353 ב. 271 א. 194 ב. 571 ב. 63 ב. 62 ב.

R. ISRAEL ISSERLEIN.

In similar esteem were held the works of R. Israel Isserlein, and Austrian Rabbi of the fifteenth century, whose biography was compiled by A. Berliner.⁹⁹ The works of R. Isaac Isserlein are extant in his *Sefer Chofetz Chaim* and *Shema Shelomo*, printed in Venice in 1519, which were available to our author when he compiled his collection.¹⁰⁰

101 וְכִי הָיָה חֶלְקוֹ הַרְבֵּה רִישׁ יוֹגֵל בְּשִׁעְבוֹתָיו
 אֶת־מִצְרָיִם מִהָיָה יוֹשֵׁב בְּשִׁעְבוֹתָיו סִימָן רַע"ד . . .
 וְכִי הָיָה חֶלְקוֹ הַרְבֵּה רִישׁ יוֹשֵׁב

ומה' ישיאל רביא דעור האוסרין ויחמדין וכלל דבין ט"ז.
וא' ע"ה דכרב רב ר' ישיאל בראשון סמן רכ"ה.
ונגד מה' ישיאל בראשון סמן רכ"ה.

עוד תבא חשב ג' ו' .
חיה שחצית בקרסות וכן תבואה הרוב' א'
והרב הרב ה' ח' ו' וק העתק אחד מן
הגדולים דבר העשר פסק כ' ר' .

99 Monatschrift: Vol.18, pp. 130-135, 177-181, 224-235, 269-277,
315-323.

Benjacob. 515-525.

101. 293b 245b. 137a 138a 136 b..

THE AGUR of R. JACOB LANDAU.

Another scholar of the fifteenth century whose work was at the disposal of R. Benjamin, is the Agur of R. Jacob b. Judah Landau, who is quoted twice.

This shows the straight line of the codification of the Halaha from R. Isaac Alfasi up to the middle of the fifteenth century which is the threshold of R. Benjamin's age.

Before paying attention to commentators and writers of the Responsa, methodologists and chronographers, whose names have been omitted from our previous list, attention may be called here to anonymous works, which R. Benjamin quotes and probably drew from a manuscript or manuscripts.

Now these quotations are:-

עוד מצאנו חשב גידול וז"ל
חמה שמצאנו בקונטרס ימן חשבנות הרשב"א
וכתב הרב הישאל וז"ל וכן העתיק אחד מן
ה גדולים דבעל העטור פסק כרש"י

102 313a 258a

103 234a 267b 137a

OR ZERUA by R. Isaac b. Moses of Vienna. (1180-1250).

מכאן חתם אלן שכתב במס רבינו יהודה בן יצחק הקינה להטבחיא...
ועוד יש להביא ראיה להחליט שכתב חתם אורי זרוע דאגוה...
החליט בעצמו לחפור בקבר כיום מאז שני...
עוד חתם חתם סיחני אורי זרוע שכתב וז"ל...
ויש להביא ראיה על זה חתם שכתב בסתמי אורי זרוע...
פ"ב דבמות וז"ל...
ORHOOTH HAYIM. (1) by R. ... ס' האוייל

contains a methodological work in thirty five chapters: (2) by
R. Baruch b. Samuel of Saline, containing Halakic rulings and (3)
by R. Judah the Pious, a ritual and liturgical compendium.

This is probably taken from the lexicon of R. Samuel ibn Gama. ספר אלף החמין

ומכאן חתם גדול שכתב ס' אלף החמין... ששמואל
נקרא אריון

An early Kabbalistic work ascribed to R. Nehunya b. Hakkanah.

אמרו לך חתם שכתב בס' חבהיר

נקוד הויא ראיה מספר בשר טעם החלש...
ספר בשר טעם החלש...
ובהנה בחימון בלכא ת"ר בשלח הדעה כתב...
וכתב הנה בחימון הלכות ת"ר...
ascribed to R. Aaron Halevi of Barcelona, ס' החמין

end of the thirteenth beginning of the fourteenth century,
David Rosin wrote about the authorship of this book in his
article 'Ein Compendium des judischen Gesetzes', Breslau, 1871.
וכתב בעל ס' החמין פתח כו תשא...
והדרו עצמם לעמוד שחיה בדמי שוה כדמי שחיה כמו
שכתב גם הרב בעל ס' החמין סימן קס"ז

לשם השוואה
בגלגל השמימי
בגלגל השמימי
בגלגל השמימי

A slight variant in the manner of quoting is evident from

ספר התכנה . There are three works of this title recorded by Hebrew bibliographers: (1) by R. Eliezer b. Judah of Worms, contain a methodological work in sixty five chapters: (2) by R. Baruch b. Samuel of Mainz, containing Halahic rules and (3) by R. Judah the Pious, a ritual and liturgical compendium. Since none of these works appeared in print, it is difficult to verify our quotations and judging by its nature of citation, we may assume that it is copied from the ספר התכנה of R. Baruch b. Samuel of Mainz.

חדש שם (הבאנו) בעל סמך בס' התכנה ראה ראוי
חשיבות בכל יום שחלום נשמע לחביו על משכון של גומ...
ובספר התכנה כתוב בתשובה...

ספר היפץ by Hefez b. Yaslih. Dr. Benzion Halper in 1915 wrote on 'The Book of Precepts' by this author.

וראה חתומי דב' קמא דסנהדרין (ספר חפץ דביתו) שחוקן בן יחאיו בטל דמ חתומה.

ספר הישר by R. Tam.

וב' בספר הישר לר' ויל...
והביא שחוק קצת משון הרם שאומר בספר הישר...
בהתנגד עם ברבנו' (כביו' תם כתב בספר הישר
בר' משום ד' אומא מל' ת' ת' ת'...

109 422 ב.
111 122 א.
492 א.
1232 (54)
422 א.
262 א.

12 a methodological work by R. Samson b. Isaac of Chinon, Constantinople, 1516.

ופסקין בכול דומה הלכה ברבו חתמו גאון רבו ורבו שמעון
בן אלעזר הלכה ברבו . . . שכתב רבינו שמואל הנגיד ז"ל והרב
רבינו שמשון בס' כהנא

13 a methodological work by R. Joshua b. Joseph Halevi of Tlemcen. Our author probably used editio princeps, Lisbon, 1490.

אמנם רב ערים גאון פסק בו' דברים הלכה כב' ו' וחזקה אומר
ס' הליכות עולם שכתבו חזק ר' ישעיה גאון .
וכ"כ ר' שמואל הנגיד דכך גאון דאוסט לחומה עין בשולח
ס' הליכות עולם .

by R. Zerahya Halevi of Gerona, a Talmudic author of the twelfth century.

14 חשם בעל המאורות שערין שחיה הקשר דגפולין של יד
חפנים כנגד הלכ וצמחוק
אלא עצצ'ל טעם אחר כדפרי ר' זרחיה גאון דגן טעם
בין בזו דגין מפליגין .

by R. Yeruhm b. Meshullam, first half of the fourteenth century, Constantinople, 1516.

15 וכתבו מסם ר' גמ באורו הדבר והביאו גם כן רבינו יוחם
גמ' א' ח' .
ואף דיש ז"ל חסיד כשלא שיה אפילו שעה שלמה שיה
והביאו היצ רבינו יוחם ת' חזק' כ"ד ח' וז"ל . .
ולכ רבינו יוחם גמ' יד ח' א' חשם הרצ' וז"ל . .

12 3480 .
2680

13 1680 .
1616

4600 .
4000

114 822

115 812

רחמי שחצתי עובדא כיהאי שאויע בביה רש' והביאו
רבינו יוחם נמי ט' באור כ'ה בדי' דם וחמי' להנח
האשרי בחולין פ' כל הבשר חשמו .

A slight variant in the manner of quoting is evident from
the above passage.

ועוד כ'ה רבינו יוחם בחלק אדם נמי י' ט' ח'ה דעל תיקן
אנו סומכין .

וכ'ה רבינו יוחם בחלק אדם נמי א' ח'ד ו'ל' . . .

וכן נראה דעה רבינו יוחם במשנה נמי ח' חלק ח' ו'ל' .

וכ'ה רבינו יוחם נמי י'ד שאל וסעה אדם סוחר כי כל אלו
הדברים חיינו בנדרים ושבועות שאדם נודר לעשות .

ולכן עריך ס' כנגד התכל' עצמו וכן חשחך בחלין פ' גי'ג
הנשה וכל' רבינו יוחם נמי ט' אומ'א . . .

ולכן נ'ל'ד' כפי ח'הם דכל עוקי י'ט' ס' כנגד ח'הם
וכל' ח'הם א' והביאו רבינו יוחם נמי ט' סוף אומ'א .

ס' הירושאים } Benjacob, Vilna, 1880, 116
 קוצר פסקי הראש
 p. 534, No. 512, Constantinople, 1515.

(מצאתי חשם גמל בעל הקנים היום אחד וז'ל...)

by R. Jacob b. Asher. Benjacob, p. 145, No. 507 117
 השאח היא ב'ד

This work was printed in Temim De'im.

והיא ב'ד בהשגות בתלמוד יבם ואלוה פ'א תלה טעם דמתיח
 עד אחד חשם חלמא דעבודא לגמלו... 118

by R. Baruch b. Isaac of Worms, Venice, 1523. 118
 וזה ור' גמ וס' תרומה וס' הירוש פסקי דקו'ל כאבא שאול
 דאח חסוד חל'צו קודם...

ונגב ס' תרומה בה' גיטין בסימן קכ וז'ל...

ואם אין ס' כנגדהלך אף חלב מסור כדנגב ס' תרומה סימן ב'...
 וחטעם זה כנגב רביא ברוך בס' תרומה בהלכות שבת בפסק דין ה' 119
 on Tractate Baba Bathra, Prague, 1735. 119
 חידושי רמב"ן

First printed in 4 שיטות of רשב"א

וכן כנגב הרמב"ן בחידושו דכ' אחרון חנגא חלמא הוא...

on Tractate Baba Kama, up to p. 67. 120
 חידושי רשב"א

Benjacob, p. 182, No. 448.

וכן דעת הגאונים ובה'א הביא הר"ן ז"ל פ' החמוש כנגב ס'
 העומר והביאם הרשב"א ז"ל בחידושו...

דכן מצאתי חשם הרשב"א שנגב בחידושו דבעינן שגון לה
 תקדשין לה בפני עדם חשם...

¹²¹ by Don Isaac Abarbanel. Benjacob, pl 223. No. 252.

ובן מצאנו בקונטרס ישן חשם ספר אחד הנקרא ימות עולם וז"ל...

ובן מצאנו בקונטרס ישן חשם ספר הנקרא ימות עולם המהמ"ל מאדם
היצטטן עד הכחי התוספות וז"ל...

כמי שספצנו בקונטרס ישן שכתב חשם ספר הנקרא ימות עולם אינו נמצא
בצי"ב by R. Isaac Nathan. Lyck, 79. Benjacob, p. 291. ¹²²

No. 402.

ובן הבית בעל חגיד חשנה דברי החשב"א ופסקן דבן גהאן במקומה (הרב
בעל חגיד חשנה כתב שם וז"ל...

וה' מצינו שבעל חגיד חשנה נשתי חנה...

Mahzor Vitry by R. Simhah b. Samuel of Vitry, a student of ¹²³

Rashi. Benjacob, p. 317, No. 924.

בחמור ונושרי פיוש הרב רבי שמעיה שהיה עתה חט"ו מפל"ו שאל

ליתן חפתה מידו לידה וחסימא ל"ש בימי עמיה ול"ש בימי לינתה

¹²⁴ A halahic . אורבנ"ז by R. Isaac of ספר חט"ו

compendium often quoted in Orhoth Hayim and in Kolbo. Benjacob

p. 337, No. 1420.

¹²⁵ by R. Joseph Habiba, a commentary on the Rif

and the Ran. Benjacob, p. 398, No. 186.

וזה לדעת הרב אלפסי כדתייתו לה בהדיא נחתקי יוסף דפ'
הוא שאלו וז' . .

והכי משמע מדברי נ"י שם הגטשאל לס"ם הרב נ"ל
שאין פה חגיה דפ' החולקן.

וכל הרב רבי יוסף חביבא הקרא נ"ו שילחי הלכות חזקה
בהלכות קטנות.

וכתב בנ"ד ביבמות פ"ה ע"ל משם הריטבא א"ע"ה דב"ע
לחמ"ס אומ"ה קטלג' ולצחוקין נפשה לא שבקין לה.

וכתב נ"י שם דבשאלח בימה ראשונה א"ה עשה דיבמה
יבנה עליה וודתה תלכו אלע בימה שנה וכול לארשה בגט
מ"ד שכבר קים המצוה.

וכתב הרב ליוסף חביבא הוא הקרא נ"י ברש פנעדון וז'.

וכן דעת הושלח והריטבא ונביא דעידם נ"י ביבמות
היש פ' תמאה שאלום.

וכתב בנ"י הוא ליוסף חביבא דמסן החפושים לה'
הושע בן ק' וכתב נ"י.
ונצחקי יוסף ח"כ כתב שיש להם סוף . . .

Piske Ramban.

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by R. Isaac b. Reuben, nephew of the Rif, always printed together with the Alfani, on this account sometimes called *Sefer ha-Rif* Cracow, 1597.

Benjacob, p. 506.

Piske R. Menahem, by R. Menahem b. Benjamin Rekanati, Bologna, 1538, Benjacob, p. 490, No. 1002.

Sheiltoth by R. Ahai Gaon Sabha, Venice, 1546, Benjacob, p. 562, No. 173.

Abraham
The Tanya a halahic compendium by R. Zedekiah, the Doctor, a Kalahic compendium on Tur Orah Hayim, Venice, 1546, Benjacob, p. 565, No. 257.

ובעל ש"ה העד שחמא נגב שיביו ושעיה היה
נכנס ועובר בשבת ונוסף באותם סעודות קטנות.

ומענהו משם ש"ה הל' סימן ל' דשהביא רמיה ...

ואל יקשה כך הוא דכג פ"ט ע"ה ב"ש"ה' בסכנת ס"ה ...

by R. Isaac of Düren, Cracow, 1534.

Benjacob, p. 606, No. 1163.

בשערי חיות ושערי 4 גהה משם היו רביו אשר וז"ל הגהה
וכ"כ ר"ז חידושה בהגהות וו"ל ...

134
א. 311

163⁸ . (61) . 239² . 135⁵ 461² . 34² .

by R. Isaac b. Reuben, nephew of the Rif, 136
always printed together with the Alfasi, on this account
sometimes called *שערים לרב אלפסי* Cracow, 1597.

Benjacob, p. 605.

ומצאתי בשערי שו"ע שישד הרב אלפסי ז"ל בסוף שער ג'
חשב רבנו סעדיה גאון וז"ל ..

The Responsa of R. Hal Gass, died 1135.

by R. Jeruham b. Meshullam. Benjacob, p. 618, 137

No. 112.

ומצאתי נהגן טעם אחר בס' תורת האדם דהש"ם חכ"י שריה
חפני שהוא שנת הנעשה בשו"ע שלא נדון המאמרים

The Tanya, a halahic compendium, an abbreviated form of 138
Shibule Haleket. Benjacob, p. 657, No. 660.

וס' ד' לדברי חכמי שו"ע בס' הנקרא מגילת סימן ר' וז"ל

Benjacob, p. 657, No. 1171, 1773.

The Responsa of R. Avigdor Katz, of the twelfth century. 139.

Jacob Bamberger wrote about him (Mainz, 1900).

ומצאתי חשב הר' אביגדור כלן דהש"ב להר"ם שר"י בר בנימין וז"ל
וכן מצאתי חשב ר' אביגדור כלן בתשובה ששאלוהו שצריך לנהג
היך ...

THE RESPONSIA OF GAONIM
 וכתבתו סתמיא בגיבור האמות שכל בער שער עולו
 א' ימים צמי' בש דמו . . .

139a.

אחתה סתמיא בגיבור האמות דצריך תתם כחוקר בדג

ועוד מציו סתך למשבו האמות ששאל הושאל
 קצת אדניא האמן סר שכל .

The Responsa of R. Gershom, called the Light of the Exile,
 11th Century.

140.

The Responsa of R. Hai Gaon, died 1138.

141.

Responsa of R. Isaac b. Joseph of Corbeil
 כתבתי סתמיא רגלי הפך דביתים וסנד לדגרי אומ האוקרי
 קדש בלח ובשבות ובימים שובים חס שטמיא ושורג האמן
 ר' י' חקורביל ז'ל . . .

The Responsa of R. Isaac b. Samuel of Dampierre, flourished
 in the 12th century.

142

וה' ח' חצא' כתבתי ר' בר שחואל דשאלה בל ס' א' א' א' א'
 הדוש ור . . .

The Responsa of R. Isaiah of Trani or 12th Century,
 Benjacob, p. 327, No. 1171. Livorno, 1779.

143

ומתעם זר תשיב הוב חסאני על גש שנגב בל ימים ולא
 הרי כגוב בשנים עשרים דכשר הוב

The Responsa of R. Mehaem Rekanati.

144.

CONTEMPORARY SCHOLARS of R. BENJAMIN.

The following is a list of names mentioned in R. Benjamin's Responsa. This list offers an opportunity to make the acquaintance of some of our author's teachers and pupils, colleagues and friends as well as a number of his opponents and critics. Some of these are known from other sources as well, others occur only in our source. Just as their fame is of a varied character so are they divided as to their importance. R. Benjamin's Responsa like all the works of a similar nature are a veritable storehouse preserving the names of scores of scholars. Since Jewish literary history does not provide complete catalogues of all the names occurring in these Responsa, it is most necessary that the names of scholars or other more or less prominent persons mentioned in these works should be catalogued in a monograph, the subject of which deals with one of these collections.

The following is an alphabetical list of the scholars found in our collection:-

(1) R. Abba.

R. Benjamin refers to him in a Responsum thus: ¹⁵⁰

וְנִסְלֵךְ מִכָּל הַפְּסָקוֹת שֶׁבְּיָדֵינוּ שֶׁהָיָה רַבֵּנוֹ ר. אַבְבָּה
בְּרַב אֵלֶּיךָ נִסְלֵךְ בְּרַבֵּנוֹ נִסְלֵךְ וְנִסְלֵךְ אֵלֶּיךָ דְּרַבֵּנוֹ
יְמֵינוּ לְהַרְוֵת מִכָּל הַפְּסָקוֹת שֶׁבְּיָדֵינוּ

¹⁵⁰

422a.

R. Benjamin expresses his surprise that this R. Abba who apparently was one of the prominent members of the Community signed an illegal Hascamah or ordinance.

(2) R. Abraham Hacoheh of Bologna.

R. Benjamin makes his decisions dependent upon the consent of this contemporary. ^{151.} אמר וסכים גם האבן ר' אברהם בן

R. Abraham was further regarded as an important Beth Din

¹⁵² חבולוניא for R. Benjamin, writing in Venice defending himself against his critics, says וא"ל זהב הבן הגדול ברנא הוא וראוי לעמוד בדבריו דגא האידנא נקרא בר הגדול גדול הדור.

There is further evidence of his importance from the fact that R. Benjamin puts him on an equal footing with the Rabbis of Venice and Salonika, who were the most important in those parts of Europe.

¹⁵³ וכתב על העדים והנתי שכוונתי ורבי ונציג והרב חבולוניא כלם כתבא חתמא חתמתי למענו עדים דח'ל'ר

R. Benjamin in his criticism of R. David Cohen, for publishing his attack without writing to him personally beforehand, enumerates the Rabbinic authorities who sided with him, among them being the Rabbi of Bologna

¹⁵⁴ והאבן מורי אברהם בן חבולוניא הוציא בהם

From one Responsum, we learn that the Rabbi of Bologna corresponded with R. Benjamin and an estimate of our author's

opinion of his correspondent may be gauged from the words:

כי הינו דלח לסרב להאמין חוה' אברהם כן מן בולוניה בתחנת דודיה

Since we find an Abraham b. Moses Hacoen of Bologna in this period, we may suggest that the two are identical, namely, that he is R. Abraham b. Moses Hacoen, who occurs in No. 3 of this list.¹⁵⁵

R. Abraham Hacoen b. Moses Hacoen.

Our collection contains a Responsum written by him,¹⁵⁶ in which he informs us that having investigated the arguments by R. Hiya Meir and our author on the one hand, and by R. David Cohen on the other, he is bound to agree with R. Benjamin in his decision.

From his signature appended to a document we learn that he held the high office of Dayan.¹⁵⁷ R. Benjamin's high appreciation of this correspondent is plainly evidenced by the flattering titles he used in addressing him.

הנכבד וכו' ר' אברהם שנקרא רעה ומבואר במורה בתקום יחד
לדולה נגדו וכו' אלה דדנהא חתמו השנה בחוץ חנה
נפידו עליו שמים ועין שמשא וסתר כי זוע איתן כנה רבו
הוא וזרע בחני ה' הוא אבנו וכו' תפארת הרבנים חוה' אברהם
הנכבד נלו

This is the glowing introduction to an epistle of thanks by R. Benjamin to R. Abraham for the encouraging letter which the latter addressed against R. Benjamin's enemies. We also find a reference to him in a Responsum,¹⁵⁹ where he appears

as the last signatory of a letter written to the Rabbinate of Salonika.

(4) R. Abraham ^{אברהם}.

He confirms a decision of his chief, R. Joseph b. Solomon Taitsak in Salonika. He may have been a member of the Rabbinate of Salonika.

(5) R. Abraham b. Yomtov Yerushalmi.

As R. Benjamin quotes him, he must have inserted R. Abraham's Responsum into his collection. This scholar was responsible for the publication of the Prayer-Book according to the rite of the Jews in Byzance, printed in Venice, in 1522. The title reads:

¹⁶⁰ סדר תפילות השנה לחמה קהל רומניא נדפס בקצות

התנח השלם המזכה את הימים האחרים בן השנה והנעלה

ונשוא פנים כח' יום טוב ותשלוח וי' ב' דני אל

ב' ח' י' חנוכה ב' ח' י' שנה ר' א' ב'

(6) R. Abraham b. Menahem ^{אברהם}.

He was senior Dayan in Arta in 1520. His name appears at the head of the Dayanim before whom the death of R. Moses Susi was witnessed. We may adduce that he was older than R. Benjamin as his name appears first on the list of signatories.¹⁶¹ That he was Dayan in Arta is also evidenced from another Responsum.¹⁶² It is strange that in spite of acting as senior judge and signatory to the evidence in the case of Moses Susi,

¹⁶⁰ David Frankel: Lekoroeth Israel, Vienna, p.3.
¹⁶¹ 1.17a.

¹⁶² 237.326b.

he weakened the validity of the document by spreading the rumour that R. Benjamin erred in his judgment of the case. This criticism R. Menahem ascribed to an opinion expressed by the leading Rabbi of Arta, R. Abraham Obadiah ^{הספדי}. It is probable that he was only of local importance for R. Bendit refers to him as one of four teachers who wrote against R. Benjamin in the case of: ^{חיים ואחיו להם סוף}

¹⁶³ ^{ל' דעמי' חתומים וחתומים ואולי שחומים אברהם בן משה' חתום ראש}
Finally his name is appended as first signatory to a letter addressed by R. Benjamin to the Rabbinate of Salonika. Members of this family are frequently mentioned in the Responsa ¹⁶⁴ of R. Samuel Kalai.

(7) R. Abraham b. Nathan.

His name appears in the company of two other scholars to a formulae prescribed for the confirmation of Dayanim in proceedings relative to questions of divorce, in confirming a ¹⁶⁵ ^{אשכנזי אקבצני}.

(8) R. Abraham Obadiah HaSefardi.

He was the senior colleague of our Author in Arta. ¹⁶⁶ R. Abraham Obadiah and R. Benjamin heard the evidence in the two cases of the death of Moses Susi and the drowning of Obadiah Shuldaya and in both cases permitted the widows to remarry. Thus we read:

¹⁶⁷ ^{ועוד חד דעמי דמיא חתמי אברהם אבדיה הספדי, שגבצני}
שגבצני, העדות שהעידו על העני' חתמי סוסי ושל אבדיה, חתמי

¹⁶³ 12.44a.

¹⁶⁴ Mishpetai Shemuel:

¹⁶⁷ 5.37b.

¹⁶⁶ 124.557b.
¹⁶⁵ 124.201b.

That he was Dayan in Arta is seen also in another Responsum,¹⁶⁸ and in yet another passage,¹⁶⁹ we learn that he was older than R. Benjamin as his name appears first in the documents issued by the Beth Din.

Some biographical details may be gleaned from a Responsum¹⁷⁰ where we see that R. Abraham Obadiah amassed a considerable amount of money, part of which he deposited with R. Jacob b. Mordecai with a view to it being used after his death for distribution among the poor of the two congregations, the הביתא (the original inhabitants) and the Apulian Synagogue. Evidently these Synagogues supported him materially probably by giving him a fixed salary or by some emoluments.

והוא נתן להם סכום כסף

We learn further that after the death of his wife, he broke up his home and wandered from place to place till he found board and lodging with a certain Manoah the Tanner to whom he transferred by public deed at the Turkish authorities, the rest of his fortunes. The money deposited with R. Jacob amounted to sixty פאונד or three thousand ducats in Venetian coinage.

Apparently he was not quite sure whether his host, Manoah

¹⁶⁸ 237.326b.

¹⁶⁹ 13.45a.

¹⁷⁰ 422.553b.

would carry out the terms of the legacy in the spirit and in the letter as the testator might expect of him. This can be seen from the provision of his conditions that if at any time he should be in need of material sustenance, he could still be in a position to draw on his wealth. It would seem from the Responsum that at the evening of his life, he was forced for some political reasons to give up his office and to live as a private man. Thus we read:

אין בזה אע"פ אע"פ חסד נדו לא היו חסדקים מעליהם
and again
אמנם גם אע"פ חסד אע"פ חסד נדו לא היו חסדקים מעליהם
and again
אמנם גם אע"פ חסד אע"פ חסד נדו לא היו חסדקים מעליהם
אע"פ חסד אע"פ חסד נדו לא היו חסדקים מעליהם

This evidence is dated as having been effected many years after the death of R. Abraham Obadiah, namely on Monday, Nissan, 26th, 1529, in Arta or Karnina.

Interesting is a note by R. Bendit¹⁷¹ that certain four scholars of Arta maintain that this R. Abraham, unlike our author did not want to accept the evidence of non-Jews in the case of

ח"מ ש"מין ל"ה סוף
י"ב כ"ן ש"מין ח"מין חסד נדו לא היו חסדקים מעליהם

12.144a.

The collection contains a Responsum written by this contemporary about the custom of reciting the Kaddish Prayer. Incidentally we learn to how low an ebb the religious tide

הַעֲדוּת הָיָה וְחוּרֵי ה' בְּנֵימִין קִבְּלָם

In reality R. Bendit refers to the actual copy of the confirmation that had been written by R. Abraham of our author's decision.

וְכֵן כְּחֵיוֹל הָעֵדֻת פֶּסֶק הָאֲבִיבִי חוּרֵי בְנֵימִין וְחֵיוֹל בְּנֵימִין
הַפֶּסֶק הַזֶּה חוּרֵי אֲבִיבִי עֹבְדֵי הַסְּפָרָדִים וְכֵן . .

In another instance¹⁷³ R. Benjamin's decision is personally confirmed by R. Abraham Obadiah.

The same decision of the two scholars was confirmed by R. Joseph Taitzak, head of the Rabbinate in Salonika.¹⁷³

We can safely assert that R. Abraham Obadiah and R. Benjamin worked in harmony together. This shows the unity of the Ashkenazi and Sefardi sections of the Community. Another sign of the harmony which prevailed between the Sefardi Haham and the Ashkenazi Rabbi may be gained from the unanimous action in imposing the ban on a certain informer against the leaders of the Community, accusing them before the political authorities with deception in administering the tax.

וְאֵלֶּה הֵם כְּחֵיוֹל בְּהַסְכֵּם חוּרֵי אֲבִיבִי עֹבְדֵי הַסְּפָרָדִים
(וְהַדְּיוּתָם כְּדֵי שֶׁלֹּא יִקְפּוּץ כֹּל אֶחָד וְאֶחָד לַעֲשׂוֹת כְּדֵי הָיָה)

The collection contains a Responsum written by this contemporary about the custom of reciting the Kaddish Prayer.¹⁷⁴

Incidentally we learn to how low an ebb the religious tide

flown when R. Abraham writes that the Communities were not conversant with the recital of the more frequent parts of the liturgy. Thus we read:

וּלְעִדְיָה שְׁלֹפּוֹ שֶׁאֵין כָּל חֲנוּמִים נְחֻמִּים יְחִזְקִינֵם לְנוֹחֵי כֵל
וּלְעִדְיָה שְׁלֹפּוֹ שֶׁאֵין כָּל חֲנוּמִים נְחֻמִּים יְחִזְקִינֵם לְנוֹחֵי כֵל
הַגִּפְסָה וְקָדָשׁ וּבִדְמָה וְלֹא כִּי הָאֵדָם וְיִדְעָה גַם לֹא יִכָּל לְהַפְסֵל בְּכָל
יְמֵי חַיָּיו שֶׁיִּהְיֶה דָּבָר יָקָר וְכִי יִשְׁמַע יְיָ אֱלֹהֵינוּ

The high esteem in which the Sefardi Haham was held by R. Benjamin may be gathered from the very fact that his Responsum were incorporated in our author's collection. According to Freimann, he is identical with the Paytan Abraham Sefardi whose poems are preserved in the prayer book of the Karaites and was made a Karaite by Abraham Firkowitsch, according to him in the tenth century. The view of Firkowitsch was rejected by a number of scholars as untenable.

(9) R. Abraham b. Solomon ibn Alhadab.

The name of Alhadab points to an eastern origin. From a Responsum we learn that he was a Dayan in Corfu in 1530.

(10) R. Aaron Halevi.

He was a correspondent of R. Benjamin to whom our author wrote in the following terms:

שְׂמֵאל חֲסִיד יְדִיד לְפָנָיו הַמְּלִיכִים מִיְּהוּדָה הַגָּדוֹל בְּרַחֲמֵינוּ

עַל אֲשֶׁר שְׂמֵאל יְדִיד הַמְּלִיכִים מִיְּהוּדָה הַגָּדוֹל בְּרַחֲמֵינוּ

¹⁷⁵ 297a.

¹⁷⁶ Encyclopedia Judaica: Vol. 1. p. 545.

¹⁷⁷ 26. 66a.

¹⁷⁸ 136. 226a.

¹⁷⁹ 162. 264b.

(11) R. Acsildrai b. Eliezer.

He was probably of German origin and held Rabbinic office in Lepanto to whose civic custom he refers. We gather from his Responsum that the Minhag was that all classes of the Community, irrespective of the financial standing, bought the ^{מסלופי} that is the amount paid to the Guardians of the City, each one contributing according to his means. This seems to have been an old established institution ^{סאונל מחדד נאחד קונט כפי יעלדו ונדן נאדל מונגל}
^{יה כחה יחיה ומן רב}
He confirms the decision made by R. Benjamin and the latter's son-in-law, R. Samuel Kalai.

(12) R. Elijah, the Doctor.

A reference to him occurs in one of our Responsa. At one time he was aman of considerable means who latter lost all his possessions. It is questionable whether he may be identified with R. Elijah Halfan, registered in No. 13.

(13) R. Elijah b. Abbamari Halfan, the Doctor.

This contemporary of R. Benjamin was a doctor. We find him dedicating money to his intended son-in-law and afterwards R. Benjamin informs us, he was bespoiled of all his possessions.¹⁸¹

His full name was R. Elijah b. Abbamari Halfan, who was singled out for especial reference by R. Benjamin as a Doctor, who materially supported the printing of the work,

and R. Benjamin Motals, edited by R. Aaron Galmidi, under the title 'Zekan Aaron', Constantinople, 1734.¹⁵⁷ (2) חמור

כס דהנה, a dissertation on the subject of Asmahta, printed in R. Benjamin Motals חמור ישרים Venice, 1622. His manuscripts are (1) כס דהנה

a moralistic work, (2) four collections of poems, under the title בית הכס. The works in manu-

script are enumerated by J.N. Simhoni in the Encyclopedia Judaica, Vol. 6, p.499. He lived in the time of R. Elijah Mizrahi and refers to our author in paragraph 108 of his Responsa 'Zekan Aaron'. We find his name as signatory to a letter from Constantinople to Arta. 158 גלילי כסו זקני

(16) R. Elijah Mizrahi. (1455-1526).

He was a Talmudist of the school of Jehuda Minz of Padua. Of all his works, the supercommentary (published in Venice in 1527) on Rashi's exposition of the Pentateuch was probably the most important. He is referred to in most eulogistic terms by R. Benjamin.¹⁵⁹ The reference reads thus:

רבה דעמיה סדרתא דא וחסיה כרבא דכולא ביה עפיה שפיר
ושגיה אנבי רביא איזנא וקק וירמיה חבם עדק חסונה ונהוריה
שייה עמיה אגו אביריב שיעא ופושטו וחבלל יופי ומגרשו חבתי
הזון וכל קדשו חשיב חסיה שיער בתדושיו שיער וציל ורפיו
ולא חסון שבוגיה לנפשיה לעו בהוריה תמורה וחזון לכוליה
בה ומה יחזון כל בשירי נחל חסונה חסדן חסדן וחזון קופר
היובלים וקופר שז בשחם אונכ בזים אל שז חסונה עמון

¹⁵⁷ Azulai שם קאדאליים p.13, No. 34.
¹⁵⁸ 305.441a. ¹⁵⁹ 448.346b.

To the references given by Harodezky, Encycl. Judaica, Vol. 6, p.478, ours is to be supplemented. (46) v. monograph Sinai, June 1940-1

(17) R. Elijah Kalai b. Moses Kalai. Dayan.

His name appears as a signatory to a document.¹⁹⁰ About his relationship to R. Benjamin, see Chapter. I. He was probably a brother of R. Samuel b. Moses Kalai, the son-in-law of the author.

(18) R. Eliezer b. Abraham. Dayan.

His name appears as a signatory to a document, formulated in our collection.¹⁹⁰

(19) R. Eliezer b. Jehuda.

This name occurs in a formula to be used for appointing a אֶלֶזֶר בֶּן יְהוּדָה.

(20) R. Eliezer הַשְׁחֵנָזִי b. Shimeon Ashkenazi.

We find him as a contemporary of our author in Salonika who confirms R. Benjamin's decision in allowing the wife to remarry in the case of Moses Susi.¹⁹¹

He occurs too as a signatory to a document, issued by the Rabbinate of Salonika, confirming a particular ordinance. This was in 1514.¹⁹² He was considered the Chief Rabbi of Salonika, and corresponded with R. Benjamin. He died in 1530.¹⁹³

(21) R. Eliezer of Apulia.

(22) R. Eliezer Todros.

He confirmed a decision of R. Joseph Taitzak, who in

¹⁹⁰ 51.110b.

¹⁹¹ 7.41a.

¹⁹² 304.439b.

Rosanis: p. 83. v. also קורא החורג of David Conforte, ed. Cassel, p. 32a.

¹⁹³ Rosanis: p. 81.

turn confirmed one of R. Benjamin's decisions.¹⁹⁴

(23a) R. Elijakim Segal Ashkenazi.

We find him as one of the authorities on whom R. Benjamin relied when he decided that a brother-in-law may be compelled to perform the rite of חל יצי (release), instead of the Levirate marriage.¹⁹⁵ He was probably in Venice, and was mentioned by R. Elijah Capsali in Porges extracts from the British Museum manuscripts in the REJ., where probably his full name is to be found.

(23b) R. Elijakim Segal.

Another contemporary who lived in Greece was R. Elijakim b. Michael, known by his liturgical compositions. He lived about 1520 but there is no indication as to his Halahic activity, which would give us the right to identify him with the R. Elijakim mentioned by R. Benjamin.

(24) R. Asher.

A reference to him shows that he refused to pay the annual tax to the ruling king.¹⁹⁶

(25) R. Bendit. (c.1460-1540).

A Rabbi of Venice whose eminence may be gauged from the passage, which reads

והוא אצל חסד חסד'ה בעניניו הוא ברין

¹⁹⁴ 8.42b.

¹⁹⁵ 78.144b.

¹⁹⁶ 294.417b.

R. Benjamin referring to R. Bendit as a distinguished Member of the Rabbinate of Venice, speaks of him in very eulogistic terms thus:¹⁹⁷

בעומדי לפני הרים חתני הגבירים הנשאים והימים הרבנים
אשר היום נאספים בישיבה כנהירים חסידים ולא חשחאליהם ומכלל
החאטים האון השלמים הוא חתני בענדיש גר'ו

The term בעומדי may imply that he was the teacher of R. Benjamin and this relationship was probably indicated in the poem composed by the son of our author in the line

בקיאותו והוראותיו הנחמיו חתני בענדיש פופר ספירנאון ^{199.}

He was ordained Rabbi by R. Judah Minz of Padua before 1500, and is referred to in our collection as an authority of long standing. R. Benjamin evidently attached great importance to his decisions as may be plainly seen from a superscription to one of the Responsa²⁰⁰

ואתני זה בראשית שהסכים עמי האון חתני בענדיש אן
והרב יצחק חתני הנראות הוא כחן נסחך חרפא אריות
להוראה החמאוד הגדול חתני יהודה חתן צדוק

The esteem in which R. Benjamin held this contemporary may be further seen from the manner of address used by R. Benjamin, for we read:²⁰¹

שלם שב ליב שב חתני שב כהאון ג'ה אכופתו חתני ג'
בענדיש אחי שלם ולוורתו שלם ולכל בני תשיבה שלם

Incidentally from this Responsum, we learn that he was much older than R. Benjamin, for he ordained R. Haya Meir b. David who in turn gave Rabbinic Authorization to R. Benjamin. This

fact is expressed in the following terms:²⁰²

דאגה עשיג אה חייג וחייג עשיג איה

That he was also regarded as a ^{ב' דהגדול} equal in authority and importance to R. Joseph Taitzak may be seen

from the passage ²⁰³ ח' חייג בחקע המשפס גחז הדור דהייג הגאון אהייג

חיה' יוסף טייטצאק וכו' וכו' רבנן כו' דהייג הגאון
חיה' בעגדיש

R. Benjamin inrefuting the criticism of R. David Cohen for lodging his objections to R. Benjamin's decisions and not writing to him personally, enumerates Rabbinic authorities, who sided with him, among them being R. Bendit.

²⁰⁴ אה כותב ע'ל הגאון חיה' בעגדיש שראוי לאעווי בהם
בגויפתי

Further R. Benjamin's estimate of him may be gauged from the fact that R. Bendit's Responsa are included in R. Benjamin's collection. Thus we find him as the author of a Responsum²⁰⁵ where he confirms R. Benjamin's decision in the case of the marriage of Moses Susi's wife. We have incidentally, the full form of his signature here, thus:

נאם אכסילדראי ב' אלזיעזר הנקרא בעגדיש
אכסילדראי אשכנזי

Two other Responsa²⁰⁶ of our collection were also written by him. This raises the question whether R. Acsildrai b. Eliezer enumerated above under No. 11, is not identical with this R. Bendit.

Interesting too is a reference by a writer, Moses Bassan of Navarro, who wrote ¹⁵²⁵ *הומאנה רבני* to the effect that

R. Bendit was a supporter of the decision of R. Benjamin and R. Samuel Kalai

ולכן כדחשנא חונא ורבנא מ' חיהין
הגאון חותי' בענידיש שהסכים בפסוק שפסוק האלוף חותי' בני חין
בר' חתמיהו וחמא פלפלא חיוסא חותי' שחמאל קלעו יע' וט

²⁰⁶ One reference to R. Bendit occurs in a Responsum from which it seems that ~~he~~ supported a certain Solomon, the Quarrelsome who in Venice had used derogatory language to the Congregation and their Spiritual Heads, calling the Communities Apostates (*חטאים*) and their leaders asses (*חמורים*). This Responsum seems to have been written ^{to} R. Abraham HaCohen, of Bologna. Apparently he ignored the decision of R. Benjamin, and R. Benjamin defends his position against R. Bendit. The actual reference reads: *וחתמי נבוא אל ההומצלות על אשר*

כתב חותי' בענידיש וחז' לא חונא חתזק דבריו ואגתה הוא בעיני' איך יעלה על דעה חר שיצא חתמ' ידי דבר שאינו חתוקן

We find him finally as having confirmed a decision issued by the Rabbinate of Arta. In this confirmation, his signature appears appended thus:

נאם השריד מכסיל דר בר' אליעזר הנקרא בענידיש מכסיל דר
אשכנזי ²⁰⁹

This signature would settle our previously raised query as to the identification of No. 11 and our R. Bendit in the

affirmative. 210

(26) R. Benjamin b. Joseph.

Judging from the title with which he is addressed, he
probably was a prominent Member of the Community. (אלה המדריגים, המכונים).

He was also a relative of R. Benjamin as may be seen from the phrase $\overline{\text{בן}} \overline{\text{אברהם}}$. The same signature is also append-

ed to another Responsum איהו יקריב. R. Benjamin
addresses him thus: איהו איהו עיניו. Evidently

he regarded him as a man of authority in Janina, as may also be inferred from the phrase used by R. Benjamin in his Responsum to his relative, Vaz. . . .

One may question whether this R. Benjamin was not the paternal uncle of R. Benjamin's father, that is, brother of Johanan, son of Joseph.

(27) R. Benjamin b. Menahem.

Benjamin refers to him as one of the signatories to the Takkanot Ferrara.²¹³ The names of the signatories are given in Sassoon's Ohel David (717'2).

(28) R. Benjamin b. Shemarya.

He was a relative of R. Benjamin but we have no exact information about the grade of relationship. He was also the teacher of R. Samuel Kalai to whom the latter refers thus.

ואב"י הצעיר כן קבלתי מב"י רבנו' שהיה רא"י הגאון
 מ"י חיותי בנ"ח"ן בן שמו"א

From this reference, we gather that he prohibited the marriage of a brother-in-law with a deceased brother's wife. A further reference to this scholar, R. Benjamin b. Shemarya is to be found in the Responsa of R. Samuel

Kalai, where we read: כ"י שמו"א והוא ב"י שכן הסתירה
 פ"ע שג"ה וחש"א הד"ר ה"כ ת"ב הד"ר ח"י חות"י
 בנ"ח"ן בן שמו"א ז"ל

Another reference to this contemporary shows that he was slandered by a certain Shemarya b. Abraham in connection with taxes payable to the Crown. We read:

ז"ע ג"א ח"י"ג כה"ל ש"ן להחכם הש"ס הוא חות"י בנ"ח"ן ב"ר
 שח"ר"א על ענין חס המלך

We find him further as a correspondent of R. David Cohen in the Responsa of the latter, where he is styled

218 מלכות ומס"כ נ"גה ומו"ב ע"י ח"ד ויק"ל ע"ן הד"ר
 ד"ר ח"י"ה חת"ר לעקור ולשער הוא כחות"י בנ"ח"ן
 בן כ"ס"ה ח"שמו"א ז"ל

(29) R. Baruch ב"ן.

We have only one reference to him as a correspondent of R. Benjamin. 219 , שמו"א א"ה וד"ר לבי"ד כ"ק

(30) R. Gershon b. Elijah.

He is referred to as living in Venice in 1525²²⁰, and to his learning, R. Benjamin pays tribute, as may be inferred from the reference.

216 Mishpetai Shemuel: No.3. 4a. 217 249.357a.
 218 19.48b. 249 265.380b. 220 248.347b.

וּפְהִי הִקְרִיב ה' אֶת הָאֲלֹכִים בְּךָ חֵמִי' גִּישָׁם גִּר'וֹ
וְרָצָה וְהִנֵּיךְ אֶת כָּל הַדִּין כִּפִּי רָאוּ שֶׁכָּל הַבְּהִימָה
וְהַנְּעִי שֹׁלֵחַ לִי דַחְבִּי' ²²¹

(31) R. Gershon b. Joseph Bonefacio.

He is referred to in a Responsum together with the
author's father-in-law, R. Solomon Kalai and R. Eljakim
Segal. He is styled ²²¹ וְקָבַל מִתַּנְחִינ' הַיִּשְׁשִׁי אֶלְפִי

רֹאשׁ אֲחִינוֹ חֵמִי' גִּישָׁם בֶּן פֶּאֶצִי ז"ל. ²²²
His name occurs again confirming a decision given by R.

Benjamin, in which his signature reads

צִיִּי הַחֲסִידִים גִּישָׁם בֶּן הַרְבֵּ בִּיטוֹ פֶּאֶצִי ז"ל ה'ה'

(32) R. Gershon.

A Responsum of our collection contains a letter written
by R. Solomon ²²³ ב. Samuel to a R. Gershon, who
may perhaps be identical with R. Gershon b. Joseph Bone-
facio. Characteristic are the titles with which R. Gershon
is addressed. ²²³ דָּבָר עֲדָה חֵמִי' ²²⁴

(33) R. Gad b. Naftali. Dayan.

He was Dayan in Arta in 1532.

(34) R. David b. Hayim HaCohen. - R. David Cohen.

He was probably an older contemporary of R. Benjamin, a
pupil of R. Judah Minz in Padua (d.1506), and officiated
in Corfu, Lepanto and Petras. ²²⁴

His Responsa appeared under the title ²²³ שֵׁנִי וְגו' חֲתָן

²²¹ 78.144b.

²²² 177.274a.

²²³ 111.

²²⁴ D. Conforte קוֹרֵא הַחֲרִיב, p32a.

Riesch. Cat. Bodl. col. 26785.725.

(84).

published by his son-in-law, David Vital, Constantinople, 1537.

These Responsa are very useful for supplementing the information and material gained from R. Benjamin's Responsa as will be shown in the respective chapters. Here our remarks will be limited to the personal relationship with R. Benjamin and biographical details about R. David Cohen gleaned from the perusal of R. Benjamin's Responsa, which are numerous.

The controversy between the two scholars must be left to another part of this work. We gather the following details about R. David Cohen and about R. Benjamin's relations to him. First of all that R. David Cohen officiated as Spiritual Leader in Corfu and Lepanto where he enjoyed great authority.²²⁵ His stay in Corfu is mentioned in our collection.²²⁶

זכרונות בזמן שהיו בקרקת קורפו שני צנטימ הורג החייתים
מעליהם הזהב דהיינו האמון חורי דורי חתה' הכלב והאמון
חתה' דוד כ"ק

Incidentally we read:²²⁷

ואפילו כשהיה נושא הרב בפסן בקרקת קורפו חתה' היה
שהיה נחמד עמו בכל דין הבא אצלו יען כי זקן ונושא
ביושבו היה

From here we learn that R. Benjamin looked upon R. David Cohen as his superior in experience and in learning for he consulted him in all legal and ritual queries.

There is further evidence that he held office and

²²⁵
179a.

²²⁶
179a. 350b.

²²⁷
350b. 248.

evidence of unbroken friendship may be instanced
authority in Lepanto for in one Responsum R. Benjamin

writes 228
נשאלו נשאלו ע'ד הסכמת ק'ק לפניה
כי כל זמן חוקי' דוד כן היה חושב .

In spite of this in another Responsum, we read

129. ונדהו לאחיו דברי ר' רוב כבודו חלפנו
and finally we have a veiled reference to R. David Cohen

230. והאם און ונהי כי אם כלפניה אשר נוסב רוב
הכין שם הלוג לאחיו חלפה דעה חכמים שזחים
דנים דין אחת לעמה תלוג צדק נקמה לפני אדנינו בעיני
ואם בושריגל יקל וחוללה קושש' דינג רבני

There is another significant reference to the relationship
existing between the two scholars in the poem attached to
the end of the book, which reads

הוראנונו ושב לתיס בלשוננו חוקי' דוד בכינונונו

This conveys the impression that the strife between the two
Rabbis took on great dimensions in their time.

In spite of this apparent estrangement in the personal
relationship of the two scholars, bonds of friendship were not
loosened as can be seen from the term used by R. Benjamin
אחינו 'they Friend' as the signature of our author.

Altogether in his criticism as well as in his defence,
R. Benjamin shows considerable humility and ready submission
to the authority of R. David Cohen, in spite of his insistence
on the rightness and legality of his decision. As further.

R. Samuel b. Moses Kahai, author of ²³⁵ חשפני חומות .

(35) R. Hiya Meir b. David.

He was an Italian Talmudist of the sixteenth century. We find him as Rabbi in Venice during the Rabbinate of R. Benedit b. Eliezer Acsildor who esteemed him highly. The eulogistic reference to him by R. Benjamin is worded thus: ²³⁶

ואתם כל יתים וחסידים כלל גדול חתומים חתום

An interesting reference to R. Hiya where incidentally we learn of the friendly relationship existing between the two scholars and the importance that R. Benjamin attached to R. Hiya's learning and Halahic Ruling, occurs in a Responsum, ²³⁷ where we read that our author writes after enumerating a number of scholars

ואחרון מהיוון חבצ עכו אלוף יהודה
כח' חתום חתום נלו בהרמז דודית פסקין אגן
דנוסין ובה זה כלל ען כיון דהוא נשון אשה

A confirmation of this high regard for R. Hiya by our author may also be gleaned from another Reference where after enumerating a number of scholars who were in turn styled ²³⁸ ב' ד' גדול and and גדול , R. Benjamin refers to R. Hiya as being on an equal footing and status both with regard to scholarship and Halahic learning. Thus we read

²³⁵ Graetz: Geschichte der Juden, Leipzig, 1913, Vol. 8. pp. 444-7, mentions R. Elijah b. Elkanah Kapsali, Rabbi in Candia who addressed a Responsum in this dispute to R. Joseph Taitzak in Constantinople in order to persuade him to give his authoritative opinion in favour of R. David Cohen against R. Benjamin. ²³⁶ 147a. 79. ²³⁷ 71. 134a. ²³⁸ 78. 144b. ²³⁸ Nepi Gerundi: p. 57. 342b. 246.

Informative, too, is the fact recorded in our collection that among the Rabbinic authorities who wrote against a certain individual who was the instigator of quarrel and dissension among the Community was R. Hiya. Thus the reference reads: 239.

והמאמר האדום
הוא חת"י חייא מאיר
כחב עכ"ל

R. Hiya's activities were not limited to Venice only, for we find him also in Lepanto, where he confirmed a certain decision of R. Benjamin with regard to קורחשין and where he refers also to his valued friendship with our author.

240.

מהנביא האלוקה חת"י בנימין
הנ"ל אשר השיג חייא
סאם ב"ה"י דוד ז"ל"ה
פה ק"ק לפנה"ס

There are many instances pointing to the close collaboration and harmonious working of the two scholars. Thus R. Samuel Kalai refers to the close collaboration of his father-in-law with R. Hiya in the following praiseworthy form. 241.

241.

אדונת שואגים חת"י בנימין
הנ"ל אשר השיג חייא
סאם ב"ה"י דוד ז"ל"ה
פה ק"ק לפנה"ס

A further example of his confirmation of a decision once issued by R. Benjamin is seen in a Responsum, where his agreement is worded thus: 242.

242.

אדונת שואגים חת"י בנימין
הנ"ל אשר השיג חייא
סאם ב"ה"י דוד ז"ל"ה
פה ק"ק לפנה"ס

Another independent testimony to this collaboration and friendship which both scholars entertained for each other

239 248. 350a.
242 391. 507a.

240 38. 93a.

241 39. 93b.

is found in a Responsum where אנחנו נעשה refers to their harmonious and uninterrupted work, thus:

245
והנה אחרי שראינו שהאלוף חתיר' בנחמן האריך בזה ואלם
האלוף חתנו ה' שחואל קלעי כתב על זה ושניהם הניחו
הראיות מספיקות והאלוף עתה חתיר' חייא מאד הסכים
ב דבריהם והנה גם אני מסכים בזה

Another independent proof of the collaboration between the two scholars is furnished by R. Abraham HaCohen b. Moses HaCohen, in a Responsum where he refers to a decision given ²⁴⁴ in an Agunah case by R. Benjamin which was confirmed by R. Haya Meir. Thus we read:

Haya Meir. Thus we read:
וכפי שהגאון לענין חתוך פסק אחד כמעט וישר וגמול
מתאלוף חתי' בניחין בן בחוריה חגיגיו זיל ועמוקו עמו
חגאון חתיה חייא חתה קחו אנשים רבנא לראש חתפס

An insight into his literary activity may be gleaned from a statement by R. Benjamin to the effect that R. Hiya Meir corrected mistakes in an edition of Rambam printed in his time. Thus we read: 245

his time. Thus we read: 245
 וְחָשׁוּב שֶׁיִּגְדָּל וְיִתְקַדֵּשׁ חֵן חַיִּים
 חַיִּים תִּתֵּן כִּשְׁמֵי הַסְּפָרִים וְנִתְחַלְּלֶהָ

Finally his personal relationship with R. Benjamin may be established from a Responsa, which R. Hiya wrote in defence of our author against his four accusers (Solomon Elijah and others). Thus we read: 246
והאמת כי כ' פ"ט נ"ד

24
והאויכתי לכל נא צונוך כי פשוט: Thus we read: others).
היה נחמם להסיר לונג שפרטים ולסבת חרוב דבריו על
שירה על אחי העלות חרובי בני חין ג' כי חיל מתתעל
ז'ל מאנשי יסע שכתבו נאח הוצרתי להודיע השעם
וטעותם ולשבת קושית...

(36) R. Hayim.

We have only two references to him (1) in which he is addressed thus: ²⁴⁷ ברכה וחיים לא הוצי' ר' חיים

and (2) where a Responsum is introduced with the words.

על זה שמאלה ידעו ר' חיים

(37) R. Hanan b. Perahya.

From a Responsum written by R. Bendit Acsildrai Ashkenazi, we gather that there were four men who wrote against R. Benjamin in the case of allowing a woman to remarry, whose husband had been drowned in ח'ת שאין להם סוף, where evidence to enable a woman to remarry was given by non-Jews who expressly came forward for that purpose. Interesting is R. Bendit's description of these four antagonists of R. Benjamin.

לא ידעתי איבנאם וחמוראם ואלה
שחמאם עצמאם בן חותה סנתם רישו, חיבאל בן
לא אדתי כח'י אבג'י, חמה חמ ב'ל' פרחת, אלה
בר' אל' יא, ונגבו באטו כמ' נחשו אל
הרב חותה בנחן יצ'ו הנ'ל

(38) R. Hefez Malti.

We find only one reference to him and that is the incident of his being summoned by a certain R. Mordecai Cohen, before the Beth Din of Arta and this R. Hefez refused.

R. Benjamin refers to this as a well-known incident. Thus

we read:

ידוע ומפורסם והיה לכל רמי כתבי זה איך ה' חידכו
כהן קרוב ליהפך חלטי לעמוד בדיון עמו לפני תנתי קוק
ארטא והוא ענה לו במוך בלי שאמר רוצה לקבל
דיונים עמו

and again in the same Responsum, we read:

ופעם אחת בא לפנינו ר' חידכו תנתי וצעק על
אשר אמר רש"י, יהפך לעמוד בדיון ושלחו לו
לבו א ולא יצר.

(39) R. Yair.

We find only one reference to this correspondent. R.

Benjamin refers to him thus:

שאלתי חכמי עמתי הר' יאיר

(40) R. Jehuda.

We have no further indication as to who this contempor-
ary was, except that his name appears as a signatory to an
edict issued by the Salonika Beth Din, where his signature
was appended thus:

נאם אנ' חסנים אמ ר' יאיר
נ' צעקם יה' ר' יאיר

This Jehuda may be identified with R. Jehuda b. Abraham

Beneviste, Rabbi in Salonika, who amassed material wealth
and who collected an important library collection. Don

Jehuda was born in סולויסול and settled in Salonika in

1492. He was one of thirty Rabbis who formulated special

laws about 251. These laws are often referred to.

בדיוקה

248 419.547a.

251 Responsa מהרש"ם in O. Hayim, No.37.

249 374.496b.

250 304.439b.

(41) R. Yedidiah.

He was a medical man, related to our author as seen from a number of passages. Thus a Responsum is introduced with

the words: ^{252.} שאלת חסני קרובי ידידתי' ה' ידידיה אביר

and again:

^{253.} הרופאים נ'ר
שאלת חסני נשא ונעלה ידידי ידידתי' קרובי ה' ידידיה

and again with a glowing introduction.

יפה פני מואר קרא ה' שמו דיוק על תם המעלות וה' עמו
יעמיד ביותסו בצדקו ובתומו דאול חרבה במעטתו ובנאותו
יושב על שקני עם וקני עמו החג נדצי עם משיבי זעמו ויני
ותמו תנחה ודעה איש משכיל ונפש וקדעת כל קבל דורות
ומירא השגחת ביה שרה שפיר וסג' אינביה קצור לשון
העוין מעלה לך דומיה גלה לכל טעבדו נטויה עניו ומסיד
ושלם אהובי קרובי ידידתי' ה' ידידיה נר'ן

Another reference to his relative by R. Benjamin, in which ²⁵⁴

he praises his observance of the Law, is found in a Responsum,

which reads thus: כליל התנחה והחדץ אביר הרופאים

שומרי הברית והגסד לעומתיו ולשומרי מצותיו הוא
ישחור צאתך ובואך מעגה ועד חלם ורפאותך יעלה
מעלה מעלה גבואה אל חקידשו אבנה לאהריותו אשימה
ידי לעשתי תומא אריו והוא הדיו מוקדעו וקרובי הוא
ה' ידידיה נחמדו יצ'ן

R. Benjamin also addresses him with the title of שר .

²⁵²

209.304b.

²⁵³

400.514a.

²⁵⁴

296.413b.

Finally we learn from a passage²⁵⁵ that he prayed in a certain Synagogue. The actual grade of relationship between R. Yedidiah and R. Benjamin cannot be established on the rather scanty material at our disposal.

(42) R. Jehuda b. Abraham Benveniste.

s.v. R. Jehuda.

(43) R. Jehuda b. Joseph ibn Bulat.

His name occurs in the Responsa as a signatory to the Constantinople letter sent to Apta. He was an author and is well known from other sources.²⁵⁶

His Responsa were printed together with those of R. Meir Katzenellenbogen of Padua. He lived in the time of R. Elijah Mizrahi who praises him.²⁵⁷

R. Bulat was the author of many works dealing with methodology in a commentary on חכמה עולם of R. Jehoshua b. Joseph Halevi (1510). He wrote a compendium of Rabbinic studies under the title סלל קצר חכמה ישוע בגמרא

To the references of the authors given by Joseph Heller in the Encyclopedia Judaica, Vol. 4. p.1188, the Responsa of R. Benjamin may be added.

(44) R. Jehuda חיוני.

There is only one reference to this contemporary, whence

²⁵⁵ 290.

²⁵⁷ Azulai: p. 85. No. 43.

²⁵⁶ 305.441a.

we learn that he carried on close and intimate business dealings with our author. The passage reads:

אשר נהגו רשמי לה' יהודה חינוך בדבר אחד
אשר עליו את המצב 259

(45) R. Jehuda Minz of Padua.

He is mentioned only once in a letter by R. Abraham Obadiah הספרד in the following terms:

וקראתי לזאת זיוע אדוני החיצה רב השלמות
חיבה המורה לה ציגמח. חנה' יהודה חניניו יע' 258

(46) R. Jehuda Minz was the leading authority in S.E. Europe, during the fifteenth century. He officiated as Rabbi in Padua and as head of the Rabbinical College in the same place. He taught many students who became leading scholars in Italy and in the Balkans, for example, R. David b. Hayim HaCohen, R. David b. Jehuda Messer Leon, and if Rosanis' information is based on documentary evidence also R. Benjamin b. Matathias and many others.

(46) R. Jehuda b. Moses.

His name appears as a signatory to a letter, addressed to the Rabbinate of Salonika. 260

(47) R. Johanan b. Samuel (prob. Kalai.)

In all probability, the godson of our author. He/ was Dayan probably in Arta in 1530. His name is appended

(53) R. Joseph פאצא.

He was Rabbi in Arta,²⁷¹ belonging to an earlier generation.

R. Benjamin writes about him:

ידוע הוא אצל כלל בנות כשהיה חי המאון
פאצא צ"ל הוציא קול ים בשלום

(54) R. Joseph Kalai.

He was the messenger of a letter of divorce that was sent from Constantinople to Corfu.²⁷²

(55) R. Jehiel.

As Rabbi in Venice, he is mentioned together with R. Bendit as one of the leading Rabbis in Venice.²⁷³

(56) R. Jehiel Ashkenazi.

(57) R. Jehiel of Bologna.

(58) R. Jacob b. Mordecai.

He signs a letter written from Arta to Salonika.²⁷⁴

(59) R. Jacob b. Matathias פאואג.

He wrote a postscript to the Responsa Collection²⁷⁵

אחרי כן, חתום חתום אשיר ורמב"ם
אחרי כן סימן א' יצחק בן חגית פואג חתום

(60) R. Jacob b. Solomon.

He signed a document dated Wednesday 4th. Ellul, 1528.

as Dayan in לר (Larissa).²⁷⁶

this period (i) in Constantinople and the other in Salonika. The supporter of R. Benjamin signs R. Joseph b. Solomon, i.e. the Rabbi in Salonika.

425.559a.

272 93.

273 71.134a.

274 424.

275 Davidsohn: אוצר הש"ס, Vol. 4. p415.

276 37.90b.

(61) R. Jacob Kalai b. Moses Kalai. Dayan.

He was Dayan in Arta in 1530, and probably a brother of the author's son-in-law, R. Samuel Kalai.

(62) R. Jacob b. Solomon Galipapa.²⁷⁷

He confirms a decision of R. Benjamin.

(63) R. Jacob. b. Shemarya.

He was probably a brother of R. Benjamin b. Shemarya.

(64) R. Isaac Abarbanel. (1437-1508.).

A well-known statesman and exegetical and philosophical writer, he is mentioned by R. Benjamin as one of his numerous correspondents.²⁷⁸

(65) R. Isaac Ashkenazi.

(66) R. Isaac Baruch.

He was a correspondent of R. Benjamin.²⁷⁹

(67) R. Isaac HaCohen.

He was a leading member of the Arta Community and is mentioned in a Responsum²⁸⁰

In another he figures as a correspondent of R. Benjamin.²⁸¹

(68) R. Isaac HaCohen b. Judah HaCohen.

He signed a document as Dayan, probably in Arta in 1530.

²⁷⁷ 163a.

²⁸⁰ 249.350b.

²⁷⁸ 95.

²⁸¹ 353.476a.

²⁷⁹ 151.242a.

(69) F. Isaac Cohen b. Shabbetai Katz.

He signs a letter addressed to Salonika and confirms a decision that a certain letter of divorce should not be given without the consent of R. Matisyahu.¹⁸²

(70) R. Isaac Kurkus.¹⁸⁴

He was a member of a famous Italian family who lived in Rome. R. Benjamin writes about him

וב שג'ל דמינא הרה גדול העיר שו חותה' יצא קווקוס
(71) R. Yekuthiel.

He was a correspondent of R. Benjamin.¹⁸⁵

(72) R. Issachar.

He was a Rabbi in Venice.¹⁸⁶

(73) R. Caleb.

v. above.

(74) R. Meir Katzenellenbogen. (1480-1565).

He was the author of Responsa, generally referred to as 'של'ל' of Padua'. He was a correspondent of R. Benjamin and is referred to thus:

וב שג'ל של'ל לסיב לאש כחוק אגרו השר ה'ה' מאיר
and in 'Shem HaGedolim'.¹⁸⁸

(75) R. Michael b. Shabbetai.

He was one of the four antagonists of R. Benjamin, who wrote against him to the Rabbinate in Venice. He lived in Arta.

¹⁸² 424.
¹⁸⁴ About Kurkus, v. Hildesheimer's Jubelschrift, and Berliner Geschichte der Juden in Rome and Fogelstein and Rieger 'Geschichte der Juden in Rome', Vol. 2, p.106-108, where the family genealogy is given.
¹⁸⁵ 264.380a.
¹⁸⁶ 271.
¹⁸⁷ 40.
¹⁸⁸ Azulai. p.128. No.46.

(76) R. Menahem Katz.

Many of the Responsa in our collection are addressed to R. Menahem Katz. Thus one Responsum begins: 289

שלם שב שב חיצון שב לאוהבי חוה' חתם כן.
כ אשר הודעתי בארון העתידי האלוקה חוה' חתם הכון
כוון שמרתי בדבי הורה אענדם לראשי עשרה אחיו
אז לבי כדך זו תלך היות חן הלוחדים לישב כאשר לאחז
כחך אין חסדין על אשר שאל חר חשש כל הארץ חוה'
חתם כ'ע.

שאלת חסד ידיך נפשי חוה' חתם כ'ע יצאה זרע וראי אלן
ויאריך ימיו.

שאלת חסד אהיו הוה אהיו עתידי בוגר חוה' חתם כן.
ע'כ שאלת ידי חוה' חתם כן.
על אשר שאל ידי חוה' חתם כן.
שאלת חסד ידי חוה' חתם כן.

Another Responsum starts with a complimentary introduction.

אלוקה הגורם בעדי עדים בכח כהונה ונהר חכמה
וכה שם שם על גביו חתם חתם הכון.
אשר חסד חתמים האדם הגדול בעתקים ובכח חן
על ראשו מדובקים הכון האחז חוה' חתם נ'ה.
שאלת חסד ידיך נפשי חוה' חתם כ'ע.

כדי שלא להשיב את פניך אהיה חוה' חתם כן.

Besides these eleven Responsa, his name is included among the Rabbinic authorities of Venice.

20.	21.	42.	90.	88.
140.	247.	254.	268.	421.
437.	444.	71.		

(81) Menahem b. Shabbetai.

He also attached his signature to a decision of the Court in Tricola, dated Sunday, 28th. Shevat, 1525.

We find his signature also on a document dated 1552, Wednesday, 13th Adar II in Tricola together with the names Jonathan b.

Shabbetai י'חב, Dayan, Elijah י'חב, Dayan.²⁹⁹

(82) Menahem b. Shemuel.

He signed the decision sent by the Rabbinat of Constantinople to Arta.³⁰⁰ One Responsum³⁰¹ contains a copy of a letter written to Arta by the Rabbinat of Constantinople and signed by Menahem b. Samuel.

(83) Moses b. Elijah Capsali.

His Responsum about Marranos who died without issue, is included in our Collection. R. Benjamin corresponded with

him and addressed him thus:³⁰²
הצודק במורה ופוסק הוא אשר נחפסו בכל חרץ וביו
והמשאץ עין עושה פה האשל הגמול האמן מורה חשה
קפפשו יע'ו

His action in Moses Susi's case was criticised by a certain individual to whose criticism R. Benjamin refers thus:³⁰³
זה האיש חזקני בכל עמ' הרב חסידה לעדוקה חנה'
המשאץ קפפשו ז'ל והס'ח דברים כנגדו וכנגד
דכחול שמועתי

(84) R. Moses Baashan זצ"ל of Navarre.

His Responsum is included in our collection and is

²⁹⁹ Mishpetai Shemuel: No. 82.

³⁰¹ 308.442a.

³⁰² 76.142a.

³⁰⁰ 305.441a.

³⁰³ 248.350a.

³⁰⁴ Graetz: Vol. 9.

dated 1524. ³⁰⁴ קושעני, רב.

(85) R. Moses b. Dan.

He was Dayan in Arta in 1532.

(86) R. Moses Hanin b. Perahya.

He was Dayan in Arta in 1529 ³⁰⁵ and an opponent of R. Benjamin. He is probably identical with R. Hanan b. Perahya.

(87) R. Moses Nissim of Pezara.

He was a correspondent of our author whom R. Benjamin

addressed thus

נשאל נשאלתי בק"ק פזר חקט גכחתי וירב האבנתי חתא
חתי' חש' נסים נר'ו.
חנף האין נאמר שחענו נדע' עתה רחם נאספו כמב
על העשה הנדעל נאגל חתי הדיוט כמבוב על הדיוט
חנף אחי אחותי חתא חתא על חתא חתא חתא חתא
לעשות סתף לחתא חתא חתא חתא חתא חתא חתא
חנף חתא חתא חתא חתא חתא חתא חתא חתא חתא
על אשר נספוקה כח חתא חתא חתא חתא חתא חתא
שאלם שאל חתא חתא חתא חתא חתא חתא חתא חתא
חתא חתא חתא חתא חתא חתא חתא חתא חתא חתא
כח חתא חתא חתא חתא חתא חתא חתא חתא חתא

(88) R. Moses b. Matisyahu.

He was a brother of our author and a Dayan in Arta. ³⁰⁹

(89) R. Moses פולשטין.

He was a doctor with whom R. Benjamin corresponded. ³⁰⁹

³⁰⁴ 300.

³⁰⁵ 422.

³⁰⁶ 237.

³⁰⁷ 126.

132.

134.

245.

³⁰⁸ 51.110a.

³⁰⁹ 280.

³⁰⁹ For Menahem

v. Mishpetai Shemuel, No. 30.

For other names

פולשטין

v. Menahem in No. 30 of Mishpetai.

Shemuel and Shabbetai, No. 31.

Samuel Kalai.

- (90) R. Moses Kalai b. Samuel Kalai. Dayan. ³⁰⁴

He was a ^{נשיא} grandson of our author and a Dayan in Arta. ³¹⁰

- (91) R. Moses b. Shabbetai Kalai.

He was Dayan in ^{לרש} (Larissa) in 1528. ³¹¹

- (92) R. Moses Samuel Segal.

He came from Hungary. He is referred to in a Responsum ³¹³ as having given his opinion in R. Menahem ^א ^{הר"פ} 's question before R. Benjamin. ³¹⁴

- (93) R. Meshullam Segal.

He was a Rabbi in Venice. His Sabbath sermons to the Community are referred to in our collection. ³¹⁵

³¹⁶
ועדין באמין חז"ל חסידים גדולים ורש בנל שבת חז"ל ישראל

- (94) R. Matisyahu b. Benjamin.

His confirmation of his father's decision included in our collection. He held office of Dayan in Arta as is seen from his signature appended to a document. ³¹⁷

His poems are attached to the end of the book and are thus introduced

³¹⁸
אמר השלח הספר עשה חסידים הנבון חז"ל חסידים
נלו בן החתם ושא חסיד ונא חס

R. Benjamin lamented his death and introduced this dirge with

the words. ³¹⁹
בהעדה חסיד חז"ל חסידים ז"ל בני באר יגט עלבון
ונגב לכן אקוון ונפסד על פרידת בני חסיד אקרא
עליו בני חסיד זמא

³²⁰ 51.

³²² 424.

³²¹ 37.

³¹³ 36.

³²³ 35a.

³²⁴ v. Buchler: History of the Jews in Budapest.

³²⁵ 71.134a.

³²⁶ 97.163b.

³²⁷ 51.110a.

³²⁸ 573a.

³²⁹ 573b.

(95) R. Matisyahu b. Menahem.

He was Dayan in Arta before whom the last testament of R. Abraham Obadiah ³²⁰הספדו was drawn up.

(96) R. Matisyahu b. Moses.

He was Dayan in Arta. ³²¹

(97) R. Nahum, the Scribe.

He was a correspondent of R. Benjamin, whom R. Benjamin

addresses thus: ³²¹
עיר בתחנים וקעה נצח חשרטיו נפיה
ישביל כל אשר יענה סבב לו נחה חנון חיה ח' לחיות
הסופר אשוכך את אשר נאמר

(98) R. Nathan.

v. above.

(99) R. Asriel.

(100) R. Phineas.

He was a Rabbi in Venice. ³²²

(101) R. Shabbetai.

A correspondent of R. Benjamin, who our author addresses thus. ³²³
נאמר את חמיו ידיו נפשו היה' שבתי

(102) R. Shabbetai Katz.

A correspondent of R. Benjamin, whom our author addresses thus: ³²⁴
אשר גמרה חמיו נקרא וחמיו חי קערה

ועמד חוקה שהיה אגרו חכמן גמל האלוקים אחריו חורו היה' שבתי כל

The term אדוני חור may imply that this R. Shabbetai was an older contemporary and a teacher of our author. He hailed.

from Candia. The title אדוני חורי may be a mere title of respect since he does not conclude with the usual

(103) R. Shabbetai Cohen b. Isaac Cohen.

He was head of the Hahamin in Corfu in 1530, where he was Dayan. He wrote to R. Benjamin and is addressed thus: ³²⁵

יצא ברכה ביהמשה ופבנה חגורב העצילות כקין וחמוצא
שהם בגימורא וגמולתהם אחד' ביום כולם ה' אחד הקין
קורפו נצ' ונצט' להם חיה ובראשם הגם השאם הכתן
הגמול חותם' שג' בכת' יצחק ז"ל.

(104) R. Shabbetai, the Scribe.

He was a scribe in the Beth Din at Arta before whom evidence of a certain R. Samuel b. Solomon regarding the death of Moses Susi was recorded. The evidence submitted to the

Beth Din at Arta is recorded thus:

ואגמנו כשחענו בעדמות הנצ'ו כחבנום על ספר פה קין ³²⁶
הרמנו דברי אחשא חקית אותה ונכתב על יד סופר
המקחול על יד שג' הסופר בים הנצ' והנצ'
גמיר יקים

(105) R. Shabbetai b. Moses. ³²⁷

or R. Shabbetai b. Moses, חורי. ³²⁶

He was Dayan in Arta in 1520. In one case he is called

גמיר בן חשה and in another only חורי.

(106) R. Shabbetai b. Shelomo, Dayan.

He was Dayan in Corfu in 1530. ³²⁷

(107) R. Shabbetai b. Shemuel, Dayan.

He was Dayan in Arta, probably in 1530.

(110) R. Shelomo HaCohen.

He was a correspondent of R. Benjamin who is addressed thus: ³³¹ ושאמל חסני ודידי חני ואכחי היכהן
and again thus: ³³² על אשר נסגפונת ידיך כבי ש לחי, כן

(111) R. Shelomo b. Jacob ibn

He was a signatory to a letter from Constantinople to Arta.

(112) R. Shelemo the Scribe b. Shemuel.

He was a correspondent of R. Gershon Bonefacio to whom he wrote from Petras. His signature is appended thus:

³³³ החתמו פה קין פטרה אוסרה וכל פטרה צעורא גפי
ונבזה ואם כל זה אלקים עחדו ש לחי, כן חותמי שמואל
(113) R. Shelomo

He was the signatory to a document issued by the Rabbinat of Salonika confirming a certain ordinance

³³⁴ אין להחיות על זה גמטאין להחיות לנזהרים ונמנעו אני
חותם עבדכם שלחמ קלבו
The usual signature is : אני איהמאניר אלא נמנעו

(114) R. Shelomo Kalai.

There is a reference to him as the father-in-law of R. Benjamin, from which term one may infer that he may have been our author's teacher

וקלמי חתמאון אדמי צדיחי אחי אלאפי כחוקהי ש לחי, זע"ל
His full name was R. Shelomo b. Shemuel (Kalai). He was the teacher of R. David Cohen and lived in Arta. ³³⁵

³³¹ 123a.
³³² 304.439b.

³³² 271.385a.
³³⁵ 247.345a.

³³³ 111.187a.

(115) R. Shelomo b. Meshullam.

He was the son-in-law of R. Elijah

ה'ר"פ"ג ³³⁶.

(116) R. Samuel.

He was a correspondent of R. Benjamin who is addressed

thus: ³³⁷ שמעון בן חנני בפנינו אברהם יודן נפשו השוה
העמוד חנה' שמואל נ'ר

(117) R. Shemuel אכ"ב כ"ר

This Rabbi signed a document issued by the Rabbinate of Salonika. His signature is appended in the form:

³³⁸ ע"ד דכ"ה העמוד חי ונאמן הלו שמואל אכ"ב כ"ר
בחסונה ח"ק

(118) R. Shemuel b. Abraham.

He was probably Dayan in Arta in 1530.

(119) R. Shemuel א"ח ע"ג ³³⁹

He was a Sefardi who confirms the decision of R. Benjamin.

(120) R. Shemuel b. Joseph.

He was Dayan in Arta in 1532. ³⁴⁰

(121) R. Shemuel b. Jehoshua Meyuhas.

He was Dayan in Arta. ³⁴¹

(122) R. Shemuel b. Johanan. Dayan.

He was probably a grandson of our author and was Dayan in Arta in 1530.

³³⁶ 59.121a.
³³⁷ 7.41a.
³⁴¹ 51.110a.

³³⁷ 442b.
³⁴⁰ 125.

³³⁸ 439b.
³⁴¹ 422.

אמור חתם על שמואל בן יצחק שמואל בן יצחק
 collector of charity. The Responsa begins.

(123) R. Shemuel ibn Meir of Tricola.^{343.}

He was considered as a בדמיון whose support of R. Benjamin is referred to by our author. From one Responsum,³⁴⁴ we learn that he was Rabbi in Tricola, as is also seen from another Responsum where he is styled:³⁴⁵
אבתא חופת הדור אפוני חתמי שמואל בן יצחק נר"ו
 From yet another Responsum, we learn that he was in Arta, when he confirmed R. Benjamin's decision.^{346.}

SAHUEL b.
 (124) R. Moses Kalai.

He was the son-in-law of R. Benjamin, v. above.³⁴⁷

(125) ה' שמואל בן יצחק נ' שמואל

He was a descendant of R. Joshua ibn שמואל, the author of a commentary on the Pentateuch. He confirms a decision of R. Benjamin.

(126) R. Shimeon Katz.

He was a correspondent of R. Benjamin, who is addressed thus:³⁴⁸
על אשר נסתפקת אתה הישיש הי' שמעון כ"מ
 and thus: ועל ששאלת אתה הישיש הי' שמעון כ"מ
 and thus: על אשר נסתפקת אתה הישיש אתובי הי' שמעון
 and thus: ושאלת חתמי הי' שמעון כ"מ

We gather the information that he was official reader and a

³⁴³ 246.343a.
³⁴⁴ 53a.
³⁴⁵ 131.216b.
²²⁵ 317b.
³⁴⁴ 2.30b.
³⁴⁷ Azulai: p.156. ed. Krotochin 1843.
 212.305b.
³⁴⁵ 37.92b.
 324.458a.

collector of charity. The Responsum begins:

He was Rabbi in Salonika. His qualification to act as
authorised Rabbi was denied by R. Benjamin. ^{249.}

He was a well-known author who wrote Responsa אגרות.

349. 249.

³⁵⁰ Azulai: אֲזֻלַּי אֲשֶׁר, 1843, p. 172.

D. Conforte: קניא הצורח , p. 34.

THE DEVELOPMENT of the HALAHA.

Viewing the literary method and the standard of education in the age of R. Benjamin b. Matisyahu, one can understand his shortcomings as well as his good qualities. Originality does not seem to be our author's strong point. Yet some developments in the Halaha and some contributions to the codification of the same, may be observed.

(1) He carries to great length the rule, traces of which go back to late Amoraic times that special attention in fixing of Halaha has to be paid to the views expressed by the youngest authorities.

וּמִשְׁעָם זֶה פֶּסֶק הַמֵּלְכִּים שֶׁלֹּא עֵינֵינוּ
כִּמְלַח מִנְד דִּינָן נִגְדַּל מִלְּחֻד הַיְּיֹשְׁלָח
בְּהַר הַנִּי שֶׁפִּי מִלְּחֻד יִרְשָׁלָּי
וְלֹעֵד נִרְאָה דִּבְהִינָּה דְּהוּא בְּרֵא לְהַחֲמִיר עִגָּא וְלֹא
לְהַקֵּל וְכָל חֵטֵא דְּאִיכָּתָּה פְּלֹאֲמָא בּוֹן תְּנֵא וְלֹא חֲסִינָּה
הַלְּחֻדָּה כְּמֵאן חֲסִינָּה יֹאֵל דְּהוּא בְּרֵא חֲתִינָּה שֶׁפִּי
חֲתִינָּה
וְטָן דְּלֵאָם וְחֲתִינָּה וּבְעִלְהֵעֲסוּר סְבִינָּה כְּהוּ דְּתֵנָּה
הַשּׁוֹמְרִין חֲתִינָּה בְּלֹא קִנְיִן וְכִדְפִּינָּה חֲתִינָּה הַשּׁעָם
מִחֲחִיב דְּפִי בֵּית טָרָה כִּהְחִיבָּה דְּנֵאָה דִּינֵינָּה
אֶהְדִּי לְחֵחַ וְחֵחַ אֶהְדִּי דְּפִי לְעֵינָּה וְחֵחַ אֶהְדִּי
הוּא רֵאָה לְכַכָּה אֶחָה ה' אֶהְדִּי וּבְעִלְהֵעֲסוּר אֶשְׁלֹ
שִׁישׁ חֲתִינָּה עֲלֵיהֶם וְקִיֵּל הַכָּכָה כְּבִרְנָה

(2) The omissions of certain subjects or Talmudic views in the Alfasi and in the Asheri are an emphatic proof of their anti-Halahanic character, namely, that they can be ignored by the later codifiers of the Talmud.

2 והם ה' אלכפסי ז"ל לא הביא דברי רבהונא משום דסבורא
 ליה דלא תלביגא ניהו משמע חדעיו דכל דאין חביו
 בחכמותו ואין גופשו לתלביג . .
 3 וכוון שדחה אותם האלכפסי איתא תלביג אבא זמא וסבור
 שכן תלביג הביא סתם וחדכו של הרב אלכפסי הוא
 דכל חיי ואין תאפשו לתלביג ואין חביו בפסוקין .
 4 וכתב חתום בספר דונט דדרכו של תיב אלכפסי הוא
 דכל מה שאינו גופש תלביג כן אין חביו בפסוקין
 כדאיתא במדרכי פ' השולח בגיטין

(3) In spite of the fixed rules laid down by the methodol-
 ogical writers in which the Halaha is decided in favour of one
 teacher against his opponent, the view of the latter must not
 be either entirely dismissed or ignored but under certain
 circumstances, an attempt has to be made to use that opinion
 as well for deciding doubtful cases.

5 דבכל חוקים דאיתא פלוגתא דרבנא דחד
 אסר וחד שרי אף על גב דתנן כחד תנא דאמר
 ח' לצאת ידו שתיקן עבדין לכתחילה כחורויהו דבכל
 חוקים שאמר יכול להוציא עצמו חספן ואי אה
 נפסד פשיטא דחשוב אה להוציא עצמו

4) Whenever Talmudic sources apply the phrase הורה ר' פלוני
 there is an indication that for practical considerations
 the more lenient view has to be taken.

5a
 וכיון דהנהו מאני הנ"ל הווי לקולא בדברי חסור
 כ' ש דראוי לנו להווי לקולא בדברי קל וכל
 סתם הווי לקולא הווי

(5) When the Talmudic text uses the term **והא תמן**, this introduces a proof for or a support of the previously expressed view. Yet the term **והתמן** indicates a refutation or a difficulty arising out of a Tannaitic text.

ב דכל והא תמן והא תנא הווי סיוע ובגמרא
 קריין לה ולל והתמן והתנא בלל אלף הווי
 קושיא נן פ' רש"י פ'ק דבלק
 cf. ובכל חוקים דמינא בתלמוד תנא דבי רבי ישמעאל
 כך הלכה אבל במקום דמינא דבי רבי ישמעאל
 תנא מינה הלכה וזה חסורת בידהו.
 cf. דהינא דבעי תלמודא חנא לן היינו דמן הגמרא
 בעי חנא לן תה וה' כדבעי תלמודא מנה"ס ופ'י
 זה פיון דהכא נמי בעי תלמודא מנה"ס עכ"ל
 דהאני מנ"ל מן הגמרא הווי.

(6) The ruling of Mar Samuel in Baba Bathra, known as **דנא** should not be extended to ritual matters, social affairs or economic relationships generally, but merely to political conditions as far as taxation and revenue are

concerned.

(7) There are certain points in the numerous disputes between the two Babylonian Amoraim, Abaye and Rava (fourth century), in which the Halahic decision is in favour of Abaye although it is not so indicated in the pemo-technic יעל קאם,

When Abaye's opinion seems more logical than that of his opponent. The ruling of יעל קאם' was limited to independent contraversies between the two Amoraim but when their disputes related to the interpretation of earlier Tannaitic views, the rule or codifying principle was not valid.

The codifiers are authorised to impose restrictions even on things permitted if it is in the interest of Religious Life that ignorant crowds should be removed from possible transgression.

לעולם אינא לחיחר דאיהאן כלל דיעל קאם והנא דפסקן הרמבם וסמא סאביי ונא חושיבי ליה בכלל יעל קאם משום דהיכא לא איפלאו אביי ורביא מליבא דאפשיהו אלא פלוגאגיהו הויג מליבא דאמאי כהנא . . . וחשוש דהנא חסרבר שפי מילגיה דאביי (116) חתולתיה דרביא כד פסקו כותיה ונא נפון חסא יעל קאם

דפלוגאטיהו אליגא דתנאי הוא כדפ' ולא אליגא דפשוטן

והנחם כחמו המוספת גדלה וספק נשואה וכן האשיות
שם דבעל ה'א פסק ההלכה באב"י דרב פפא דהוא
ביתר קאמר ודייקא מתנין כותיה דאב"י והא דלא
חשיב ליה ביעל קאם חשום דא"י מחוץ בחראו.
והחידושי כתב משם ה'ח ביהמות ונ"ל פ'לח חיהא
שמעיון שיפילו דמים חמורים כגון מלו והמחיים כהם
החסורין לעלה אין אדם חזאי להוריה כהם להיגרם
אם באיסורה וכל עדותין לעושה הדבר שנראה לו צד
היגר להחיות אור דמזל אף אם ידוע יאל החביתים
כי בטוב עשה

(8) According to R. Benjamin every court is invested with
far-reaching authority in administering the Law, even if
their measures extend beyond the narrow limits of legal usage

or custom. ז וברור אצל כל חכם דכל דבר הנעשה

לענין שער למידה חלטה כי תנא אין כאן לדקדק
בכל דרכי הדין המקובל אלמא הולכום אחרי האמת
וכל ב'ד וב'ד בזה הענין הם כמו ב'ד הגדול פשוט
לדקדקו תנאי הדין יין לדון כפי האור עיונין כד
נשיגב העברה בענין תקנה . . .

(11) R. Benjamin limits the rule of
to such opinions of R. Gershom b. Isak as have internal

(9) R. Benjamin is aware of the modifying influence
exercised by political conditions on Halahic practice.

8 ונוהגין אנו לקדש ביהמ"ד אפילו כשהן קטנות
 י"ל משום שבכל נוסח ויום האלה מהגבר עליו...

(10) The Talmudic לאפוקי חדל פלוגי is not a final indication
 that the view of Tannaite or Amora thus excluded is not
 authoritative. R. Benjamin offers proofs for the authority
 of such Halahic opinions in spite of the term לאפוקי
 being used. 9.

הדן דא' לא דאחיין לאפוקי חפלוני
 מפלו הני הלכה כותיה דבג'טין פ' החמיר...
 והני איומא פ'ק דרבת... ובמחבות שילתי
 פ' תכומב... ונתן נמי פ'ק דליה...
 בפ'ק דרבת כל העובר על דברי תנאים ח"ט
 לאפוקי חמ'ד תפלו ערבות רשות ואין פסוקא כרבת
 לגבי אב"ב פ' תפלו השתח דאחי תפלו עלביו
 רשות

(11) R. Benjamin limits the rule of הלכה כרשב"ג בשמנה"ל
 to such opinions of R. Shimeon b. Gamaliel as have internal
 or external support and a logical background.

10. דאמרי רבה בר אבא אחי רבי מתנן כל מקום
 ושנה רש' ג' במשנותיו וכ'... דהדין כלל לא
 דוקא הוא דלא אחריתן הלכה כרשבא ואלא עד
 דאינא טעמא ואם כן אין הלכה כרשבא

(12) When peace and goodwill are in jeopardy, the strict
 Law of תורה may be set aside and the Law or method of
 compromise may be applied.

11. והמוטב שיעשו פשרה וביצוץ לכל הקצוות ולא
 ויבקשו לוותר דיש דיוק דקשה מאד לכאן
 דין תורה בתמצית...

(13) No Rabbinic decision based on the principle of

12 should be upset by another Rabbi.

וא' ע'ל דמצאנו חסם אחד מהאדמו"רים שכתב
 דתקנה קדמונה שכל רב שפוסק דין באם כן
 הוא שאנו רוב לא יורה עליו...

It must be borne in mind that our Responsa offer no systematic or methodical description of the subject and problems to be dealt with in this part of our work. All

Chapter I. gathered from Political Life. For the description of the political life, the following are the subjects treated: (1) Introduction to Political Life. and economic factors under (2) Geography. of the period lived, across out of individual (3) Uncertainty of the Times.

They interested R. S. (4) General Political Conditions. in our collection only as (5) Law and Courts. Laws and Customs of the Jew (6) Jews and Non-Jews.

These laws and usages (7) Taxes. modified and settled in

Chapter 2. used by our Religious Life. they will find with-

Chapter 3. authoritative in Communal Life. formal although mentioned by earlier Halakic writers (1) Beth Din. of opinion, the latter may be (2) The Rabbinate. character and

Chapter 4. parallels in present Economic Life. and therefore could

Chapter 5. either by analysis Social Conditions. the disputed view according to recognised (1) Family Life. This will

be seen in all the chapters treated in this part of our essay.

The whole subject cannot be treated here for if done so it would require a general survey and detailed characteristic of

the whole vast Responsa Literature from Geonic times up to

the nineteenth century. To bring home the point, however,

one or two details will not be out of place. Thus when cases

POLITICAL CONDITIONS.

I

It must be borne in mind that our Responsa offer no systematic or methodical description of the subject and problems to be dealt with in this part of our work. All the details gathered from the Responsa for the description of the political life, the religious conditions, the social and economic factors under which the Jews of our period lived, arose out of individual cases disconnected from one another.

They interested R. Benjamin and other authorities, mentioned in our collection only so far as they have a bearing on the Laws and Customs of the Jews.

These laws and usages were partly codified and settled in the sources, used by our author, and partly still fluid without some authoritative decision. The former although mentioned by earlier Halahic writers may have given rise to differences of opinion, the latter may be of an entirely novel character and without parallels in preceding literature and therefore could be decided either by analogy or by balancing the disputed view according to recognised methodological principles. This will be seen in all the chapters treated in this part of our essay. The whole subject cannot be treated here for if done so it would require a general survey and detailed characteristic of the whole vast Responsa Literature from Gaonic times up to the nineteenth century. To bring home the point, however, one or two details will not be out of place. Thus when cases

of murder or piracy or kidnapping or robbery, are the subject of the Responsa neither the questioner nor the author is interested in the political or economic aspects as such, but as far as they concern the Jewish law of marriage or divorce, the administration of charitable funds or the law of damage done to property. These instances will be increased in each part of our work and cannot be pointed out from case to case. Yet for the understanding of the character and the nature of our material, this dominating factor must never be lost sight of. This means to say that the main object of the writer was not to heap up historical material or to provide documentary evidence but to use the latter for Halahic purposes. This by no means weakens or eliminates the historical value of the author's material, so abundantly offered in his Responsa but it merely is responsible for the abrupt and disjointed nature of our material. This accounts for many shortcomings and weaknesses. Thus the incompleteness of the picture, which necessitates the consultation of other similar and dissimilar contemporary utterances and documents, is evident. We turn first to the political conditions as far as they are reflected in our collection. In this chapter our material will be divided into three main headings:

- (1) the internal and external relations between the rulers and the Jews. This paragraph will include all the information, we can glean from R. Benjamin's Responsa about taxes and duties.
- (2) The influence of the political conditions or the form of

The close dependence of the Jew on the Government under which the Jews lived in S.E. Europe in this period of their life and religion, for example, tolerance or persecution!

(3) the standard of security or insecurity which the Jew enjoyed or suffered at the hand of his governors or fellow-citizens. Here we will have to glean from our material details about the persecutions by the ruling classes or by the disorderly mob.

Finally a description of the duties and taxes to which Jews of the south eastern provinces were subjected in the time of R. Benjamin will conclude this chapter.

Our first task must be to establish proper internal or external relations existing between the Government on the one side and the Jew as an individual and as a member of the Community on the other side.

In our period the mediaeval conception of the treatment due to the Jew was still in vogue. The mediaeval mind of rulers and governors became accustomed to look upon the Jew as a source of his income. This deeprooted inhuman method prevailed up to the nineteenth century. In the fifteenth and sixteenth century, in spite of the Renaissance and the Daybreak of Enlightenment the old inhuman and barbaric system still enriched the vested interests of the slowly dying feudal lords.

The close dependence of the Jew on the lord of the town or province is clearly manifested in the case described in a Responsum, where it is stated that no Jew is permitted to settle or granted the right to leave or to give up his domicile without the permission of the lord of the place.

Under Turkish rule, there was a general conscription of all the Jews in the Ottoman Empire. This register enabled the authorities, without interfering in the right of the Jew to change his domicile, to collect and cash the taxes, wherever the Jew settled.

וּבְשִׁבּוּל שְׂתֵם כְּמִבִּימ כּוֹלֵם בְּפִתְחֵי הַמֶּלֶךְ כִּי אֵינִי
הַמֶּלֶךְ וְאֵינִי הַכֵּל חִיִּים וְאַחֵר כֵּן אֲנִי מִחַל בְּכָל חֻקּוֹם
שֶׁהָיָה וְהָיָה הוּא

Quite different was the situation when the Jews lived under a Christian lord or ruler. In a most illuminating case, R. Benjamin describes how the lord of a city endeavoured to prevent a Jew from leaving his jurisdiction and from removing to the domicile of his father-in-law, even threatening death through his agents or hirelings. This love of the lord for his Jewish subjects was not an unselfish one, for he was actually concerned about the eventual decrease in his income by the loss of rates and taxes, resulting in this proposed change of domicile.

בֶּן עִינִי וְהִיא מְשִׁיעָבֵד לֹא חִיִּים עִם בֵּט הָעִיר
וְעִיר תִּמְנָן שָׂאֵם יוֹךְ שֶׁם כֹּל מִיּוֹצֵא בְּדֶחַף יִהְיֶה וְכֵן

2 והיה עליו שום עונש ואדון העיר ההוא תכבד את
 שמעון מחורב בעיר שחור שם חמיו ואשרו אל א צוה
 לו שיביא אשתו עם אשרי דר אביו פון דקודם זה היה.

This is reflected too, in the words of R. Benjamin,
 when he says that no Jew was allowed to settle in the country
 or dominion of the kingdom, unless he was ready to pay a
 certain sum of money which entitled him to reside in that
 province or district.

3 עם לא שיומן כך וכך כלומר
 תיקוף גברא

Such interference on the part of the ruling lord with
 the freedom of movement of the Jew, must have been a great
 strain on them. Their threats reached such an extent that
 a spiritual leader like R. Benjamin was deterred from pro-
 mulgating the tightful and prescribed curses of excommunication
 on his adversary, whose case will be cited in another connect-
 ion of this work, out of fear of Government interference.

This fear was all the more justified because as we learn
 the ruler or the judge actually decreed corporal punishment
 on R. Benjamin and only intervention from influential persons
 frustrated the execution of this decree.

The deeper cause of this extraordinary juridicial decree was
 due to the fact that an informer reported to the lord that
 R. Benjamin considered himself a greater judge than his

compere. Among those who intervened and brought about the annulment of the decree were men, probably of Jewish origin, who are styled **שרי הארץ** Princes of the Land, and the multitude of God-fearing people.

⁴ וכל איש ייח וחרד אל דבר ה' הקהל

We see that Jews applied to the local lords for permission to enter into marriage relations or to dissolve the same, without assistance of local Jewish authorities.

⁵ שנתת הצעה היום ב' טעים והפנתה לאיש אחד ולקחה בכינו ברשות אדני הארץ בלא תוספה וקידושין וכשבני דאין לעשות כן בגנות ישראל... וזה היה מבקש בנו בשביל שהיה לו חשש מאדני הארץ והסכנתו ונאבנו אל הקהל הקרענות שלא להתחנן עמו שם אחד וכשראה כך הלך אל אדני הארץ והפך אתו הרשות שהיה לו והוציאתו מכינו ועתה היה משנאה עם בעל כשר כדור ובהלכה

The rulers further assumed the right and power to interfere in the internal affairs of the Community. Thus R. Benjamin was prohibited from performing any legal or juridicial function no matter whether in civil or matrimonial cases. וצרה עלי לבל אדון שאם דין לא דיני חסונת ולא דיני משם.

In spite of the fact that the Jew was looked upon as a source of income by rulers and lords, we hear of local and general persecutions having taken place and having

darkened the life of the Jews in this period. One has to bear in mind first of all that the memory of the terrible persecutions and the cruel expulsion from Spain and Portugal were still vivid in the minds of R. Benjamin's contemporaries. There are frequent references to those never forgotten tragic events, described or referred to in our collection. Thus

we read : ⁶ ובעונותיו הימים כשהיו ישראל איש ואיש על חקו בספי דופורטואל וצפוליא וקלציה ופוליא בא עלתם אנרת אורו הלך היושע לאונסם לשמד והם עמדו .
 והוא גור עלתם משפטים חם נהראו וחקם נשתטן וחקם נטבעו וחקם השליכו עליהם חים על כרתם והם מרתים משם ובאים לחסות תחת כנפי השינה .

The Jewish communities in south Europe were greatly increased by refugees from the countries of persecution in Christian Europe and they brought the memories of the terrible persecutions in the countries under the sway of the Inquisition with them. The experiences of these sufferers could not be deleted from the minds of the newcomers to the land of Turkish tolerance and freedom. That this tolerance and liberty were curtailed under the Turkish rule was the legacy of the intolerant and fanatic Byzantine Empire. This explains another report of the terrible political

⁶ 207.405.
 L. Zunz: 'Geschichte der Juden in Sicilian' in his 'Zur Geschichte und Literatur', Berlin, 1845, pp. 529-531. refers to this passage here.

conditions under which the Jews of this period suffered.

This comes from the pen of R. Samuel Kalai, who says:

וְכִי שֶׁ בְּחַיֵּינוּ שֶׁהַיּוֹדִים כְּעוֹנְמֵינוּ הַרְבֵּים יָשׁוּקוּ וְלִרְדּוֹתֵינוּ
וְיָשׁ אֶמְלֵךְ, דָּם וְלִעְוָלָם נִאֲנָסִים חֲמוּסִים וְחִוּוֹנִים

This reflects the constant peril in the life and property of the Jew. Emphasis may be laid on R. Samuel Kalai's words. He looks upon his own contemporaries (a) as oppressed *מִאֲרָץ* and (b) persecuted *וְלִרְדּוֹתֵינוּ* and (c) helpless and powerless against both oppression and persecution. These characteristics of the conditions of the time speak more eloquently than documents or decrees could convey, on the state of helplessness which must have been the tragic lot of contemporary Jewry.

Apart from this general expulsion and persecution, some local tragedies of this type are recorded in our Responsa.

Thus the Jews of Petras were forced to leave their domicile on account of enemies and to seek refuge in Arta. The Responsa uses the words *וְכִי שֶׁ הָיוּ שָׂמֵר מִיְּדֵי הָעָרִים*

which may mean enemies who besieged the city, but more likely enemies of the Jews who threatened the life and security of the Jewish inhabitants of this town.

Similarly R. David Cohen as we know from his own words, was compelled to leave *Corfu*... where he officiated as Spiritual Guide to the Jewish Community and look for safety in *Petras in Greece*.

The causes of these religious and political persecutions are tersely but truthfully depicted by R. Benjamin with the words ' that all the persecutions and afflictions imposed on us Jews again and again are due to the endeavour of the Government to extort money.' These extortions found expression in different ways either by bodily or corporal punishment or by withholding from the unfortunate victims of these tyrants food and drink.

כל מה דחמדין ע"י על ישראל מחדת
ומי ענה אונן כי אם בעד חסון מפול ו מחנין אדם
בסורקן ומחנין חסן קאט וסמיה איה אל א כעך
חסון

Probably different kinds of torture, milder and severer forms of the Inquisition were applied in these circumstances. Another instance of political trouble may be inferred from the case of a certain man who was contemplating to leave Arta for a foreign destination. The expression¹⁰

בצד חסון הדון מחנה surely implies that some political trouble of a serious nature existed in the place at that time. It may be that in some instances the expulsions and persecutions were not due to religious intolerance or greed on the part of the governing bodies, but rather to the war-like conditions of the Age, which disturbed the peaceful life of Jews as well as of Gentiles in these parts of Europe.

⁹ 416b.

¹⁰ 293.

POLITICAL CONDITIONS.

II

No. 178, as indicated in the postscript, No. 232, and Nos. 1, 13. The chief Jewish Communities frequently referred to in our Responsa are the Greek territories in the Balkans which were later attached to the Turkish Empire after the conquest of Constantinople by the Turks (April 6th 1453) and the Italian coastal part of Venice and the adjacent territories. The most important Communities in the Balkans were Constantinople and Salonika. The Rabbinate of these two Communities were headed by such authorities as R. Moses Kapsali, R. Elijah Mizrahi and R. Joseph Taitzak who were supported by a staff of learned men so that their decisions were recognised far and wide by the Jews living in all the provincial Communities under the political authority of the Turkish Empire. Ample evidence is furnished by our Responsa as well as by those of R. David Cohen and others that the provincial communities in these parts, which earlier belonged to the Byzantine Empire, turned in their communal disputes and religious differences to the metropolis of the new Empire, Constantinople, and to the second great Jewish centre of Learning, Salonika.

The greater part of our Responsa are concerned with the various aspects of contemporary life in Arta and Corfu. Probably the majority of the Responsa were written in Arta, the seat of R. Benjamin's activity and ministration.

ARTA. The following numbers were written in Arta. Thus:-

No. 176, as indicated in the postscript, No. 258, and Nos. 1, 13, 112, were actually dated in Arta. Probably many others were composed by our author in the same place. Many times he uses the phrase:- אכזה גא כידר בק'א נאמא, indicating that the decisions were given in Arta and probably also formulated in the same place. Already in the generation before R. Benjamin, Arta was an important Jewish centre. The antiquity of Arta induced the earliest Jewish settlers in this place, to ordain that the Scroll of Esther should be read on the 15th. Adar, as it was customary in all ancient communities or cities, which were surrounded by walls, since the time of Joshua, the son of Nun.¹

The leading Rabbis were R. Caleb b. Johanan, uncle of R. Benjamin and his father-in-law,² R. Solomon b. R. Samuel Kalai and his father R. Matisyahu and others whose names are listed in the first chapter of this work.

The material offered by the Responsa of R. Benjamin as well as that of R. David Cohen with regard to the political, communal, religious and social life of the Jews in Arta, will be fully described in their proper places. Here it may be noted that the older designation of the town, which was situated on the mouth of the River Arta and on the sea-

¹ D. Frankel: לוקר ונאמא מלכא, Vienna, II, p. 18 & 19.

² Responsa of Elia Mizrahi: I. 89.

coast of the Ionian islands was still used in our period in documents as ^{קריני} , which may be identified with the Greek Acarnania. Under this name, the town figures in the travels of R. Benjamin of Tudela (1170), who found there one hundred Jews (or Jewish families ?) on his journeys.

CORFU. Arta was in close economic and political connection with the Jewish Community of Corfu, designated by R. Benjamin as

³ ^{אחיה} ^{אחיה} ^{אחיה} ^{אחיה} and was indeed in our period the seat of well-known Rabbis like R. David Cohen and R. Caleb b. Johanan and others. There were ^{אחיה} ^{אחיה} there. The court in Corfu consulted R. Benjamin in a matter of divorce.⁵

R. Benjamin in his youth was in Corfu as evidenced by a postscript to No. 191, where we also learn that he came under the influence of R. Gershom⁶ and R. Elijakim Segal (^{אחיה} ^{אחיה}).

An interesting side-light on the History Segal (^{אחיה} ^{אחיה}) of Corfu can be gained from the Responsa of R. Samuel Kalai,⁸ who was asked by the leaders of that Community about their old Synagogue which was situated in the inner city and which was taken from them by the Government, so that they were forced to hire a place outside the City Walls for public worship. Since all the possibilities or chances of recovering the old building were remote, the question was raised as to whether

³ 93.

⁴ 174.

⁵ 107.

⁶ 31.

⁷ 23.

⁸ Mishpetai Shemuel: No. 14.

⁹ Mishpetai Shemuel: No. 15.

the locality might be sold to a Greek, who offered to buy the place from the Jews of Corfu.

When Corfu was besieged by enemies, the Leaders of the Community evacuated all the Holy Appurtenances (*כ"ל פירות*) *והפירות שם (רמזי כסף) ועטרת כסף* to Venice for greater safety. They were deposited with a Jew in that city, who however after the war, refused to deliver them back to their original owners.⁹

LEPANTO. This town is situated at the western end of the Gulf of Corinth. It was the seat of R. David Cohen. Another well-known scholar of the time who lived for a considerable time in Lepanto, was R. Hiya Meir b. David, later on Rabbi in Venice. One of the most prominent members of the Community was R. Yedidiah, the Doctor. R. Benjamin was asked to give a decision about the internal affairs of the Community, a subject which will require fuller attention in the description¹⁰ of Communal and Economic Life in our period.

Lepanto supplied Ethrogim and Lulavim *אחרונים וכלים* to the Communities in Greece, Salonica and Turkey like Adrianople, Phillipople and others.¹⁰

The local Rabbi, R. Meir b. Johanan complains to R. Samuel about a Jew in Lepanto who informed against a fellow-Jew to the Civil Authorities, accusing him of coin-clipping

⁹ Mishpetai Shemuel: No. 13.
¹⁰ " " No. 42.

a crime which was severely punished." to their fellow-

TRICOLA. This town was situated on the River Salmanbarya. as shown in a document drawn up there in 1523 by the Rabbinic authorities of the place, R. Menahem, the Doctor, א'פ'ר'ן, and R. Shemuel ibn Mayor.

PETRAS. Jews of Petras left their domicile on account of some persecution and settled in Arta.¹² Probably on the same occasion, another section of that community left for Lepanto, where they settled.¹³ In both places, trouble^{arose} because the original inhabitants asked for the contributions of the newcomers to the Communal Taxes.

Communal dissensions in Petras^{arose} between the members of the original Community, who were guided by the ordinances laid down by R. Jacob b. Shemarya and the newcomers led by R. Joseph Furmon י'פ'ר'מן, who endeavoured to change the earlier ordinances.¹⁴

JANINA. This town is situated south of Salonika. In Janina there were two congregations. One shared four-fifths and the other one-fifth of the taxes. The ruler of Janina, styled י'ס'א'ר borrowed fifty ducats from the Jews of this place, forty of which were supplied by the larger Community and ten by the smaller Community. The י'ס'א'ר apparently was not inclined to pay his debt. Further we find in

¹¹ Mishpetai Shemuel: No. 55.

¹² " " : No. 23.

¹⁴ " " : No. 24.

¹² 293.

Janina, Jews engaged in selling wine to their fellow-Jews in Arta.

The inhabitants of Janina used to earn their livelihood from trade in hides till outsiders came from other places and ousted them from their livelihood. The question arose whether and how far these outsiders had to share the different taxes levied on the inhabitants of Janina. This tax was called **קבולא**. The same term occurs in No. 42 of

our Responsa, where we read :- **הנה חצי הקבולא**
היציאה והכנסה

Janina was the chief town for the import trade from Venice. Cloth merchants brought their goods there and distributed them to buyers from several places, for example from Arta, **חור יאנה**, Tricola, Larissa,

חור טורקיה

השטאר (Casturia).

In consequence of the abundance of supply, they were forced to sell their own merchandise at a cheaper rate,

and therefore they wanted to impose a new tax **קבולא חדשה**
on foreign merchants or traders **וחכה זה רוצים לעשות**

קבולא חדשה על הגדלים החובתים שיהא שיעורו
גדל כד ובגד חשיק

The chief occupation of inhabitants of Janina was trade in hides.¹⁷ Both the rich and the poor earned their

¹⁶ Mishpetai Shemuel: No. 50.

¹⁷ Mishpetai Shemuel: No. 48.

livelihood out of this industry.

כבר ידוע ענין הסחורה שנמצא בעיר חומה
אדומה ועיר וכו' וכו' שיש להם חפצים כל
ישיבי העיר הזאת וגם ועשרים ואין להם כוח
חזקים אחר קולת אלו הסחורה

R. Samuel Kalai officiated for some time as Rabbi of
Janina.

LARISSA. A Rabbinic Court officiated here in 1528.

VENICE. Venice lies in the north-eastern corner of Italy.

It was the first of the Italian cities to introduce the Ghetto
(1516). There was close commercial intercourse between Arta
and Venice in this period. We find the author of our Responsa
on many occasions in this city where some of his Responsa
were written. R. Benjamin was not a stranger in Venice, for
he often refers to his sojournings in this town during the
years of his study. Thus in numbers 153, 189, 196 and 248,
we have references to his actual stay there. Venice was
for the West of the same importance to Jewish Life and Learn-
ing as were Salonika and Constantinople for the East. Politic-
al and economic conditions may have favoured a closer connection
between Arta on the Ionian Sea and the metropolis of the
Western Republics in Venice.

The many great scholars of this city are often referred
to by R. Benjamin and will be found in our list of scholars
and contemporaries in the first part of this essay. They
are:- R. Bendit, R. Issahar b. Shemuel, R. Hiya Meir b. David
Nathan b. Menahem, of Eger, R. Menahem b. Isaac, R. Samuel

Kalai, R. David Cohen, R. Meshullam Segal and R. Pinhas.

In one of the Responsa, our author styles them ¹⁸ *אבותינו* and ¹⁹ *אבותינו*.

The authority of the Venice Rabbinate was acknowledged by the Community of Arta as seen by their confirmation of one of the ordinances promulgated in Arta.¹⁰ Another indication can be drawn from the fact that four members of the Community of Arta lodged a protest against R. Benjamin's legal decision to the Rabbinate in Venice.²¹ Finally this fact is borne out by the intervention of the Rabbinate of Venice in the quarrel between R. David Cohen and our author, R. Benjamin.

Venice was the seat of Ashkenazi as well as Sefardi Jews and R. Benjamin praises some customs he observed there.²² R. Benjamin reports also the wars in 1520-1530, between Venice and probably the Turkish Empire.

The war with Turkey over the possession of the island of Cyprus, the Venetians suspected had been brought about at the instigation of the influential advisers of Selim II. After the victory in the Battle of Lepanto (1571), the Jews were threatened with a decree of expulsion; but no sooner had it been passed than it was recalled.

¹⁸ 290.
¹⁹ 246.

²⁰ 196.
²¹ 161.

²² 306.

UNRESTRAINTS of the LIBRARY

R. Benjamin spent a considerable time in the evening of his life in Venice, where he stayed for a considerable time to publish his Responsa in the well-known printing press of Daniel Bomberg (1538). During his stay in Venice, he was enabled to make full use of the magnificent private collection of Hebrew manuscripts and early printed books in the Library of R. Elia b. Abba Mari ¹⁸⁵⁷. The list of the many other worthies and lovers and friends of Jewish scholarship and literature in Venice can be found in an earlier part of this work.

BOLOGNA. Another Italian Community to be mentioned here is the famous seat of learning in Bologna in Northern Italy. The Rabbi of this town, R. Abraham ^{הכהן} confirmed the decision of our author against the protest raised by R. David Cohen.

PEZARO. We find R. Benjamin in this town, where he wrote two of his Responsa ²³.

CREMONA. A reference to Cremona in Italy is made in No. 126 of our collection. A young girl named ^{פאצינא בן ר' יחיאל} of this place married an elderly man.

fact corroborated by the following instances. Now we turn first to the conditions in Aris where a Turkish brigand killed a Sephardi Jew named Moses (^{משה}). Non-Jewish witnesses testified the case and apparently the murderer was not interfered with by the local police or legal author-

UNCERTAINTY of the TIMES

From the literary material at our disposal, we may conclude that the Jew lived in constant terror of persecution on the part of the Government and individuals; under a heavy burden of taxes, in the permanent fear of extortion, and in want of protection by the upholders of Justice and order. These conditions exercised their influence in three different aspects of Life, faithfully mirrored in the Responsa of our age.

We can divide the material at our disposal into three different groups: (1) the uncertainty and unsafety of Jewish life as shown by frequent instances of murder, (2) by numerous cases of piracy on the seas and kidnapping on land and (3) by the insecurity of Jewish wealth and property at the hands of robbers and thieves. Such unrestful and insecure conditions could prevail only under weak and disorderly political administration or an unrestful executive power.

The first group will be illustrated and the underlying fact corroborated by the following instances. Now we turn first to the conditions in Arta where a Turkish brigand killed a Sefardi Jew named Moses Susi (מוסה סוסי). Non-Jewish witnesses testified the case and apparently the murderer was not interfered with by the local police or legal authorities.

Justice administered the Law; for in the former cases of Moses Susi and Abraham Rozin, there is not the slightest indication that the Turkish criminals were either punished for their crimes or taken to task for them.

Another case of uncertainty of life in our period, is described in No. 19² of our Responsa where Benjamin was asked about a widow who left with her husband her domicile and journeyed around that place. On this journey the husband was killed and robbed, but the wife remained alive.

ראובן נסע מחקו עמ אשה ללכת בחנוך אחר
ובדרך קחו לסטים עליהם והרגו אבנא ולקחו כל אשר
להם ולאשה לא הרגוה ובמה האשה בחקוה
וספרה כל הדברים

A further case of murder took place in the district of Apulia (פוליה) where two Marranos found refuge: the first one lost his life as a victim of murderers on the road and the other died a natural death and was buried according to the rites of the Church.³ This affords a further illustration of the uncertainty of life in our period.

R. David Cohen describes these conditions of uncertainty of life in one of his Responsa in the following terms:⁴

ומה החומר ההוא שרץ על ידי לסטים ונגנב
כלסטים את בשרו של החומר הוא לעוף השמים
ולחיות רעות

in which a certain Isaac travelling on a boat from Sofia to Buda via Belgrade was killed and robbed of his money which amounted to about two thousand.

Another case of cruel murder is that of a certain Joseph b. Issiah who was taken from a boat, bound hand and foot, and thrown into the sea one hundred miles from the shore.

A tragic case is described by R. David Cohen. A Marrano was forced during the time of persecution to embrace Christianity and forsake his religion. This Marrano died on the highway, being killed by robbers without finding a last resting place in a grave or a cemetery but was cruelly exposed to the vultures.

Conditions did not improve during the period under review. In one document dated 1562 in Arta, we hear of a Greek killing a Jew on his business errand.

פועמי באוים חונתי צרות ושאלו להם בעד הדלן
של אנה'לו קשטנו נאם יש לי פחד לעבור דרך שם בעד
קיוצא שהימי חבש עמי עמי הוון בתע ואחר כי אל תבחי
חש אצל דע כך כי נהיה היהודי שהיה חסר סחורות
בתעם שפוגד היגדו שהיה שווק עם הדשקלו ה'ל בלח
רבי והיבה פעמים היגדו סחורת חסר ועמא נהיה.

Another case of the uncertain conditions prevailing during the century, is that reported in a document dated 1597.

in which a certain Isaac travelling on a boat from Sofia to Buda via Belgrade was killed and robbed of his money which amounted to about two thousand ⁷ **לכספים**.

A further instance illustrating the unsafety and uncertainty of the conditions is that of a certain Judah Bibas (**ב'בס**), who was killed by Gentiles whilst sitting with them and did not want to make the sign of the cross.

**ענה אחד חתם ואחר לו לא חתם ולא אם כן חתם
סימן עכסם בר אשונה והוא ענה ואחר מה צורך
לעשותו והוא חונק חלוצותו קחו הישעם ואחר אנה
בואר או יהודי ורעה לו חסיד וכן נקשרו זה
דברים ובין כך ובין כך קם אחד מתפרס והנה
לו באחד חזקו צמיו והשליכוהו ארצה ואחר כך קחו
כולם והרגוהו ושלאו וגו' אשר לו.**

Three facts arise out of this description.⁸ First of all that Jews were lax in observing the prohibition of drinking the wine of Gentiles. Secondly that in spite of their laxity, they would not make the sign of the Cross even under force. Thirdly that in their external appearance the Jews were not distinguished from their contemporaries. The story of this Judah Bibas offers other details concerning the relation between Jew and Gentile.

In another document, we hear of a certain Francisco

⁷ Mishpetai Shemuel: No. 80.

⁸ " " No. 81.

פרז'שקין קאפירי הראש שהיה צאנו דזמן Kapiri,

a prominent citizen of Fraga (פראג), who entrusted the same Judah Bibas with the sale of a scarlet gown and that he was accustomed to do business for his Gentile friend.

שאלוהיה כן לא היה נעשה הדבר הגדול הזה שבא אחד יהודי לפראג והיו ראש עם פרז'שקין קאפירי הראש שהיה באומא נסן בפרגא ואמן לו מעיל אחד ראש קרצטל חספרו או חתקנו וזה היהודי לקחו.

Further we learn that the Jews refrained for some time, owing to the presence of robbers, from visiting the neighbourhood of that place where the murder happened.⁹ The insecurity may have been primarily due to the war between the Turks and the rulers of Corfu, which took place about this time, viz. 1538 as indicated in the documents.

A fourth instance of a similar type is that of a certain Isaac b. Samuel of Janina who was going on his way to Larissa where he went for business purposes and disappeared on his return journey from Larissa near Tricola where he was last seen in the company of two ass-drivers.¹⁰ This was in the year 1552.

Other cases showing the insecurity of our period, are recorded in our source as due to (1) piracy and (2) captors. Considering the vicinity of the sea and the general uncertainty of life, it is not surprising to hear of some cases of

⁹ Mishpetai Shemuel: No. 81.
¹⁰ " " No. 82.

piracy. frequent instances in which the great duty of

From a document contained in the evidence of a woman called Kolu (כֹּלֻ), wife of a certain Daniel b. Samuel, we learn that the latter was taken by pirates from Rhodes (רֹדֶס), who in their barges attacked a cargo-boat in which her husband was sailing. The pirates made up their minds to sell the said Daniel on the slave market but owing to a storm which broke out on the sea, he lost his life in the water.¹¹

R. David Cohen reports a similar case of piracy. One boat sailing from Genoa in the direction of the East, was captured by pirates who brought ~~the~~ ~~brought~~ the captives to the slave market. Among the captives was a Jewish girl, who was sold to a Gentile. The latter tried to force her to change her religion. Yet she refused. Finally she met a Jew of Genoa who is described as כֹּהֵן 'ר' ¹² with whom she fled from a Christian country to Turkey.

A third case of piracy is reported in one of our Responsa,¹³ where husband and wife were captured by pirates and had to be redeemed. The redemption of this couple did not burden the purse of the congregation or the communal funds for there were available some valuable deposits in the hands of relations.

¹¹ 65b.
¹³ 229. 320a.

¹² 81. 24b.

The frequent instances in which the great duty of redemption of captives (פדיון שביוש), was practised and imposed upon the Jews, individuals as well as Communities, illustrate this second aspect of the insecurity under which the Jews lived in this period and in this part of Europe.

Finally, numerous cases can be adduced from our sources for the uncertainty and insecurity of Jewish property in our period. No wonder when life was not safeguarded against murderers that property should be treated in the same way by thieves and robbers. First, a few utterances by R. Benjamin and others describing these pitiable conditions generally will be quoted and analysed and afterwards individual examples of robbery and theft committed on Jewish property will be collected.

Thus we read:¹³ ראובן הפקיד אצל שמעון כולם
למקרה חקרה וגזל אברים בלילה וגזבו אותם בפניו

from which we also gather that any attempt to disturb or prevent the theft may have had fatal consequences for the owner of the property, for he pleads:

שאני חששתי לעצוננו כי אם הייתי צוח קודם
שהיו באים האנשים להצילני הונו חסדאם אולי
היו ברחמים.

This is an additional reminder that murder followed robbery and that murder and robbery went hand in hand with one another. Probably the earlier cases enumerated showing.

the insecurity of human life may have been accompanied or followed by robbery.¹⁴

Another case of theft can be adduced from one of our Responsa, in which X deposited with Y a box of old silver and gems. The deposit was kept together with the property of Y and both were stolen or robbed by housebreakers.

A similar case is also discussed.¹⁵

האבן החסיד כ'ד שמעון אחיו קטן ובתוכו ספר
וזהב וחרמליות והיא אחיו כ'שמעון ושמעון הנפחד אחיו
הראובן שניהם אחיו במקום שסמך את שמו וכן עשה
ולחיותם באו אנשים בביתו של שמעון והגבו חבולת
נכסיו וגם אחיו ואחיו של ראובן

Jews, If property was not safe in the home, how much less on the highways and open spaces and roads where robbers were lying in wait to despoil the wayfarers generally and the merchants going to markets especially. Thus an agent who went with merchandise belonging to a fellow-Jew, to one of these markets was despoiled of the goods commissioned to

him. האבן נתן לשמעון הסרסור חפץ לחופרו
שיביא לו שר חם מאה ומה שיחכו יוגר להיטא לשמעון
הסרסור ואם לא יחברו שחזר לו אחיו חפץ לבצע
כאבן ולא יובע חמנו הוצאות ההלכה והחנות
והלך שמעון ביהוד אחד ולא יצא לחופרו
ושתתתו אהסותו ולקחו לו מה שביא חבולת
עמו וגם אחיו חפץ

Another instance of theft and robbery¹⁷ from the home of a Jew is recorded also. Here X took lodging in the house of Y, where he deposited with him a full purse of money, tied

and locked it up, nevertheless it was lost, presumably through theft. The argument was whether the purse contained golden ducats or simply copper coins.

מחלוקת בין שני חכמים
אחד אמר שהיה זה כסף
ואחר אמר שהיה זה דוכסין
והשאלה הייתה האם
לחזור ולקחת את זה
אם לא

An interesting case of theft is reported in one Responsum.¹⁸ We learn that a certain Dr. R. Elijah promised his future son-in-law, a dowry of two hundred golden ducats and one hundred copper coins and suitable attire, which however were untimely stolen from the house of the prospective father-in-law. A similar case is discussed,¹⁹ when a quarrel arose between two Jews, X and Y. X lent Y money in currency of their country or province. The loan was secured or guaranteed by a pledge consisting of some valuable article of gold or silver. Thieves broke in by night and robbed the box where X kept his own valuables together with the pledged articles.

Apart from kidnapping on land, which forced Jewish communities to exercise the great religious duty of redeeming captives, (פדיון שבויים), and age old sacred custom in Jewish Life,²⁰ there were also Jewish prisoners of war (שבויה), who had to be freed from the hands of their captors. Thus²¹ we have a case of captors bringing husband and wife before the authorities of the Community with the view of releasing them for a suitable

suitable sum of money. These captors could not have been ordinary kidnapers or pirates but similar people of a more official character for otherwise it would be most unlikely that they should practise their criminal handwork in such an open manner. If they did so, this would throw very gloomy light on the political conditions prevailing in the country and in our period.

GENERAL POLITICAL CONDITIONS.

In general R. Benjamin gives voice to complaints about the hardships under which the Jews lived in his time. He surely voices the feeling of the majority of his contemporaries when he writes (Introduction 15a): **בשבי' דאנאום הנסן**

והנדנוד בארצא "on account of the troubles of the time and what God decreed upon us to bear exile and homelessness in the lands of our enemies." It is characteristic that a man of R. Benjamin's type should look upon the land of his unhospitable hosts as "the land of our enemies."

This hardship caused by exile and oppression was felt in daily life in most of the dealings with non-Jews. In one place (164.266a), our source depicts the situation:

בין שיד האומא תקפה עליא ודנין בדיניהן

"the hand of the nation is heavy upon us and they have the power to treat us Jews according to their own legal system."

One might be tempted to ask what wrong could the contemporaries and especially such men as R. Benjamin, a practical judge and a legal authority see in the

As a consequence Jews were subjected to a system of application of a recognised and established Law against the Jews. The answer to this question is given plainly by

R. Benjamin in characterising the administration of this Law when Jews stood before a Gentile court. He says:

דאומנה העולם ואחר שלוקחים חסונו של ישראל לבסוף מייסרין אותו והורגין אותו עד שידה והוא אינו כבודו ויגן להציב

This means that Gentiles first rob the Jew of his money, then they torture him and apply all the barbaric methods of the Inquisition to make him confess before he is put to death (400b). Under such conditions, which ridicule every sense of decent justice, law and order and methods of jurisdiction, is it surprising that Jewish judges who were brought up in the spirit of the Law and Talmud should look with horror on such a miscarriage of Law and Justice?

If there had been friendliness and benevolence on the part of the rulers or fellow citizens, a man of R. Benjamin's calibre would not have applied such a strong condemnation on his hosts and friends. R. Benjamin and with him multitudes of Jews looked upon their sojourn in an unfriendly land as an edict and decree of God, that is, a punishment and a visitation. It is needless to say how justified such a judgment was.

As a consequence Jews were accustomed in a time of trouble and distress, most probably of a political nature, to make vows or promises of a religious character, in order to strengthen their supplication for help before God.

Illuminative for the legal position of the Jew is the following case of our collection! A Jew was forced to pay the debts or obligations, which a fellow Jew who defaulted by escaping abroad, owed to a non-Jew. It seems that the non-Jewish authorities extended the solidarity or the common obligation of the Jews to the inhabitants of the same city or to members of the same community. Thus an innocent man became involved in monetary trouble by no fault of his own and since the stranger had to pay up for the commitments of his fellow-Jew, the anarchy and injustice administered to the Jew becomes quite apparent. This lack of order or justice will be even more obvious when we consider all the cases given by our author in which the interference of the leading Gentile courts in the life of the individual as well as of the community at large, are mentioned.

389.506a. when only in the case of an emergency when the Jewish Courts and authorities were powerless to enforce payment.

1 126.207a
2 206a.

LAW AND COURTS.

Non-Jewish Courts assisted in many instances the Jewish ones. Ecclesiastical authorities in their executive powers. Thus if a Jewish husband contrary to the decision of the Jewish Court refused or was reluctant to divorce his wife, application was made to the Courts in order to force the husband to comply with or to obey the ruling of the Beth Din.¹ This procedure was in full agreement with the Talmudic legislation which provides for such emergencies. Moreover, we find that the Jewish authorities availed themselves of the assistance of the Civil Courts when some obstinate delinquent neglected or transgressed the Jewish Law to submit him to corporal punishment.²

Similarly the help of Civil Authorities was sought when the question of payments of taxes arose and the collection of the said taxes was involved.

This final step, that is, the application to Gentile Courts could be taken only in the case of an emergency when the Jewish Courts and authorities were powerless to enforce payment.

¹ 126.207a

² 208a.

Further a case is recorded in which Jews were punished ^{by}

Gentile law for transgressing Laws and Customs of morality.³

איש לרעהו יענורו ידוגקו ולא יגפרדו וקרן חקרה בין הקהלות הנ"ל
שבאו מהגרוע שני מצאו שלש נשים תשובות מארסותיהן בעודן
ארוסים בלא חופה ובלא ז' ברכות ובלא טבילה ונודע הדבר
אצל הג' ד של הערכאות והולכנו חלק חלק אצל שופט העיר
וענש אותן כפי דיניהם:

Attention has to be paid to the expression

ונודע הדבר אצל הג' ד של הערכאות והולכנו חלק חלק אצל
שופט העיר וענש אותן כפי דיניהם

which as it stands means Gentile Courts, ^{which} apparently without
the interference of Jewish Courts, dealt with this affair.

This, however, seems strange, and it seems more likely that
the Jewish Courts handed over the transgressors to the
executive powers of the local non-Jewish judges.

It would be interesting to know whether the secular
Law forbade such "wild" marriages contracted without reli-
gious rites or Civil officials. Anyhow it is most un-
likely that the Civil authorities would condemn such cases
without the active intervention of the Jewish Courts. We
find individual Jews bringing their cases before Gentile
judges in spite of the general dislike of such procedure.
Even a man like the Sefarai אברהם in Arta, R. Abraham Obad-
iah made his last disposition about his property before a
Gentile Court.⁴

The permission to appeal to non-Jewish courts was not at all general. Rabbi Joseph Kolon of Mantua (1420-1480.), the leading authority in Italy in the generation before Benjamin, explicitly condemns such conduct in Responsum

154 (ש'ו"ת מ'רין). Maimonides in סנהדרין

26.7 agrees with a decision of R. Sherira Gaon (988-998),

who allows the intervention of non-Jewish courts only in such emergencies when this cannot be avoided. (Mordecai Ketubot 149a). Whilst an earlier Gaon, R. Paltai of

Pumbadita (842-858) has no scruples in permitting the parties to invoke Gentile Courts.⁶

From a Genizah fragment we learn that in some place a communal ordinance existed, forbidding the lodging of an appeal against the decision of a duly authorised Gentile Court. This decree was ignored entirely and led to a further disorder that Jews ignored entirely the Jewish Courts and brought their lawsuits directly before the non-Jewish Courts. This material makes it clear that R. Abraham Obadiah saw nothing illegal in disposing of his property before a Gentile Court. Yet the Maham left part of his money or valuables in the hands of a Jew for the benefit of his Synagogue that he had ministered to during his lifetime. This money was not included in his legal

⁶ 26 שו"ת מ'רין ו' also Müller פתח שו"ת מ'רין
p.197-199 or No.114

published in the Monatschrift vol. 50. 1906. p 599

NAMENSTEIN: 'BEITRÄGE ZUR GESCHICHTE UND LITERATUR
DER GAONÄISCHER PERIODE.

disposition. After his death, the legal heir to his property, the legal a certain Manohah a tanner, claimed for himself also this pious legacy and exacted it from the hand of the Treasurer through the medium of Gentile Judges. *לחילויא המעות מהנות האוצר על ידי דני העדכאות*

This action was naturally looked upon with disfavour and generally condemned because the Jews, individuals as well as communities, were quite helpless and defenceless in case of wrong decisions decreed by Gentile Judges. Thus we read:

וכל זה עינינו רואות ואין מושיע ולכן אנחנו חודיעים למעלה בלח העת והחם אשר נהיגה אצל וכל לא ושאיתו חשם לכבוד עבדו חורות יע אנחנו לא נוכל לעשות פה דבר כי במקום המשפט שמה הישע
Since the place of justice was turned into wickedness,

evil and violence resulted out of these proceedings. As a consequence the Jews had no other remedy but to apply to their own authorities to frighten the evil-doers by imposing on them the terror of excommunication for which the support of generally recognised Rabbis had to be asked.

Altogether the dislike of the Jew to bring his lawsuits before Gentile Judges can be easily understood when we read of the dangers which such an action might have brought about.

An interesting illumination of this fact can be

read into the following words of Responsum 390, which

records:

וְשֵׁבִיל שְׂכָר לְיִסְמִינְן הָתוּם שְׁתַּחֲבֵּל אֶחָד לְחֻבּוּרָיו שְׂוִיָּה
לִידו חֶלֶק הָרָאוּי לָהֶם לְפָנִים אֲדוּמָה הָשֵׁר שְׂכָר יוֹלִיכָנוּ בְּרִכְתָּאוֹת
וְיִבְנוֹ לִידו סִכְנָה נֶפֶשׁ חַיִּין וְהֵם אֲחֵרִין לוֹ שׂוֹפִים הָשֵׁר חֲחֻמָּה
מֵחֵלֶּכ וּשְׂבִיב דִּינָאוֹם וְהִי שׂוֹכֶה יוֹכֵה וְהִי שׂוֹכֵב וְהִי וְכֵן עֲמָה

R. Benjamin follows ^{an} earlier practice when he tries to prevent Jews from going to Gentile Courts and prefers to bring all cases before Jewish Courts or endeavours to administer Justice without the help or interference of Gentile Judges. To judge from the term **סִכְנָה נֶפֶשׁ חַיִּין** used by the writer in this connection, we are surely right in interpreting the sentiments of R. Benjamin, and his contemporaries that such an action as forcing a fellow-Jew to appear before Gentile Judges was looked upon as entailing danger of life. Only as a last resort does he acquiesce in appealing to non-Jewish Courts and even this he limits to cases of disputes of a civil character. Yet if there is a danger of torture or of bodily harm or similar physical disability under no circumstances may such a case be brought before non-Jewish Judges, without the endeavour to settle or judge the case before Jewish Courts.⁸

⁸ 522b-523b.

Yet this Talmudic rule was in course of Jewish History changed and limited as we saw from Geonic sources, mentioned previously. The reason for disregarding the original Talmudic injunction may have been due to the weakness of the ecclesiastical authority to exercise or to provide executive powers to carry out their judgment in the various lands of the Diaspora. Besides the Talmudic rule repeated by the Geonim, these passages convey a similar message.

The rule was therefore to settle all cases and all suits before Jewish Courts. Yet curiously enough there was a case in which a certain Jew protested against or ignored the decision of a local Rabbi, which endeavoured to prevent the members of the local community to lodge their cases

before Gentile Judges or Courts. We read: ⁹ על אשר האדול
התוא רשע לדבר נאדהר כשאר חיי על עסק הקהל מ' שולד
בעסק זה לפני הערכאות שיהיה בתם והתוא רשע התרים נאדהר
והקהל ואמר יהיה בתים מ' שאמר והטיה דברים רבים נאדהר
הרב דינא הוא דאדול אומר כיון דענה ענוה נאדהר
הרב ולקהל

In this instance the Rabbinic decree wanted to prevent communal matters from being judged by Gentile judges.

The opponent, as can be gathered from the phrase ¹⁰ והאדול
התוא רשע was probably a wealthy and influential member of the Community, who refused to submit to such a decree.

R. Benjamin endeavours to support his prohibition of going to

Non-Jewish Courts by a Halahic argument saying: ¹⁰

והזל הזהירותו שלא ללכת לתדיין לפני עש'ל בי כשתלך לפני
אתה חקר דניהם והרי וגם מבטל דין ישתל ואפילו ידע
שדניהם כדניהני אל תבואה לפניהם שתמביא דני יש תל
חלל ה' שנאמר כי לא כצויה צורם כדנהג סמח
בעשאין סימן קול

⁹ 283. 399a.

¹⁰ 282. 395b.

Yet this Talmudic rule was in course of Jewish History changed and limited as we saw from Gaonic sources, mentioned previously. The reason for discarding the original Talmudic injunction may have been due to the weakness of the ecclesiastical authorities to execute or to provide executive powers to carry out their judgment in the various lands of the Diaspora. Besides the Talmudic rule repeated by R. Benjamin, these passages convey a weightier psychological reason, viz. the feeling which existed in Jewish circles that any Jew accused or brought before a Gentile Court, especially when the accuser was a member of the higher social order was not only at a disadvantage but in actual danger of life. Little wonder then that Jews avoided as much as possible to come into contact with the whole administration and execution of the prevailing legal system.

Besides these Halahic and psychological reasons for prohibiting Jews to go against their fellow Jews to non-Jewish Courts, R. Benjamin appeals to the national sentiments of his correspondent when he writes:

" וכן אומרים להם הגוים ראו היחודים שהם עם ה' אלו
 הם בעצמם הולכים ומבטלים דתם על ידי השופט
 ואינו יכול להצילם מידם אלא הם באמת רחמי האומות

These words reflect plainly the conditions of the period.

The Jews considered themselves as the 'Chosen People of God,' an assertion which is known to the Gentiles but not acknowledged by them. They try to disprove the Jewish claim by pointing to the unfortunate fact that the Jews themselves annul their religion by appealing to the Gentiles so that even God cannot help or save them from the might of their oppressors and the hardships of the exile. By quoting these words of the Gentiles, which may have been actually uttered or merely depicting the possible consequences of going to Gentile Courts, R. Benjamin condemns such conduct both on religious as well as national grounds.¹²

"§8a.

¹² v. Mehilta of R. Shimeon b. Johai ed. D. Hoffmann, Frankfurt, a. Main, 1905
 p. 117. on the verse *לפניו לפניו אשר גשם לפניו*
ולא לפניו חיו

Other signs of a friendly spirit appear in the information given by the Gentile women to a Jewish lady

JEWES AND NON-JEWES

In spite of the unfavourable relationships which existed between the political and juridicial authorities on the one hand and individual Jews on the other hand, as described in the previous paragraph, there are signs of somewhat friendlier relationships existing between individual Gentiles and Jews. For example, we find a Communal Precentor in a somewhat too friendly relationship with a Gentile woman for which immorality he was rightly fined and punished by the civil authorities.^{316b}

והעידו עליו
גוים לפני הערכאות ודנהו בבושת ובחטין
זו לוהק אנשי הקהל לחושבו על כח כבדאטו
That this was
That this was
not an ordinary libel is evidenced by the fact that the court imposed the fine on the testimony of two witnesses, who were non-Jews, and the acknowledgement of the fact by the Jewish Community. Had it been a mere false accusation of which witnesses and judges were equally capable, the Jews would not have looked so seriously upon the alledged aberration of the Cantor.

Other signs of a friendly spirit appear in the information given by the Gentile woman to a Jewish lady

WHICH MANIFESTS a spirit of friendliness and sympathy.²

Here may be mentioned the case of a judge, who against the frequent examples of terror and injustice shown by his confreres dealt kindly and leniently towards the Jews.³ Thus a Jewish informer who endangered the Life and Property of the Community by false allegations and misrepresentations was severely rebuked by this judge.

R. Benjamin uses the words וְלֹא יִשְׁתַּחֲוֶה לְאִשְׁתּוֹ
הַקְּהִלָּה שֶׁתִּקְרָא לָהּ כִּי הִיא אֵשֶׁת חֹמֶן רַב מִמֶּנּוּ הִיא
מִעֲנִינָם, וְאֵדְרֵבָה אֶת בֶּן הַטּוֹב עַל כִּי כֵן בִּהְיֹתָ אִישׁ
We learn that even in these dark ages the old optimistic belief that there are pious men even among the Gentiles still survived.

We find Jews in constant social and economic contact with Gentiles. There are numerous instances testifying to the frequent economic relationships existing between them. Thus we read of a Jew leading money to a Gentile on a security which was worth double the value of the actual loan.⁴

² 17a

³ 356b.

⁴ 564b. 433.

The Gentile entrusts the sale of this pledge to his creditor.

לד רמון שהיה בידו משכון מהו אחד במנה ואומר
מחצית היה שוה כפלים מהחוב והוא אחר לראובן
לד וקח חובד והלך רמון אצל שמעון ונתן לו המשכון . . .

Another case of a pledge deposited by a Gentile with a Jew gave rise to a law-suit between two Jews. The Jew lent money on a cup in the belief that it was of gold. Actually it was only inlaid of gold and in reality was of silver.

Whether the Gentile acted in good faith or not, cannot be ascertained. In point of fact the creditor believed that

he possessed a cup of gold: על הריב שנפל בין רמון ושמעון
ששאל רמון משמעון גביע אחד מפסגה שהיתה מצופה זהב
שעושים הצורפים ליפון והיתה ממושכנת איתו הגבוע מהו אחד

Further we learn that R. Elijah, a doctor, after having lost all his property through robbery, was still in possession of letters of credit from non-Jews. It is however doubtful whether the doctor received these obligations from his debtors or perhaps in lieu of his fees for his medical services.

ואפילו דואין לו נכסים ח'קואיקה כל שטר חובות שיש לה' אלו
מהגונים

This information is in any case important for establishing the relationship between Jews and Gentiles, for we see that the latter employed medical services of the Jewish doctor and the former trusted their fees to their Gentile clients.

There are many more instances of Jews lending money to Gentiles on pledge. Once a Jew sent a fellow-Jew to a Gentile

to cash his debt from the debtor and the latter by mistake gave ten golden ducats in excess of the loan.⁷

ע'ד ראובן
שאלה אג שמעון במקום פלוני לקבל חוב מאוי אחד שהיה חייב לו
וכשהלך שמעון אצל האוי נמן לו תחוב הידיע ושעה האוי בנת
חוב ונמן לו ונהר לו זהובים

Further there is also a case of a non-Jew who lent money to a Jew on pledge. This shows that not only Jews but

Gentiles also were engaged in money-lending.

ע'ד הנכא דמשכון ראובן שהיה מחושבן ליד לאוי ונפל החוב משכון
מידתאוי וסצאו שמעון חברה ושמעון מבקש חסון מה שהיה חייב
ויחזיר לו המשכון שכן שמצא אין על ראובן למה שמעון סאומה

The loans were given on interest, which was permitted according to Jewish law.

9 דשרי האידנא ריבוי דלאוי

The amount of interest could be raised according to the discretion of the creditor.

ואפילו ונהר חכדי פרומא

There are other ordinary cases of Jews who lent on pledges money to Gentiles.¹⁰⁺¹¹

We find that in order to circumvent the law or prohibition of interest taken or given by a Jew, a Gentile was put up as a go-between between two Jews. This old legal fiction has a whole history behind it, and it was permitted by the great French authorities of the twelfth century and also practised in Angevin England before the expansion of the Jews in 1290. The case reads:

⁷ 531a.

⁸ 500a.

⁹ 360a.

¹⁰ 355. 478a.

¹¹ 389. 506a.

¹² 487b.

12 יש ראוי שחוצה לך לחקות וגו' משכנו ליד האוי ואם
 לך ולזה על משכון זה ברבית והאוי ברח ואיצטאי חילגא למפר
 דהמשכון של ישראל דבריה הוא חת דמו

The spiritual leaders however admonished their charges not
 to profit by robbery committed from a Gentile,
 13 ואין דוקא הוצא ישראל מכל אפילו חזלה דהוי אסור היכא

or to take advantage of a Gentile's mistake or error. Thus
 we read of a case where ten golden ducats were commissioned
 14+15 אמנם נ' די לומר דמשום ק'ה יש לכל אחד
 to be returned. ו אחד מישמאל לחזק לאוי שאלו אפילו דהוא עצמו טעה. אמנם
 משום ק'ה היה נראה לו ליתב מצאעון השני להחזיר המשכון
 ליד וירשי האוי ועל ידו היה מתקדש ש'ש אצל כל האוי
 We may establish that the sense of religious duty

overruled any feeling of antipathy or animosity, which would
 have been justified in the face of hostility and often
 cruelty which were shown by their non-Jewish neighbours.

The conception of *חילוג השם* and *רחמי השם* that is the pro-
 fanation and sanctification of the Holy Name was stronger
 than the grievous personal injuries they very often suffered,
 in the preceding pages of this essay.

The economic relationships were not confined to leading
 and borrowing. There are cases of actual or projected partner-
 ships between members of the two sections.

13 389a.

14 531a.

15 564a.

The Talmudic injunction against such commercial relationships were looked upon by R. Benjamin as an expression of superior or extraordinary piety, ^{הסידור} which cannot be strictly applied to ordinary daily life

¹⁶ והא' דא' ושתתף עתה היינו דרך הסידור

Here again R. Benjamin followed the ruling of R. Tam.

Thus we find further that a Jew owned a house together with a Gentile; probably they lived together in the same dwelling.

¹⁷ ב"ג אחד שהוא של שותפין של ישראל ושל גוי

Another instance of the closer connection between Jews and non-Jews can be deduced from the question which reveals the fact that Jews let houses or lodgings to their Gentile

neighbours. ¹⁸ וזריו חורגו האי דנא על סה סוסטן ושיא' ל' השכיר ב"ג לאו

The relationship between Jews and non-Jews extended beyond the limits of business and trade and entered social life as well.

Just as Jewish doctors were consulted by Gentiles in cases of sickness, so Jews turned to Gentile doctors in the hour of trouble. This is the more remarkable since there were many and highly skilled Jewish doctors available, whose assistance was often called for by Gentiles of the highest social classes, and secondly as showing the mutual trust that existed between patients and healers, although belonging

¹⁶ 510a

¹⁷ 266b.

¹⁸ 530a. 408.

to different creeds.

Noteworthy is R. Benjamin's ^{prohibition} not only for trading purposes but even for drinking, [&] wine that has been intentionally touched by a non-Jew with the purpose of making the wine useless to Jews. This, incidentally, throws additional light on the relationships existing between Gentiles and Jews.¹⁹

Jews kept Gentile male or female servants and were visited on friendly terms by Gentile friends, who were entrusted with some ritual functions. We find that Jews relied on Gentile services of this nature. R. Benjamin himself knew from experience the habits of the Gentiles.

דאנאל נחיו קפס די לנקות הרשע וכל דיחיו²⁰

Sometimes these friendly visits of Gentiles to Jewish homes led to mischievous consequences.²¹ Thus in the house of a Jewess whose husband left for Apulia, the suspicion arose after she gave birth to a child in the absence of her husband that the friendly Gentile was the father of her child.

Just as we find non-Jews in the household of the Jew, so likewise Jews visited non-Jews on friendly terms or for business purposes. Thus we find that they went into the house of the potter or knife-maker in order to buy their goods.²²

¹⁹ 348.

²⁰ 331.

²¹ 134. 224a.

²² 345. 467a.

Intermarriage between non-Jews and Jews occurred, and the question was raised whether a Jewess may observe her religion whilst being married to a Gentile. There is indication of the practice of Christians permitting their Moslem wives to live according to the tenets of their religion.²³ It is very doubtful whether the same consideration was shown to a Jewess in similar circumstances.

והא דלא הייסוין שחא יסור האוי הבועל את האשה הישראלית
משום שדוד הבועל האוי להבתה לעבוד לויזה דה שגרת
כאשר אין חאים עתה בזמנא השמקאלים שכותרים להם
היונה ומנחים אותן לעבוד הנה שבתן

Arab musician were not employed in Jewish homes on festive occasions not for social reasons but on religious grounds, for according to established usage no music should be heard in a Jewish home except the psaltery or harp, which instruments were allowed because they do not re-echo their sound.

ואנו חנהא נודע בשער דזמרת אסורא לך בבל
זמר חוק חגביו והכלה לא נעצ אלא בחמש נשים ואפים וכל
זמר של הישמקאלים אפילו בבית אסור לא אלא חקא כח
ונבל שאין להם קול הברה

Similarly R. Benjamin is strongly opposed to card playing with Gentiles not so much for religious reasons but because, in his estimate card-playing was a futile and foolish occupation unworthy of the attention of serious people.²⁶

²³142b.

²⁴76.142a. b.

²⁵305.441a.

²⁶281.391b.

וכל הדיוש בנימין נחיה דלא דוקא עם חביון אלא
 אפילו עם גוי דלית ביה משום חיל איסורא איכא
 בדבריהם בטלים ודברים שמתן מושבו של עולם

There are a few general ^{remarks} expressed by R. Benjamin on the
 character of Gentiles which should be mentioned in this con-
 nection. Thus he says that certain commandments were just as
 carefully observed by Gentiles as by Jews. Our author
 especially refers to the commandments dealing with the hon-
 ouring of parents and the respect due to the aged.

כי לפעמים עושם אומם כחולו כיבוד אב ואם
 והיזר לזקן וכדומה

It would be instructive ^{to learn} what R. Benjamin meant by
 "and similar commandments". Further in certain emerg-
 encies

they relied on the evidence of non-Jewish witnesses
 and accepted their testimony as of equal value as that given
 by Jews and Jewesses.²⁷

We have already seen that Jews bought their goods from
 non-Jewish artisans and traders (v. p 167). In addition
 we see that Jews bought their meat from non-Jewish butchers

וכן נמי אין להביך משעם זה כשחביאין בשר מקצבי
 אומם לקלעם אומה גאיר בכל מקום שחמד האי ברקופין
 שכל או בסכינו

27 237.326b.

28 458a.

This does by no means mean that Jews in this part of Europe ignored the rules of ritual slaughtering, but it must be assumed that the Gentile butchers sold meat to Jews after the slaughtering was ritually performed by qualified Jewish slaughterers. Further more, we may take it for granted that the non-Jewish butchers use special utensils for cutting meat that was sold to Jewish purchasers.

We learn further,²⁹ that Jews of some communities in these parts of Europe, bought new wine, oil, and honey from Gentiles as well as certain compounds the exact character of which is not described in detail, in spite of the possible infringement of the strict laws that are prescribed in Talmudic literature.

Finally, there is another remarkable record of the religious life of the Gentiles when our author tells us³⁰ that "nowadays, the Gentiles do not introduce their Icons or Holy Pictures, or other religious symbols into their homes, except at funerals and at the last rites of the dying".

זדה אידנא שאין האומים האילים להכניס ע"ז
בביתם אלא בשעה שיש שם פז או שמשה לחנו
ועוד מאמר שעה שמכניסין אומן אומן צוידים אומן

²⁹ 350.
³⁰ 266a.

This is the more noteworthy since members of the Greek Church adorned their homes with *εἰκόνες*, religious pictures, and worshipped the saints. Reviewing these details in a more general way, we may conclude that Jews and non-Jews lived amicably together in spite of the barriers set up between the two communities by religion, society and national differences. The necessities of life could not prevent social or economic intercourse between them. Jews were forced to utilise the services of Gentiles, and the latter availed themselves of the good offices of the former. The one drawback of the helplessness of the Jew in the eyes of the law, was overcome by the stronger human ties of friendliness and occasional good-neighbourliness. long as their general requirements were satisfied.

The collectors appointed by the government for this purpose collected the taxes locally. Consequently if a Jew emigrated to another place or changed his domicile from one locality to another, he could not possibly escape the attention of the collector.

והוא היה חייב לשלם את המס המקומי
אשר היה שוכן בו בכל מקום שהוא
This was the usual practice. Apparently this procedure differed from that in vogue in those Christian countries of Southern Europe which were still under Christian suzerainty, for in .

TAXES.

Neither the ruling classes nor the local municipalities were prompted in their dealings and relations with the Jews by humanitarian motives. Their main interest was to exact both from individual as well as communities as much as they could extort. Here the main points to be gathered from our Responsa shall be examined. Firstly we learn, that all the Jewish tax-payers were registered in all the communities under Turkish rule

ובשביל שהם כמובנים בספר המסד
באגבאי המסד ואיזה הכל מהם ואחר כך גובים מסו בכל
מקום שהוא

Consequently the Turkish rulers left to the individual communities the right of assessment and the collection of the taxes as long as their general requirements were satisfied. The collectors appointed by the government for this purpose collected the taxes locally. Consequently if a Jew emigrated to another place or changed his domicile from one locality to another, he could not possibly escape the attention of the collector.

וחקשים בכל יום בחכמות
אחרינו המסד השמיעא ויהי שיוצאים מקצת לשבת לעי
אחרת . . . ואחר כך גובים מסו בכל מקום שהוא

This was the usual practice. Apparently this procedure differed from that in vogue in those Christian ^{countries} of Southern Europe which were still under Christian suzerainty, for in a

case previously mentioned, the Lord of the province or town objected to a certain bridegroom, who tried to put up his domicile in his bride's district where the Lord could not protect his fiscal interests.¹ This difference between Moslem and Christian practice led to another result. In the former case, all the Jews of the Community were responsible one for the other. This perfect solidarity made the whole Community liable for all the members of the Congregation, including those who left or fled from the locality.

כהיום אמתו במלכות המלך שמעאל שנתן כל אחד ואחד
 חס בעד האלמות.
 וכיון דכל בני העיר הם שותפים בעצם ח' נראה
 ששגתו בערם משועבדים הם למלך והם לו למסע
 דכל חסם הם שותפים

All members of the Community were liable to pay taxes.

^e Exempted from this obligation were the scholars, whether partly or fully engaged in studies or ecclesiastical duties.²

The taxes were of different kinds:

- (1) head-tax.
- (2) land tax.
- (3) royal tax.

The former was paid by all Jews who passed through a dominion or province

הא קמן דמצות המלך היא שכל
 יעבור שום אדם בארצו אם לא שיון כד יכר
 כלומר קרקוק אברא והיוה ד דמי דינא

¹ 593a.
² 252.

This tax was probably paid by all temporary or permanent residents after they acquired the right of settlement.

Next to these main duties there were local payments to be made to the Civil Authorities. Thus we hear of a certain tax called *מלופניש* which is described by R. Samuel Kalai³

thus:

הנה עתה וכן קרוב לעשרים שנה נמנהגה בין
הקטנות הק' לפניה יצ' הן עשירים הן עניים הן בינוניים
לקנה מאגשי שומרי העיר את שכרם הנקרא בלשונם מלופניש
וכל אחד ואחד קונה לעצמו וחכמים גמ' בפנקס של דין
העיר ואין מעכב על ידם וכה סנהגה ושיטתם כל
ידידים.

Accordingly all the Jews in Lepanto, whether poor, rich or middle class people paid a certain amount yearly to the police of the city for protection or for upholding Law and Order. This was duly registered at the Courts by the Judges of the town.

³290.

their officials.

RELIGIOUS LIFE.

The conditions described in the previous chapter serve merely as a foliage to the main interest of our author and his contemporaries, viz. the valuation of all the aspects and manifestations of Religious Life and Culture.

The political conditions, the economic circumstances and the social standards as well as the cultural attainments of individual and communal activities found their climax in the religious sentiments and exercises of the Jew. They were merely secondary, a background to the most important expression of Jewish feeling and activity, viz. Religious Life.

This chapter will consequently be devoted to the analysis of the material which throws light on this most important aspect of contemporary Life. It will include next to the description of the daily religious exercises in the home and in the Synagogue, in the family and in Society, also what we glean from our Responsa about the organisation of the Community, the status of the spiritual and lay leaders of the Community, the function of the Beth Din, the ecclesiastical Court and their officials, the Dayanim, the schools and

their officials.

R. Benjamin's opinion of the religious and moral status of his generation and contemporaries is on the whole an unfavourable and unfriendly one. His general character of his people is expressed in the Talmudic phrase ;' דלמא

דז' דורא אכשורא that is that the generation is not proper and does not come up to the highest standard or requirements of religious and moral conduct. In his introductory remarks, he characterises his generation thus ;? דורא חלף ותמעט

דלמא דז' דורא אכשורא which means to convey the idea that the standard of religious knowledge decreases on account of the increasing neglect of the study of the Torah.

In a further instance, he characterises his time as ;³ מה יעשו אנובי קיר כמדה ולא אנשור דז' אמנו צעירי העצאן לא נדין ק'ו בעצמנו
It was probably not mere modesty but a real insight into the character of his time which makes him utter these words.

Further, in the Responsum 78 he ascribes to his contemporaries who perform the ceremony of the levirate marriage low motives, like the love of money or beauty. They are not prompted by the desire of discharging a religious duty, but are actuated by base material motives. His words are

ואף עתה בזמנא דאנשי אמם מתכונם לשם מצות
ובם רק כמא ולשם חמון

v. Hulin 93b.
14b.
48.103a.
144b.

The hypothetical **ח מ ה** suggests that the majority of cases would come under this heading. One is not surprised to read his deprecating judgment of his contemporaries when he describes their moral standards. Attention may be paid at this stage to the strong words which he uses on this

occasion. He writes; **וְלֹא הָיָה דָּא אֲמִיבָא דְּדִי שְׂרָבָא הַפְּרִיצִים פּוֹרְצֵי תוֹרָתָא הַקְּדוּשָׁה (אֲרִיצָנוּ אֶחָדָה כְּדִי לְחַזֵּק אֶת בְּדֵן הַתּוֹרָה**

Accordingly his time was of a low religious and moral standard. There was an increasing number of frivolous people who treated the Holy Torah with contempt and disregard, the land was desolate, no one having the power to strengthen the breaches of the Torah.

In a similar context R. Benjamin expresses his dislike even in stronger words, when writing **דְּבִדּוּרָא הַלָּלוּ דְּכָא אֲמִיבָא דְּדִי רָבִי כְּרָאִי לְפִי רָאוּ עֵינֵי שְׂבָעָה שׁוּבֵי תַעֲיָה וּבִיּוֹר לְמִידָּה מִיִּצְתָּא לְחַסֵּד חֲכָמִים מְעַמָּא וְכִדִּי שְׂכָא יֵהוּ בְּמֹת יִשְׂרָאֵל לְחַפְקָר**

This means to say that in these generations, especially in our improper generation, it is fit to mete out on any transgressor severe punishment, according to the opinion of the seven leaders of the Community, particularly when the Law

§ 112.189b.
§ 132.222a.

has to be fenced around in order to remove a stumbling block from Israel so that the daughters of Israel should not be treated frivolously by men.

In another Responsum⁷ speaking of the support due to the opponents of the wicked, R. Benjamin uses the same term

אנשור דלא and urges all well-meaning and God fearing men to assist these protagonists for the Law, whoever they may be, young or old. וכיון דתאדנא לא אנשור דהוה ראוי לו לתמוך ידי הקומדים עד רשעי אומתא ולתקדימם בכל דבר מצוה והיוק נמי יקדים לכל דבר מצוה כדי שינכה

The untrustworthiness of the people induced the religious authorities of this time to extend the ceremony of נקיטת

הפך that is to hold a holy book or scroll at a time of uttering an oath, even an indirect Rabbinic oath (שבועת

היסת) which according to R. Benjamin means that the oath was imposed on the party in order to deter him from

making and untrue or false statement.⁸ והאידנא דלא

אנשור דהוה תמקין דאם נהיסת בנקיטת הפך

Another oft used expression in our sources is the designation of the generation as⁹ פרוק דו ר in which Law and punishment may be administered even if there is no strict foundation for severity in the Bible or even in the Talmud.

⁷ 243.331b.

⁸ 264. v. also for a similar statement Responsum 275.387a.

⁹ 516a.

ולא יתיה חכא מצד דינא אלא חורא שעה

דהחריה פרוק ראוי לעשו אפילו שלא

המה

These utterances of R. Benjamin convey an unmistakable indictment of his Age. If the historian may take these words at their face value then he will have to condemn them as ignorant, untrustworthy, immoral and irreligious. But would such a judgment truly reflect the religious and moral conditions of the period? Moralists are accustomed to depict the faults and short-comings of their surroundings in a gloomy light but our author is not a moralist but a supposed-to-be level headed Halahic teacher. It must be assumed therefore, that the condemning words of R. Benjamin by no means attempted to give a general picture of the moral and religious conduct of his contemporaries: and partly, this is a true judgment, if we consider the mixed composition of the Jewish elements in South-Eastern Europe at the end of the fifteenth century and beginning of the sixteenth century.

We turn therefore to the various groups comprising the several classes of the Community in these parts of Europe. Our Responsa supply numerous reports about Marranos, apostates of various kinds, Karaites and wicked transgressors of the Law in general. A Community which harboured such varied sections within its gates, was naturally threatened with

and by throwing off the yoke of the Law, separated from their disunity ~~disunity~~ and frequent strifes. Taking the Marranos first, who by forced Baptisms led a double life, outwardly Christians and inwardly Jewish -- they could not escape the baneful consequences of hypocrisy and lying. Needless to say that living under such conditions, in close assimilation with their non-Jewish neighbours, was responsible for the many evils and troubles which the Marranos carried with them from the Iberian peninsula to their new homes of settlement in the North as well as in the South." Not better than the Marranos were those whom R. Benjamin designates by the name Apostates. We will soon have to consult all the passages in which these people are spoken of in our Responsa, in order to establish their actual character and their part in the religious life of the communities.

Furthermore, there were the Karaites, who were much superior to the Marranos as well as the Apostates and some leading Rabbis manifested tolerance and leniency not in close agreement with earlier treatment of these heretics nor with the general sentiment of the stricter elements of the Community.

Finally, as everywhere and in all ages there were Jews who disregarded their Religion, either for gain or pleasure

" v. Graetz 'Geschichte der Juden' 4th edition Vol. 9. p. 207. "

and by throwing off the yoke of the Law, separated from their brethren or sought new paths for themselves.

Let us turn now to these four sections, individually in order to examine the information to be found in our sources. The Marranos are very frequently mentioned in the Responsa of this Age and this is only natural since the stream of these unfortunate half-Jews and victims of the Inquisition and persecution flooded the whole of the Levant. They were strangers and in some places less welcome to the earlier Jewish settlers than to the Gentile rulers and administrators of the Balkans.

The Marranos themselves could not be grouped as far as their religious feeling and conduct went in one class.

According to R. Benjamin, those who transgressed Sabbaths and Festivals cannot be considered fully pledged members of the Jewish Community.

ולפי דעת האבן העזר האנוסים אין
בכלל הורגם ולודתם בקדושת כרמל חסדבנו חושב
דאין בהם קדושין דאין נהיין בשמירת שבת
ובחיוב מועד

To these Marranos may be grouped those who originally became Christians against their will but later on delighted in persecuting their former co-religionists and acting as informers against their fellow Marranos, who kept their religion in secret.

ולא עוד שיהודים אתה תיחודים האמללים

We read;¹³ אשר בניהם להעלים ולהתחידם שלא יזכר
בשם ישראל עוד גם חסידים לחלכח אומם האנוסים
אשר לבם לשמים וחשדלים לעבוד ה' יתברך בנעא
הנה אלה רשעים גמורים ופסולים לעדות

In another instance we hear of Marranos who died without issue and quarrels arose as to whether their wives required Levirate marriage or not, because the brothers of the deceased Marranos also became Marranos and apparently gave up their Jewish identity altogether.¹⁴ This case tends to show that our Marranos in distinction from their brothers, returned to Judaism or at least that their wives tried to comply

על תדין שיעא
מלפנינו על האנוסים שמתו בלא בנים ולתם אחים ונטמעו

בין האומם עם נשואיהן מותרת כי נשאת היצא דעבו לדת האמם

A similar case¹⁵ is recorded by R. David Cohen in his Responsa

A Jewish woman required release from the Levirate marriage from the deceased husband's brother or Levirate marriage, but her brother-in-law became a Marrano and remained in Portugal although he had every facility to leave the country of oppression and repair to a new land of liberty where he could have returned to his ancient Faith.

יבחה שנפלה לפני יצא מיוחד שנאנס בשעת השחית
המר והמפוססם אשר היה בחלכח פורטוגאל ונטמע בין
האומם ולא חזר לדת ישראל זה כל עושיים שנה וזו
ויש כל חשון לצאת ולבוא ואינו חוש

Here again we see a Marrano who gave up entirely his connection with his religion and people and fully assimilated with his Christian surroundings.

That assimilation or refusal to return to Judaism was not general can be derived from another case recorded by R. David Cohen in which a Jewish woman had a sister and a brother who were Marranos. The former actually joined Judaism, והיה לה אחות בפשיית יהודית שבת אהיה

and the latter endeavoured to follow the example of his sister. והשאר בהן אחי שנשמע בין עובדי ע"ז ודעתו לבוא אל ה' הוא להסות אתם כנפם השכינה

Moreover we learn, that even when the parents remained or died as Christians, their sons were prompted to return to the Faith of their ancestors.

There are cases where Marranos outwardly remained Christians during their lifetime or died as Christians in the countries of the Inquisition, where they had no chance to return to Judaism or even under a more liberal regime where they could join outwardly their old co-religionists and yet failed or refused to do so, their sons however, returned fullheartedly to Judaism and claimed full religious and communal rights and privileges as Jews even so far that they should be called up to the Reading of the Law by their father's name and sign legal or religious documents in the same way, in spite of the fact that their parents died or lived as Christians. Naturally, the religious sentiments of

The Jews were not easily persuaded to carry tolerance so

far as all this.

על קצת חבני עמנו שחצם להגבד
ולכסות קצון אבותם תושעים העומדים בשמדות באומ
מכבוד ויש לאז ידם לחזור במשונה ואינם שבים וכל ש
שכבר חמו בהיוגם שם ובניהם רוצים שיקראו אותם בס'ג
כשאר ישראליים התראים כלומר יעמוד שמריה בן ל'ג
אברהם או חזק ב'ל'ג שלמה ובכ'ל'ג נמי חותמין
בכתב ביתם

We learn that these sons of Marranos are called 'of our own

people קצת חבני עמנו. Furthermore their parents lived

under the rule of the Inquisition but had many good chances

to leave the country of their birth for another freer

country, where they had every opportunity to return to their

Jewish Faith, but they did not do so. The motive of the

sons was to wipe off the disgrace of their father, which

was contracted by embracing Christianity.

A similar loyalty to the memory of a father who died

as a Marrano, is reported in a tragic case described by R.

David Cohen.¹⁸ A Marrano was forced during the time of persec-

ution to embrace Christianity and forsake his religion.

This Marrano died on the highway meeting his death at the

hand of robbers without finding a last resting place in a

grave or cemetery but was cruelly exposed to the vultures.

His son, who afterwards apparently joined the Community in

Arta as a full member, claimed the right to recite the

mourner's prayer, Kaddish, for his father.

¹⁸ 204.300a.

¹⁹ 301.

מן חר ההתחמרים שתמרו את עצמם מדת ישראל לדת צובדי
 הבעל החמור גינת החלכות שהיו בימים הקדמונים שהיו
 חוורים על היהודים להקטר את עצמם מדת ישראל לדת
 צובדי הבעל ומה החמור החוצ בדך על ידי כלסים ומה
 כלסים את אשרו של החמור החוצ לעון השמים
 ולחיות רעות ומה של החמור רוצה לומר קדוש של
 נוחי נפוש על אביו

The case is probably identical with a similar one discussed

by R. Benjamin, who however furnishes us with more details

about the tragedy of this family. ^ט ראובן ושמעון היו

במחוז פוליצא והמירו דתם ולהם בנים ובנות והיו כי אינו
 שם הימים ראובן זה הלך מעיר לעיר וקפצו עליו כלסים
 והראוהו ושמעון זה חר על משהו וקפצוהו והלויים בכל
 המחוזות ופוזרו ונפוצו ומה ראובן ושמעון
 אצא לקים לצובדו שם אחד וקם בא של ראובן הנחת לפני
 קדדוכן ואמר קדוש על אביו הנחיה לנפשו באומרו
 שישאגיו לעולם היה כל מה לשוב במשפחה

Accordingly two brothers who lived in Apulia were forced to
 embrace Christianity, but their families escaped to a place
 where the Inquisition could not reach them. Here again,
 one of the brothers, the father of the son who is eager to
 discharge his filial duty to the deceased parent, was killed
 on the highway. We learn further that the other brother
 died as a Christian and was buried with all the rites of the
 Church and his children too escaped to a country where they
 could practise their own Religion. We learn by the way
 that these Marranes were eager to return to Judaism but missed
 the opportunity of doing so. In general we see that the
 Marranos can be grouped into two different classes. One
 group tried to return to Judaism and the other neglected

every opportunity at their disposal and acquiesced in their new Religion.

Let us now turn to the second group of Jews mentioned previously, viz. the Apostates **חשומדי**. It is difficult to draw the line of distinction between some of these **חשומדי** and **מנוסי** Marranos. It will therefore be necessary to scrutinise the material gleaned from the Responsa of R. Benjamin in order to acquire a clear picture of the religious status of these men.

In the first case, a brother-in-law who is supposed to perform the Levirate marriage is styled **חשומדי** Apostate.

It is impossible to establish whether he was an ordinary Apostate or a Marrano. The text says²¹

ואחרי כן בא חשומדי
להיה לה יבם חשומדי

A similar case is mentioned in No. 74 in another connection,

with the difference that in this case the Apostate is staying abroad; in No. 70 the Apostate is spoken of as **איש אחד**

יבמה שנפלה לפני יבם חשומדי שיצא²² אחד, in No. 71 as **חשומדי** **ישראל**

These cases clearly show the frequency of Apostates among

the male members of the Community; but we find also that

women left their religion and married Gentiles with the

assistance of dignitaries of the Church. In No. 131 we also

read; **על אשת איש שנשגפה ונשאג להוי אחד**

בכל משפט על ידי התחזקן ואחר נתחזקה אל עתה

ואל אלקיה והירשה בעלה ישמעל בהש כשר ומרוב

חשקה באדם והוא הוי שנושאג בחינה וחזר לדת

האמת ורוצה לישא אשה כדת קשר וישמעל

Here we have a more complicated case; a married Jewish woman left her husband, forsook her religion and married a Gentile in the Church. Later on, she changed her mind and returned to her ancestral Faith. Next she received a letter of divorce from her Jewish husband and her Gentile husband contemplated embracing Judaism and marrying her according to the Law of Moses and of Israel. The text uses the phrase *בא אהם הוואה' שנסאה בחת ואתה לך האמהות*. The last words *אתה לך האמהות* seem to indicate that the Gentile was a Marrano who on his part likewise was ready to return to the true Religion, or it may mean that he was ready to become a proselyte. The term would suggest the first alternative, although the designation *יד* would speak against it.

In the next case,²⁴ we hear of a husband who became a Apostate and refused to divorce his wife. Here we are on safe ground, to assume that the Apostate was an ordinary Apostate who is characterised in our source²⁵ *שיצא מכלל ישראל* that is he severed all his connection with the Jewish Community.

²⁴ 188.
²⁵ 182a.

There seem to have been cases in which Jewish women endeavoured to obtain a divorce from their husbands who had become Apostates. These instances were not at all rare. In No. 109, we hear of a similar case when we

read
 חה תיקון יתה לאשה שהיא תתא חשוד
 לארשה על ידי ואנו להוצאה

Quite different is the case of the Apostates described in

No. 76.
 לש המשומד דהויא וזידון בקדשה איך נפקי
 חין שם קדושין דאפילו מתאן ישאלת הם דאפילו דנשסין
 האוים דכיון דדעין בתו דמבנות קאמא קדושין קדושין וקא
 דבין חליט, שם דכי תני דמכריכין חשא חתם ה'ה בחליט
 שהם איתם חתומים עם האוים כלל ואיתם חתומים שגת בפרהסי
 אר לא בפני האוים משום פחד נפשא דהוא אונס אתם
 (אוכלים חצה בפסח ומקדשין נשמתן בקדושין . . .)

Here we find a peculiar type of Apostate who resembles more and more the Marranos. These Apostates were of Jewish origin either from both parents or from the maternal side. Further more, they did not intermarry with Gentiles, they observed the Sabbath, if not compelled to break it at the command of the Gentiles, and ate only unleavened bread on the Passover Festival.

This is a true picture of Marranos as we know them from our sources and historical records. They were however

21 142b.

not Marranos in the historical sense of the term as used in our literature. Our author would surely not have omitted to tell us that their religious conduct and irreligious assimilation were due to some kind of political or ecclesiastical force. Here we have Jews who in their extreme endeavour to assimilate completely tried at least outwardly to delete or forget their Jewish origin and environment. It may be that in the South Eastern provinces of Europe, where most of our material comes from, there was produced such peculiar types of Apostate Jews.

However there is further evidence that these Apostates like some categories of Marranos were not entirely lost to their religion and people, but at some time or other expressed their wish to return to the Faith.²⁷

There was an elaborate system guiding these repentant Apostates to the right path to return to Judaism²⁸

ועל דבר המשיח היאך יתהא כשעב בתשובה יעשה
כפי פירוש החס שעשה אה שגמח בחזון א
באורם

Third group of Jews who are occasionally referred to by our author, is that of the Karaites קריתים. We know from the Responsa of R. Elijah Mizrahi²⁹ that a number of these sectarians lived in Greece and Turkey and the relation to the

²⁷ 72.138a
²⁸ 72b. 138b.
²⁹ 57.

Jews proper and of the Jews to them was frequently discussed in contemporary writings. The question in our collection was whether they were to be regarded as Jews proper or not; whether they may be told to do certain kinds of work on Festivals, which may not be done by the Jews but only by Gentiles;³⁰ and finally whether the Rabbinic application or the extension of the Biblical law "thou shalt not put a stumbling block before the blind" for example in dietary laws, is applicable to them or not.³¹

Besides these three groups, there was a wider circle of non-conforming or non-observant Jews, as we find them in all ages and in all countries. In all respects they remained Jews within the fold of the community. Their character varies from case to case and will occur in other parts of this chapter as well. Here we will pay attention primarily to the main features of these so called wicked Jews. In order to gain a clear picture, we have to consult the more prominent references in our collection.

We read of a certain Reuben who is thus depicted:³²

על התקנה שנתנו הקהל על ראובן שלא היה נותן
 כשירה והקניחו אמו כמה פעמים בסתר ובגלוי ולא
 שמע לקול עד שנדו אמו.

³⁰ 406.525b.

³¹ 407.527a

³² 289.408b.

Here we have a man who did not behave properly and in spite of public and private admonitions, he continued his wickedness so that the whole rigour of excommunication was imposed on him. We will see in another chapter that administration of the Ban and excommunication was very frequent. This throws a gloomy light on the wicked people in the midst of the Communities.

In another instance, we hear of a certain Manoah, a tanner who is designated as 'a wicked man' ישי who extorted money that had been bequeathed to Charity, and in this deed was helped by the Civil Authorities.

Finally, the question raised about the absolution to be advised for a man who committed a transgression for which the punishment of "cutting off from the Community" סור was to be threatened, showed clearly that transgressors were not rare in this time.³

We shall see later on that informers and slanderers מסור מסור were very frequent and that this evil was very wide-spread among the Jews in these parts of Europe and in the time of our Author. It is quite sure that they made up the bulk and the most dangerous element of the 'wicked', ישי who are to be mentioned here.

These four groups enable us to see the darker side of life in the age of our author. The question is whether they may be regarded as typical representatives either of the ordinary Jew or of the majority of the Community. In order to answer this question, we propose to enter into a more detailed examination of the religious life of the Community as given in our Responsa. Let us begin with our information about the observance of the Sabbath and Festivals. What do we learn about this practice in our time ?

From the forgoing paragraph, we see that even the Apostates who entirely assimilated the ways of the Gentiles refrain from breaking the Sabbath in public בפומבי and

carefully observed the festival of Unleavened Bread ואינם חתולים אה השבת בפומבי אם לא בפומבי ואינם חתולים
The Sabbath Observance met with particular difficulty due

to the geographical position of the country from which most of our Responsa come and to which they were in the main directed. The towns and hamlets like Avlona, Arta, Petras, Janina and so forth were situated on the Ionian Sea. The best communication with the outside world was therefore by sea route. Thus the question regarding the

travelling on or before the Sabbath by sea was naturally an acute one. Thus we read עוד נלמד דין אחר זהבא דבאו עם הספינה ליבשה

אפילו שקודש חם כבר דחינו בשבתה ונכנסו בגוף דתחום עד שלא חשבה יכולין ליד מן הספינה אם היבשה אפילו שקודש חם כיון דנכנסו בגוף תחום קודם חשבה
אפילו שקודש חם כבר דחינו בשבתה ונכנסו בגוף דתחום עד שלא חשבה יכולין ליד מן הספינה אם היבשה אפילו שקודש חם כיון דנכנסו בגוף תחום קודם חשבה

Consequently Jews who, arrived within the prescribed limit of the harbour before dark were permitted to leave the boat for the shore after dusk, that is after Sabbath.

Just as the arrival before or at dusk gave rise to Halahic queries, so the departure of the from the shores was regulated by an old custom the correctness of which was questioned in our time. It was the custom that an traveller, intending to travel by boat, which was to leave for the Mediterranean Sea either on Friday night or on Saturday boarded the ship on Friday, sanctified the day there and

afterwards returned to his home before his final departure.

ל'ד כלהו שנתהו ליכנס בספינה קודם השבת והספינה מוליכין
האויים בשבת בים תאדול ויובת דיובה הם בספינה אוים ונחמין
בה מע'ש ומדלוקין שם נר ומקדשין קידוש דשבת ואוכלין שם
לקנות בה שבותה ואחי כד ווצאין מהספינה והולכות לבתיה
ועוסדין בליזה ועוסדין בליזה וביום השבת נכנסין בספינה וס
האדול

We may assume that the general usage prevailed to light the Sabbath candles, to sanctify the day and to celebrate the coming of the Sabbath by a special repast. If this was done on the boat, surely this was general in the homes of people.

We find that our author collected²⁵ a few Talmudic passages on the subject of the 'Honour of the Sabbath' כבוד השבת and adds a few remarks on the proper observance of this day in his own time. His words read like an admonition²⁶ but they may be understood as a general reflection on the observance and sanctification of the Sabbath as he and other spiritual guides desired it to be practised.

Firstly we find that the preparation for the Sabbath is described in the following terms: *ולפניך צריך סל אדם לבעור שבתו ולתקן שבתו ולתקן שבתו*

The arranging of the table, the spreading of the beds, and the lighting of the Sabbath lamps on the Friday belonged to the obligatory preparations for the Reception of the Sabbath

Secondly we learn that in the time of R. Benjamin, they had large tables, contrary to the practice in the Talmudic and Gaonic Ages when they made use of small tables, which were laid on Friday evening, and that Sabbath loaves and

food were covered with a cover which was removed after the Kiddush. *אבל אנו שיש לנו שבתות גדולות ואנו עושין*
אנו תולה בשוק אכילה ואנו פוסקין חכה שם יאמר
קדוש לנשות הלחם והמנוח ולאתר קדוש חסידין חמה העליון

We learn also that the tables were covered under and above the food, the upper covering was removed and the lower remained for the rest of the meal on the Sabbath.

The custom of the covering of the bread and food is explained by our author in an additional paragraph³⁷ in different ways, either as a reminder of the *Mannah* or in order to recite the blessing on the wine in the Kiddush first.

Thirdly our author emphasises the duty of *יונה שבת* that is, the joy of the Sabbath by special food and so on.

Sabbath. The former, that is the German Jews, however, Finally men should not be sparing in their expenditure for their Sabbath preparations.³⁸ This duty was incumbent on the poor as well as on the rich.

R. Benjamin noticed that young men used soap for washing their hands on the Sabbath, and he prevented them from doing so. How strictly the Laws of the Sabbath were observed may be judged from the injunctions issued by R. Benjamin that young students or young men should not wash their hands with soap on the Sabbath.³⁹ בשביל שרצויה בתורה שיהוצץ ידיהם בשבת בביתם ויהיה מורה בידם

On the other hand, R. Benjamin gives permission to a lame person to make use of a walking-stick in repairing to places of worship or to any other place of assembly where a religious performance takes place on the Sabbath.⁴⁰ Generally speaking we may assume that healthy men refrained from doing so.

Since the Jews in the south of Europe were composed of different elements according to the country of their origin that is Ashkenzi and Sefarad, the descendents of the earlier settlers adhered to their respective ancestral observance of the Sabbath. The latter, that is the Spanish Jews, saw no harm saw no harm in sweeping the floor of the living room on the

³⁸ 303a.
³⁹ 303a. 206.
⁴⁰ 303b. 208.

Sabbath. The former, that is the German Jews, however, forbade such an act. When asked as to the right attitude R. Benjamin decided according to the Spanish usage, Although he, as his biography shows, was a descendant of Franco-German Rabbis, nevertheless he gave his opinion in favour of the Spanish custom. The difference of the procedure was due to the divergance of the cultural standards under which these two sections of the Community lived. The more backward German Jews lived in houses without boards or any other cover on the floor and therefore the fear of making holes on the floor prevailed : whilst the Spanish Jews living in more luxurious houses had marble or stone floors where such a fear did not arise.

אבל בכיבוד הבית דאין הקפדה
באומות ואין מכבד הבית אלא לשהר נראה דעה וכו' ש
במית שאלו שאין שם דאומות דעה
ובמית שאלו שם מוכעים בקרשים ואין בהם אומות
לא נראה בהן פסוק וכו' וכו' וכו'

Incidently we learn from the decision of R. Benjamin that Jewish woman cleansed their houses on Fridays for the honour of the Sabbath

אם כן לפי דרכו נראה דבמית
היה חוב לכבד בשבת דאין לך משה שגגה
ישראל שאלו מכבד הבית כע"ש בשביל כבוד ה שבת

It is noteworthy to record R. Benjamin's praise of the custom of the Ashkenazim who do not fold their prayer-shawls on the Sabbath for religious reasons but wait for the

Firstly we learn that some people bought fresh bread from
 termination of the day. Similarly food for the Sabbath
 Gentile bakers on the Festivals and this was not absolutely
 was prepared on Friday for the whole Sabbath day. This we
 learn from an accidental remark regarding the preparation of
 food for the Day of Atonement.⁴² **טעם לאונגם שאוסרין להשתין**
בארב יום הנפורים קדרי בחמין כמו אעושיין בערב אגב
ולאונכלו במוצאי יום הנפורים

Finally it is to be noticed that the exact time for the
 entry and departure of the Sabbath was carefully observed:
 the former as well as the latter depended on the appearance
 of three stars.

As an indication, however, of the laxity of the observ-
 ance of the Sabbath in some parts, may be instanced the
 complaint raised by R. Solomon, the son-in-law of R. Samuel
 Kalai,⁴³ according to which some Jews sent their servants

to buy meat on Sabbaths. **חוש שאין חמין בקצת אנשים**
שפרצו ושוולחים באגב לאצבדיהם להגיא להם כשר
 It seems that no objection was raised as to the ritual
 fitness of the food but rather as to the transgression of
 the law which forbade the buying of food on the Holy Day.

From all the forgoing details, we may be justified in
 assuming that the Sabbath observance was general and strictly
 kept in our author's time. Can the same be said with regard
 to the observance of the Festivals?

⁴² 216. 309a.
⁴³ Mishpetai Shemuel 10.

Firstly we learn that some people bought fresh bread from Gentile bakers on the Festivals and this was not absolutely permitted according to the opinion of the authorities ⁴⁴

אם חומר ליתקן פה תהאוי ביש'או לא... אהנהאן לושין
ואופין ושמחטין וחגש'ץ בי'ט שאי אפשר אלו לעשות
קער ב יום טוב דא בוך הפסד או חסרון טעם וכל
כוונת בזה

It was generally allowed however to prepare fresh food by cooking, slaughtering and baking, if the food prepared on the eve of the festival would become stale. Further even the half-festivals were kept by refraining from unnecessary work, as we see from an incidental remark by R. Benjamin who apologises for writing on a half-festival giving the urgency of the case as his reason. ⁴⁵

כתבתי בחפזון בחול המועד לצורך השעה

We turn now from the home where Sabbaths and Festivals were carefully kept to another centre of religious life, not of the individual or family but of the whole Community, namely the Synagogue. This paragraph will include the frequent observations of our author on liturgical questions. Firstly there is the report of R. Benjamin recording the fact that in Corfu the feeling of the pious Jews in that Congregation endeavoured to adorn the walls of the Synagogue

⁴⁴217.310a.

⁴⁵315b.

with precious mantles and also the Holy Scrolls with mantles
and articles of Gold and Silver. ואני התדיוש בתי חכמי

ברק קורפו שהיו שם גאונים עולם נהגו ולא חימו בהם אם
היה ח'ו חשש חסעליון בקדש ולא מווידין

It is remarkable that Don Isaac Abarbanel who emigrated from
the Iberian Peninsula to the south of Europe should raise
the question whether such adornment of the Synagogue walls
with mantles and sacred vessels of the Holy Scrolls is in
agreement with the rules of the Halaha or not.⁴⁶

על אשר תמנה אתה בפתח הי' יתה רל רבנא על
החטאות שפורסם על הסתא שוב פורסם אותם נמי נכונא
סביב גבול הכנסת וכן נמי כלו כסם וכלי זהב שחשימין על הסת
ושוב חשימין אותם נמי על העמודים סביב הלה נראה דאין

Surely the use of these mantles and gold and silver vessels
was familiar in Spain and Portugal as well as in Italy and
in Greece, but his question was whether the adornment of the
walls and pillars of the Synagogue with mantles and precious
ornaments dedicated to the Holy Scrolls may not be regarded
as a degradation in their degree of sanctity. However, the
fact remains, that the Jews endeavoured to beautify their
places of worship by such means.

Further we see that people dedicated certain articles
for synagogal use. Their zeal was curbed by the authorities

⁴⁶ 174. 270b.

in so far that they should not use the term הקדש

but instead לצדקה 'for charity or for the poor'.⁴⁷

דלא יאמר אדם דבר ותי יהיה להקדש אלא שיאמר דבר ותי לצדקה או לקהל או לעניים

There is a reference⁴⁸ to an incident when certain members

of the Community hired a room for a Synagogue and bought

a Holy Scroll for twenty ducats for the Reading of the

עשרה בעלי גתים להישבן מעור אחת והאכילו בירה
הכנסת וקא ס'ת לקריות בו בסך עשרים זהובים
Law.

We learn that the new-comers or new settlers in a town

regarded it as their first duty to acquire a suitable place

for Divine Service and a Holy Scroll for the prescribed

reading of the Law. In larger towns there were numerous

Synagogues. There were houses of worship, in accordance

with the origin of the members. Here only one feature

shall be pointed out, namely, that in order to avoid

rivalry between the Synagogues it was regulated by a

Communal Ordinance that the members of one Synagogue were

not allowed to worship in another Synagogue. In this con-

nection may be mentioned that the Haham of the Sefardi

Community in Arta, R. Abraham Obadiah דאסדא left a cer-

tain amount of his money to his Synagogue for the benefit

of the poor. Thus the Synagogue discharged the third vital

function of religious life, namely, the dispensation of

Charity, about which more will be said on the organization

⁴⁷ 272a.

⁴⁸ 163. 265a.

of the Community.

The sacred character of the Synagogue as held by the Jewish population of these parts, may be demonstrated by our Responsa according to which women during their mensis (menstruality) were not permitted by the authorities or refrained voluntarily from entering the building of the Synagogue. This was an old question often raised in Gaonic sources and condemned by the Babylonian Gaonim. In spite of their opposition to the prohibition, popular feeling decided against them. 49

We may assume that the example of the Greek population and Church which forbade women in their menstruous state to enter the Church, influenced the Jewish customs.

We turn now from the external of the Synagogue to the internal use of the place of worship. It was primarily used for prayer, secondly for the Reading of the Law and thirdly for instruction. Teaching was conveyed by sermons. It was customary to preach every Sabbath. Thus R. Benjamin mentions among the worthies of Venice, a R. Meshullam Segal

שמואל whom he describes thus: *למלאכה ולישיבה*

As to the reading of the Law, we mentioned above that the acquisition of the Holy Scroll was of equal importance

49 A. Marmorstein: Spuren Karaischen Einflusses in der Gaonaischen Halaha: Festschrift für Adolph Schwarz, Vienna, 1917 p. 461.

to the founders of the new Communities as the establishment of a place of worship.⁵¹

Attention was also paid to the rule that the reading of the Law should not be disturbed or profaned by idle gossip. Further R. Benjamin rules that the reading of Law should be listened to in a standing position and not sitting. ונ'ל'ד אף כי למדנו שהיה ח'ל' שם לעמוד

Finally we hear of the custom that the Chasan Torah should read the first portion of the book of Genesis on the first Sabbath of the Year when the priests (כהנים) who are considered to be the descendants of the High Priest Aaron are requested to leave the Synagogue during this reading. על אשר נהיו בקצת קהלות קצת חסידותיהם בשבת שקורין פרשת בראשית ראשון במקום כהן ונהגין שיוצאין הכהנים מבית הכנסת לעזרה עד אשר יסוים היום חסידים המורה קריאתו מבושה בראשית

This is a Sefardi custom which survives up to this present day, in spite of the possible objections which may be raised against it. An interesting custom is reported by R. Samuel Kalai, according to which some people were particular, not to use the Holy Scroll for public reading too frequently. They were against using the same Scroll during two consecutive services.⁵²

⁵¹ 163.265a.

⁵² Mishpetai Shemuel 3.4a.

יחידים שהתפללו מנהג בשבת והוציאו סוף וקראו
 בו והתפללו והלכו לשלום ואחי כך באו קצת יחידים
 אחרים שלא נמצא בפעם ראשונה ורצו להגדילם גם הם
 ובאו להוציא סוף פעם אחת לקרוב בא וחייו . . .

We turn now to the numerous liturgical points, men-
 tioned or discussed in our Responsa. To this will be add-
 ed the laws about the fringes and phylacteries used in the
 Synagogue and in private life. R. Benjamin introduced
 an innovation in the liturgy of Arta. Accordingly the
 reader began the public morning service with the Morning
 Benedictions ברכות השחר. This reform did not meet with
 general approval. Moreover it gave rise to some opposition.
 Our author turns in his perplexity to his uncle and teacher
 R. Ealeb for advice. פה בקהל אישא סדורי לחון ב"ה

לקום בבקר ולומר הברכות בקול רם כי הני לענת הצבור
 אחרתם אמן ויש מי שמחמת בידו 53

Yet the recital of Morning Psalms פסוקי דזמרה⁵⁴ was at this time
 a well established fixture of the public service.

מי שביא בלה ומנא תצבור שאחרים פסוקי דזמרה אם
 ותפלל עמהן ואחי כך יהזור הוא ויאמר פסוקי
 דזמרה

Another liturgical custom which was approved by R. Benjamin
 was that the late comers had the right to say the Yozer

Benedictions ברכות יוצר אור for the benefit of those who

missed these parts of the public service. בצבור שראוי בני אדם
 מופידין כשבאו

שנים או שלשה בג'ה"ל ומצאו כבר הצבור שקראו את
 שמע והם רוצים גם כן לשמוע קדיש וברכו ויאמרו
 בכת יוצר אור ויצטרפו עמהן מאותם כבר שהתפללו

Furthermore R. Benjamin agrees with the Ashkenazi who

53 176. 272 B.

(205)

54. ELBOGEN: DER JUDISCHE GOTTESDIENST IN SEINER GESCHICHTLICHEN
 ENTWICKELUNG. LEIPZIG: 1913 Hb. 1. 1. 1.

respond with Amen after the reader recited aloud the blessings from *האל ישראל* to *ווצר אור*

*על מה שמתחיל שנהגין בין האשכנזים לענת אמן
אחר ברכות דש"ק בין ברכת יוצר אור עד האל, ישראל
... ויפה מנהג האשכנזים ויש כחם דגדול העונה
וזה מנהג*

Further R. Benjamin draws a line between the private individual who after finishing his 'prayer' *תפלה* steps backward three steps until the reader reaches the Kedusha, whilst the public reader is permitted to return to his

original place immediately after stepping backwards three steps. *ובמקום שכלו שלשה פסוקות יחזור ולא יחזור
חיד למקומו. . . אחרי שכן יכול לחזור למקומו סיד
כשיחזור להפסל למוציא אחרים י"ח . .*

Incidentally we see from this that it was customary for the reader or precentor to repeat the whole Amidah for the benefit of the congregation. This represents the Ashkenazi usage as against the Sefardi custom.

R. Benjamin endorses the custom of omitting the *החזון* or *נפילת אפים* for seven days after Pentecost and quotes

R. Joel Halevi as the originator of this liturgical usage.

*על המנהג שנהגין שלא ליפול על פניהם אחר עצרת
שם תשלוחין . . .
ואם הכי היה מנהג ישיב וואל כלו שלא ליפול על פניו בתחינה
די חיים
עצרת*
There was a custom among the German Jews in Venice that mourner had the priority of reading the prayers from *ברכו*

till the Kaddish after the Amidah or in cases

where the prayer was read by a public reader, theirs was the privilege to read from *ובא ציון* to the end. R. Benjamin

praises this custom.⁵⁵

Some people objected to keeping their prayer book in their hands during their prayers, lest their devotion might be diverted or disturbed by the fear that a prayer book might fall from their hands. R. Benjamin did not share this fear.⁵⁶

Our author searches diligently for the origin and history of the Kaddish that is the mourners prayer.⁵⁷ This prayer is said during the eleven months of mourning and on the Anniversary Day called Jahrzeit, by the children of the deceased, by parents for children, by brothers for brothers and sisters, and by the public reader for all the dead.⁵⁸ R. Benjamin disapproves of the custom of hiring strangers to say Kaddish. Similarly he is against the custom practised by some people of refraining from saying Kaddish after their relatives on joyous and festive days like the New Moon, Sabbaths and Festivals.⁵⁹

R. Benjamin explains the custom of introducing the verses of Genesis II. i f. 15011 in the Amidah and before the שמע ישראל and in the Kiddush.⁶⁰ He traces this custom

⁵⁵ 201. 296b.

⁵⁶ 171. 269b.

⁵⁷ David de Sola Pool - 'the old Jewish Aramaic prayer, the Kaddish in Elbogen's Liturgy'. Leipzig, 1919. and Elbogen 'Der judische Gottesdienst! l. c. pp. 92 f.

⁵⁸ 201.

⁵⁹ 161. 264a.

⁶⁰ 173. 270a.

to a passage in the Midrash on Psalms which reads thus:

חייב אדם לומר ועלו בעלש אחד בלילה ואחד לאמר
התפלה ואחד על הכוס כנגד שלשה פעמים אשר
שכח/ב בפרעה ונכחו

Ibn Jarhi in paragraph שג also quotes the same passage in the name of the Midrash.

He also gives a reason for inserting Psalm 91 in the liturgy for the termination of the Sabbath: (a) to prolong the rest of the wicked in Gehinnom, who are said to rest on the Sabbath and (b) as a reminder to the people to deal honestly during the coming working week.⁶¹

For the first reason that is to prolong the rest of the wicked from the punishment of Gehinnom is also ascribed by our author the custom of delaying the lighting of the candles at the termination of the Sabbath as long as possible and not to light them before the ק' דסדריא is recited.⁶² Here mystic influence, the study of the Zohar, is manifest.

Our author explains the reason for the recitation of the Hallel only on the first two days of the Festival of Passover.⁶³ It was customary, as it is in the Spanish ritual, to recite the Hallel in the Synagogue after the evening service on the first two Passover evenings, and the eulogy was

לקרוא את התלל
אכל בפסח אינו משוגג לא חיוקרבנות ולא מי'ס
ולכן אין הומיין התלל אלא ביום ראשון⁶⁴

⁶¹ Baer: Seder Avodath Yisroel, Rodenheim, 1868. p.178 f.
Elbogen: Der judische Gottesdienst, Leipzig, 1913. p.110 f.
I. Levi: 'The rest of the wicked on the Sabbath in REJ.
⁶² S. Baer: Seder Avodath Yisroel, p. 304.
⁶³ 218.310b. ⁶⁴ 184.279a. (208) ⁶⁴ 213.

Some people used to say

לאחר מלחמה

at the Seder. R. Benjamin is in favour of omitting the benediction altogether.

אחרי מלחמה נ' צ"ד דאין לבד ע"י בסעודה
דהא מה שאנו קוראין אגדה על השלח א"י אלא בשביל
שבת והודיה למקום ביה ולא למנהל קריאה הגלגל לבד ע"י
לאחר מלחמה הגלגל דאין לבד לאחר והוא פוסק באמצע וחמ
כמה ברכות כגון אשר האלנו וברכת ע"י... והיסח הדעת
בית הסעודה באכילה ובשינה

This rule is kept up till this very day among the Sefardi Jews.

On the termination of the Day of Atonement, the Shofar was blown after the Neilah before reciting the Divine Names and the reading of the ordinary week-day evening service.⁶⁵

On Fast-days a special supplication beginning with the word *ענינו* was inserted in the Amidah by the public

reader between *הוא* and *רופא* and by the individual in the *שמע קולנו*. R. Benjamin gives a reason

for this liturgical divergance.⁶⁶ *הסעם הוא דחיד אינו*
יכול לשמע סבב חרבות... אבל ש"ץ אומר בין
הוא לרופא בשביל דש"ץ אלים בתו מיתיד וקובץ ברכה

For the performance of liturgical duties in the Synagogue, there were specially appointed or elected salaried readers. One of them is known to us by name, R. Shimeon

Katz, who was a correspondent of our author.⁶⁷ He was elected

⁶⁵ 220.
⁶⁶ 185.
⁶⁷ 228.

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to this office by a congregation for an inadequate and was dismissed from his office before the termination of his agreement. He agreed to that but some members or leaders

tried to retain him in office at a still further reduced salary.

שאלו חתני הראשונים כן על אודותיו ששבת לקהל יצו לשון ולגבי צדקה בלכ לשנה וכמאמר שבת פתוח מנדי הראוי לשכירות ובאמצעות השנה אמרו לך חתני הנהל שאינם חפצים בך וגם כבודך להרצת אמנם הכל היה ביאמיה ולא בכוחם ואששמעו אנשיהם הוקשה בעיניהם ולא הרצו אלא רצו שהעמוד עמם כפתור עד השלחת השנה וגם אמנם החמונים חורו בתם ורוצים לעכבך וכבודך טוען שכבר חתנו שיעצוהך

From this brief description of the case, we learn incidently a few interesting points, which may be here mentioned. First-ly that the election and dismissal was in the hands of communal leaders: secondly that the agreement of service was an oral and not a written one: thirdly that there was a standard rate of payment for such services: and finally that the reader acted also in the capacity of a collector of charity וגבי צדקה.

The second example of a reader whom we come across in our Responsa and whose name is passed over in silence, was a man who did not shed glory on his office. He may have been an exception, but his case is not without gloomy side-lights on the moral and religious conditions of the time.

We learn of his misconduct with a Gentile woman for which the misdeed he was fined by the civil Authorities and consequently dismissed from his office. Some of his partisans however, wanted to reinstate him into his office.

אחד שהיה ש"ן ביניהם ובעל מויה והעידו עליו אולם לפני
הערכאות ודנהו בנפשו ובחמיו ועם כל זה לא נאסר אלא שהיה
על כנו כגראשונה הגוי מפרש לפניכם דעתי כשגל חג שיעור
ועוצם המיאוס ואודל העין שעשה חרשע הנה ועוד ידו הנסו
לאנשי הקהל שיושבו על כנו

R. Benjamin takes the opportunity to admonish the leaders of the Communities to give preference in the selection of a reader to a scholar who knows the meaning of the prayers although he is not gifted with a pleasant voice, to an ignorant artist whose voice is his substitute for his knowledge.

דמינא דמינא הגם ש"ן שתוא ה"ח ואין
קולו ערב וש"ן עם הא"ן וקולו ערב והם תפצין בו
אפ"י הכי ה"ח קודם בשביל שיודע מהמוציא מפיו

Our collection furnishes some material on the Grace after Meals. We learn that after the Grace after Meals should say the prayer by himself. As to the Grace said in public by three or more persons, a Blessing was said on wine after the conclusion of the Benedictions. R. Benjamin gives the reason which is based on a Responsum by Rabbenu Nissim b. Jacob, Gaon of Kairuwan.

224.

349.471a.

Shemuel 11.

476a.

476a.

There is a departure from strict Talmudic law in the contemporary custom, mentioned by R. Benjamin which does not prohibit an ignorant person ^{from} in the taking part ⁱⁿ of the public reading of the Grace after Meals, that is זמון.

האידישע אין און נזהרין בנימין בצירוף העם תאריך
As an appendix one or two customs connected with the

table manners may be adduced here. Firstly the use of pouring water into wine during the Grace after Meals, when

the blessing על הארץ ועל המנון is recited ⁷⁷
שעם למה משלכין מים בכוס שליון כשיאמץ המברך ב' המנון
לברכה על הארץ ועל המנון

This custom is apparently based on a particular reading of Alfasi in Babli Berachoth.

Further we learn of another custom which was observed in the surroundings of our author, namely, to put salt on the ^{table} before the meal started. ⁷⁸ ולפי זה יפה נוהגין שמביאין

מלח על השולחן קודם שישבו המסובין וכשהיה

Thirdly our author is particular not to drop crumbs on the floor during the meal or otherwise. ⁷⁹ This is based on a passage in the Zohar, but which actually can be derived from Talmudic sources.

In connection with the Synagogue and liturgy, the observance of the Law of Fringes (ציצית) and Phylacteries (תפילין)

⁷⁷ 352.474a.

⁷⁸ 353.176b.

⁷⁹ 218.310a.

should be mentioned here. Our author considers it the duty of every Jew to have a Tallit טלית with fringes on it.⁸⁰

ראוי לכל איש ישראל להוותו והרי וזוין בסצורה שיהיה לו טלית בה ד' כנפות שילבש אומה כל הקום כדו לזכות כל החצות

It is a duty, which can easily be discharged by everyone and without great expense.

In his time the praying shawl was made either of silk or linen, with fringes of wool or linen⁸¹

ובי חמנו נה' ירמי' ופשימים פוסיץ בכל החינים ר' לטלית חשי או בצמר אביו

It is significant that one of our author's opponents attacked him for allowing flax fringes on a praying shawl of wool and vice versa and he rebuked him by calling this man 'who can be as blind as that man not having seen the light all his days!'⁸²

מי הוא אומה העור של ארמאות בימינו ונעלם חמנו הא דתב הימב' ז"ל

He cites Maimonides and the Tur in support of his ruling⁸³

כתבו עלי שהיה כי כל אדם בעצית אומר בניהוי

Probably pamphlets of Responsa were circulated in Arta or in neighbouring places to discredit the authority of our Author.

Besides the large praying shawl, the contemporaries of our author used the small praying shawl called טלית קטן. This

⁸⁰ 195.290a. Ozar Israel, New York, 1911. Vol 5, pp.24-25.

⁸¹ 287a.

⁸² 355b.

⁸³ 249.355b.

custom was not general before the fifteenth century.⁹⁴ Another custom may be mentioned here which was well accepted by the Ashkenazim, viz, not to fold praying shawls on Sabbath, but to leave the folding till the termination of the Sabbath. R. Benjamin concurs with this rule and praises it very highly, as was pointed out previously in the description of the observance of the Sabbath. From all this we see that the wearing of two praying shawls was general. The same can be said about the Phylacteries on half-Festivals. R. Benjamin rules that the putting on of Phylacteries on half Festivals is obligatory in spite of the custom which spread among many mystically minded people who followed the Kabbalistic **מדרש הנעלם** which reports in the name of R. Shimeon b. Johai that people who put on the Tefillin on these days are guilty of death. Here again our author accepts the ruling of the Ashkenazim in Venice who wear the Tefillin but who refrain from pronouncing the blessing prescribed for discharging this duty. **וכן במדרש הנעלם**

**כתב ר' שמעון בן יוחאי ששמועם חייג חייגו וכבר נרמז
הוא זה בזה מקומות ובהוה שאני החדיוס
פה ונניא עיר של סופרים ראיה אנהין תפילין
בה' בלא ברם**

⁹⁴ 197. 292a. Ozar Israel, New York, 1911. Vol 5, pp. 24-25.

From the same Responsum we may deduce another interesting fact that the Phylacteries were worn the whole day, for the question was raised as to whether they have to be removed in the case of occasional slumber during the day.⁸⁶

ואפילו הכי אחריו דמויתן כל היום ולבש היסח הדעת
היה נחמי כשמתחננים לבש היסח הדעת ולפי זה מותר
לישון בהן שינת ערבי

This habit was not confined to scholars who spent their day in Study and Learning, but also to persons who were engaged in other occupations, for R. Benjamin says:

היא אד יונל האדם להיות תפילין עליו כל היום כולו
אם יעסק בעסקו

The question does not convey the impression that the ~~author~~ author deals with a theoretical problem but rather with a practical one.

R. Benjamin mentions the difference between the Ashkenazim and Sefardim in the manner of putting on the Phylacteries.

Whilst the former discharge this observance standing, and afterwards donning the ^{טלית}, the latter again following the rule of the Bible of the Mystics, the Zohar, put on the

Phylacteries of the hand standing, after having donned the

^{טלית}. Here R. Benjamin follows the Ruling of the

Zohar and rebukes the Ashkenazim for their way of laying the Tefillin. Actually he rebuked the Ashkenazim of Venice for

⁸⁶ 196. 291b.

בהטתו מהאורה פה ונויח האית

קצת אנשים שסניחים תפלין של

ignoring this custom.

ידושל ראש מעומד ואחרי כך מנעמים שלית דציצית
והוכחמים על זה שלא ויהיו עצמן בכה"ל ושאלוני סע
הדבר והראיתי להם מה שנמצא בזוהר והביאו הגאון
המתבר בספר האורה בדיו תפלין סימן פ' ד.

These rules have no basis in Talmudic legislation but are
taken from the Zohar. The author of the Agur, who was him-
self of German origin, adopted and codified the ruling of the
Zohar.

Finally we learn of two peculiar customs in vogue at
this time, concerning the method of putting on the Tefillin.

R. Benjamin is opposed to the custom, observed in some quarters
where they took out the Tefilla of the Hand, loosen the straps

רצוניה, and then took the Tefilla of the Head, repeating
the same deed, then they donned the Tefilla of the Hand, and
finally the Tefilla of the Head. Our author is infavour of

the following procedure. First the Tefilla of the Hand is
put on, and one winding out of the seven is done כרינה ראשונה
then the Head Tefillah, and finally the winding of the Hand

Tefilla is completed. The latter custom still has followers

ולפי זה יש לחנוך על אונם האנשים
in Southern Europe. שזוקחים תפלין של יד ומגרין רצוניה

ואחרי כך חתוין רצוניה חתפלה של ראש ואחרי כך
חזוהים וזוקחים תפלה של יד ומתו ואחר כך חזו וחס
של ראש ולפי זה הם כמעבורים על חמצות אצל לע"ד
לעשות כסדר זה שוקח חתוין תפלה של יד וחזו רצוניה
וניהו ויהדקו בכרינה אחת ברצוניה דהינה סכ
הנניע איתה חן המצות כדפחישות. ואחר כך
תפלה של ראש חתוין וחזו רצוניה וניהו ברעיו

ומהר כ"ד יחזור ויטוץ היצועה של יד כולו על
זרועו כפיהו שיהיה.

From the foregoing it is clear that this observance was quite general and was carried out with particular care.

R. Hayim b. David Vital, a grandson of R. David Cohen, interrogated R. Samuel Kalai on the custom prevailing in this period which ordered fasting after the Phylacteries have been accidentally dropped.⁸⁷

The same may be stated about the general observance of the dietary laws. The particulars given in the Responsa about the preparation of the liver,⁸⁸ the heart,⁸⁹ the spleen⁹⁰ and about the porging of meat,⁹¹ bear out this general impression. We gather that professional pergers were

employed for the latter. וכל זה נהגו חמקו הבשר
להניח לפניו סמיטת קשה, לוקח הסכין בכל פעם
ופעם כדי ליטות השמנונה של החלבית הנבדק
בדופני הסכין

In spite of the fact as was shown previously, that the meat for consumption at least in some places was bought from Gentile butchers,⁹² it is quite clear that the ritual slaughtering was duly performed by Jewish qualified slaughterers.

Some of these officials however, did not discharge their professional duties satisfactorily, and even neglected certain rules, which were laid down by the codifiers of this branch of the Halaha. This, however, does not reflect

⁸⁷ Mishpetai Shemuel 12.

⁸⁸ 316.447a.

⁸⁹ 317.

⁹⁰ 318.

⁹¹ 311.

on the inferiority of the religious status of the period, for such cases arose from time to time in all ages, and are to be found in the works of numerous writers. R. Benjamin calls the slaughterer by the old Talmudic name of 'Butcher' 720, which seems to indicate that the butcher acted at the same time as a professional slaughterer.⁹³ We hear of an Ashkenazi custom, according to which meat standing 72 hours was rinsed before the termination of this period. The questioner of R. Benjamin seems to object to this custom,⁹⁴ but our author fully endorses the Ashkenazi method by citing early authorities like the Tur (R. Jacob b. Asher) and R. Isaac of Duern (אריד וינא), who fully confirm this custom.⁹⁴

As to the law forbidding the eating of milk and meat together it was customary in this time for two persons, who ate these two different kinds of food at the same table to use different tablecloths or serviettes for each of them or to make some kind of distinction. They did not eat cheese after meat, but meat after cheese was permitted immediately.⁹⁵

There was a difference between some localities where they did or did not buy butter from Gentiles. This was dependant on the local custom.⁹⁶

There were pious people, who imposed upon themselves restrictions or kept stringent rules although they permitted the same to others or others ignored those stringencies.⁹⁷

⁹³346.
⁹⁴328.461a.

⁹⁵313.446a.

⁹⁶326.459b.

⁹⁷312.

All these details bear out our observations that the dietary laws were punctually and minutely observed. There is only one exception to this rule and that is the consumption by Jews of wine made by Gentiles. Strictly speaking this is contrary to the Talmudic Law. We will enumerate a few cases, showing that the Jews in South-Eastern Europe in this period showed some laxity in this respect.

Firstly we hear of a man called Shemarya b. Abraham, whose father was a Christian Priest selling Gentile wine to Jews as ritual wine.⁹⁸

Secondly we hear of a Jew, who was suspected of trading in and drinking Gentile wine.⁹⁹

נעל ראובן שנמשך שהוא יוסק בסתוריה שזין

Thirdly we hear of people drinking Gentile wine or indulging in forbidden food, who did not omit to pronounce the blessing to be uttered on such occasions.¹⁰⁰ In spite of R. Benjamin's condemnation of such a conduct, he admits that the custom disapproved by him was not generally shared by his contemporaries.

לשחשבת לאסור מי ששמהוין לסך
אוכשאל דבר אסור שאל לברך עכין ורציה לאסור
דאין ראוי לתפוקה שש עכין משום מצוה הבאה בעצמה
אחנה תעולם לא נהא בן

This case throws ample light on the religious feeling of the contemporaries of our author. They would ignore some laws which were laid down by the authorities, and yet were prompted to say Grace before partaking of forbidden food or drink.

⁹⁸ 249.
⁹⁹ 414.
¹⁰⁰ 181. 276a.

Fourthly we hear of Jews buying grapes from Gentiles and using the liquid which was pressed out of them.¹⁰¹

על הקלות שהיה בין כשחבואין האוים על העמדות ה'ח' חכמות ענין והן בעושים ודוננים עם עץ וקוים מהם אפילו ב'ית ה'א' שבוע או יותר ואם חוששין שמה המשיך ה'א'

The coast of the Ionian Seawas a vine growing country and thus the Communities situated there bought wine, which the Gentiles kept in barrels for a shorter or longer period and were not particular about the regulations laid down in such eventualities. R. Benjamin although drawing the line between Gentile wine that was surely used for ecclesiastical or religious ^{purposes} called *יין נדון* and ordinary wine called *יין דמיו* in which case such religious service is not evident. This distinction was already made by earlier authorities, for example Rashi and R. Tam and even so pious people refrained from the use of both kinds of wine.

Consequently R. Benjamin permits not only for trading purposes but even for drinking wine that has been intentionally touched by a non-Jew with the purpose of making it useless to Jews. Incidentally this throws light on the relations between Gentiles and Jews.¹⁰² This view again is a sign of leniency which by the more rigorous authors would not be shared.

Another aspect of Jewish Law, which was similarly lightly treated was the biblical prohibition of giving

and taking interest on loans.

The first case which throws light on these conditions is a complicated one. X claims from Y a hundred ducats which were lent by him on a pledge which belonged to a Gentile. Apparently X thought that the loan was made on behalf of the owner of the pledge, and therefore he was entitled to charge twenty per cent. interest, for he actually advanced only eighty ducats. X protests that he would not charge a fixed interest of any amount to a fellow-Jew. From here we see that the lender actually refrained from transgressing the law of taking direct interest from a fellow-Jew, but did not mind charging interest if the loan was advanced to a Gentile. The debtor however refuses any obligation on the part of the owner of the pledge and acknowledges only the sum actually handed over to him.¹⁰³

האובן תובע חסעקון חגה פרחים שהיו לו בעדים ועל חסעקון
אותם החסעקונות הם של חגה שלקחם שחעקון חגהו לזכות עצותם
חשוב לו שאפילו שהודת בפניהם שקבלו חגה אחד מאחפיה
חייב כך אלא שמפני כי שסנים קבלו בעד חגה והוא יבין
וראובן חשב לו שהיו שגגו כך בהבנת פסולו שהיה אוסר
דאורייתא אלא שאחרי חסעקון שסנים שהיה רוצה לזכות לאח
בחסעקונות במחאה בעד שגגו ואם נאם התלמוד אמת שכל
הנאמרו ואת שאלתו ועל שחגה חגה ש חסעקונות חגה חגה

This complication was due to the fact that the Jew Y acted as an agent for a Gentile. This, as we previously saw

¹⁰³355.

והחומר חסעקון יתן שלך וכן עשיתי חגה עמך ושעקון כופר
ואחרי אם היותו בעד י היותו נאם חגה כך אלא חגה

was very frequent and Gentiles borrowed money from Jews.

R. Benjamin was very strict with people who tried to circumvent this law. There were different ways and means by which Jews endeavoured to pay or to take interest. Thus some people found no fault in lending money belonging to orphans to Jews on interest or by putting up a Gentile intermediary between the lender and the borrower and thus by a legal fiction avoiding the transgression of the Law. Both of these methods have a long history and a considerable literature behind them. Here we will confine ourselves to a contribution offered by our author on this subject.

Firstly let us turn to the question whether money of orphans may be lent on interest. R. Benjamin says ¹⁰⁴

והעלתי זה כאן מפני שאינה מהשאלה למען נהדלו מלעשות
כאשר ראוי בימי חורפי שבמקום הגמולות חיו קורבנים
כך בסאה והעבודה שאו דאבילו דם ליתומים לא ספיק
אסורא בידים דתוא איסורא מהגמול... ואחתי אנו אל
אולי חנה הדיוס בעימין וקבלו בנפשו ויתומים שלא יקצו
רבים קצוצו כמשי להו עתה נפיש לכל אדם וא
משום סנהאם חניה טעור הוה ובודא לא נהמיון על
(תיקין)

In these words our author raises his voice in warning against the general abuse and frequent misuse to be observed among large sections of the Community in lending money belonging to orphans on fixed interest. He sees in such action an unmistakable transgression of the Law. He cannot emphatically protest enough against such transgressors even if they

and merchants of the
presume to have the sanctity of and ancient custom on their
side. Such a custom is in the opinion of our writer and
erroneous one and therefore unreliable or without authority.

We learn from another Responsum ^{at} that ^a mistaken ruling
was held authoritative in the Community of Corfu where Jews
thought that the lending of money belonging to orphans on
fixed interest was permitted according to the letter and
spirit of the Law. R. Benjamin cannot be indignant enough
in condemning such an erroneous practice.

נשאלו בשאלה בהיותי בק"ק קורפו על דין פעות חיתולים
להלוותם ברבי קצוצה כאשר נתנו חתול כחיתולים חתול
דמעות חתול חתול וכלו להלוות קצוצה כאשר נתנו חתול
דמעות חתול חתול ברבי קצוצה בידנו לא נתנו
חבם חתול חתול קצוצה אלא חתול פסחיתו דהיות
שגור וגם שער

We know, as I shall point out later, that the Honorary
Officers of the Community were entrusted with the management
and administration of legacies for certain purposes. Thus
a man left before his death in his will one hundred golden
ducats for the purpose of defraying the cost of the salary of
a teacher from this money. The officers, חתול, questioned
whether they might increase the capital by lending it on
interest in order to discharge their duties. ^{at}

על דא חתול שער חתול חתול חתול חתול חתול חתול
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חתול חתול חתול חתול חתול חתול חתול חתול חתול חתול

The legacy of one hundred golden ducats remained with the
children of the testator who lent the money to the traders

and merchants of the town on interest. The accumulated interest was duly handed over to the lay leaders of the Community who employed teachers and paid their salaries from this income.

We turn now to the second device often applied by Jews in order to circumvent this Biblical prohibition. It consisted in appointing or commissioning a Gentile to act as an agent on behalf of a Jewish creditor or debtor. This practice was in vogue centuries before our period and was sanctioned by high authorities although strongly disapproved of by our author. He rules: ¹⁰⁶וְרָאוּ לְכַלּוֹת בְּיָשׁוּאֵל

שֶׁל אִשָּׁה וְשָׂעָה אֶחָד כְּהֵן שֶׁנֶּעִיד כְּאוֹן מֵעוֹלָם בְּכֹהֵן וְהָיָה שֶׁמֵּעוֹן וְאֶחָד לֹא הָיָה מֵשִׁכּוֹן זֶה וְכֵן אֶצְלוֹ מְכִיר שֶׁ בְּרִבִּי וְקָרָה מֵהֵן מֵאֵת פְּרִיָּה וְזֶה הָיָה וְקָרָה מֵשִׁכּוֹן וְאֶחָד שֶׁל קָרָה מֵהֵן וְשָׂעָה אֶחָד וְאֶחָד לֹא הָיָה לְקָרָה מֵהֵן הַיְּבִיט דְּזֶה אֶחָד . . . וְאֶחָד הוּא שֶׁעֵתִיד לִיפֹי מֵחֵי שֶׁהוּא מֵעוֹלָם בְּהוּא וְהוּא אֶחָד לִי שֶׁל בְּרִבִּי

Accordingly X is in need of money and deposits his pledge

with Y, who is supposed to borrow money on it from a Gentile friend and X promises to pay interest on the loan. Actually Y advances his own money and cashes the capital and interest. Such a transaction is strictly prohibited according to the law.

In another case, ¹⁰⁶we read of a Jew who needed money and handed over his pledge to a Gentile and instructed him to borrow money on that pledge on interest from a Jewish money-

¹⁰⁶ 366.

¹⁰⁷ 364.

¹⁰⁶ 363.

lenders. After a time the Gentile escaped and the Jewish creditor claims the money from his fellow-Jew.

ישראל שהיוצא ל מענה והמן משכנו ליד האוי ואחר כן
על מענק זה ברבם והאוי ביה ואינא חלגא לחפונ
דמשכנו של ישראל דבריה הוג

R. Benjamin categorically prohibits a Jew to put up a Gentile as an intermediary to lend the Jew's money to other Jews on interest and similarly to ask a Gentile to borrow money on his behalf from a fellow-Jew.⁹⁹ However, if the Jew commissioned the Gentile to borrowed money from another Gentile and the agent turned instead to a Jew, in this case our author sees no objection to paying and taking interest.

Probably the latter case may have been a modus vivendi to circumvent the prohibition of paying and taking interest.

There is a further case which may be grouped here,¹⁰⁰ as showing how far contemporary Jews were forced by economic conditions to borrow money on interest and at the same time to satisfy their religious conscience in observing the requirements of the law.

דאובן ליה חנה מן האוי
ברבית ובא לחתונתם לאוי ומצאו שמעון ואחר כן
הגם לו ואנו אעלה לך חתנית שאתה הוג לאוי
מי אחריהן . . .

X borrowed money from a Gentile and while on the way to repay the money to the creditor, another Jew Y offers to transfer

⁹⁹ 374.497b.

¹⁰⁰ 357.481b.

the debt to himself, with a promise to pay the interest to his fellow-Jew that is the interest which was really due to the Gentile.

Another interesting¹¹ though complicated case arose when a Jew lent money to a Gentile on interest. Another Jew acted as guarantor. For a considerable time, the Gentile continued to pay the interest, but after a certain period had elapsed, he refused to pay any further interest or to refund the capital. The question was raised as to whether the creditor was enabled to claim the capital plus the interest from the Jewish guarantor.

ראובן שנתערב בחבירו
לשעון לאוי אחד חנה והיבנה ולזמן שעבר נתן חנו
לשעון ויחייבו ארבו הימים עליה הרבות סך הרבה
שהאוי סמחן לתת נתי רבות לשעון חנקש חיראוב
הקרו והיבנה

Here again R. Benjamin takes a rigorous¹² view and allows the claim only as far as the capital is concerned, and not the interest. This is not so in the case of a transference of interest from a Gentile to a Jew. Our author decides in a case when a Gentile borrowed money on a pledge and interest from a Jew and paid his interest regularly in monthly instalments. The Jewish creditor was then in need of his money and endeavoured to transfer the loan, pledge and interest to another Jew and this R. Benjamin finds permissible.¹²

¹¹ 374.496b.
¹² 369.491b.

מי שיש לו חוב על חלו ויש לו מטבון חסמו והיה חייב
 היבית חסמו כדי חדש במדשו ועתה הוצרך תהיה
 מענה בתל אה מאתו ישראל ושיגן לו אומר היבית
 שמקבל מאומר חלו על חובו שיהי לתון למיעבד בלח"ה
 ויאת דשני אף שהחלו אע"פ חסמו לישראל השני

Our author is more liberal in permitting the taking
 of interest from Apostates¹³ and he maintains the rigour of the
 law in the case of a Jew borrowing money on interest from
 such delinquent Jews.

A third way of avoiding¹⁴ the Biblical prohibition of
 taking interest, which was necessitated by the economic
 conditions of the time, was that the creditor shared the

risk of a transaction or that he took the liability for the
 merchandize on which he lent his money. The case is

interesting not only for the religious life but also as will
 be shown in a subsequent chapter for the economic conditions

of the time. As we shall see Greek Jews frequented the mar-

kets of Venice.

אומר הסוחרים החוכמים בונלייג

A Jewish money-lender advanced to the merchant one hundred
 ducats for his business purposes. The debtor paid for the
 loan either in Avlona, Arta or Salonika one hundred and twenty
 ducats. It appears that this was an old standing business
 arrangement and R. Benjamin concurs with this old method of
 loan as long as the merchandize covers the value of the loan.

113368.
 114364.
 11410.

We get the general impression that the Jews under the economic pressure of the time were forced to lend and borrow money and tried as far as the exigencies of the time allowed them to satisfy the religious ordinances of this law of interest,

A third short-coming of the contemporaries of our author may have been their treatment of oaths and vows. Quite exceptional is the case of the semi-scholar who endeavoured to prove from a Talmudic passage that he could treat lightly all oaths and vows on the New Year's day.¹¹⁵ R. Benjamin rightly rejects this mistaken application of the Talmudic rule.

Our author takes a strong line in admonishing his contemporaries to avoid incorrect oaths, emphasising the severity of the divine punishment for such an action and the grave consequences of profaning the Holy Name by treating an oath light heartedly.¹¹⁶

It was only natural that in business life when partnerships¹¹⁷ were established, or in loan transactions,¹¹⁸ differences of opinion should arise which led to the administration of the oath.¹¹⁹ In such unavoidable cases, the sanctity and solemnity of the oath and vow had to be carefully pronounced. All these cases together with those previously enumerated regarding the taking of interest, convey the impression of the close intimacy

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- 115 277.389a.
 - 116 382.
 - 117 396.
 - 118 410.
 - 119 410.

between economics and religion. Whether he had to comply with

A manifestation of religious feeling may be observed in the case of a man who made a vow to go to Palestine, but by some obstacle in his way was prevented from fulfilling his heart's desire. On this occasion, R. Benjamin speaks eloquently of the great duty of settlement in the Holy Land

לעלות לארץ הקדושה ויש שם מנוח מצוה לעולם
לשאל על גחון
לוח'מ אני אומר לעיד דשבח אחל ומעלה חנה לאונגם חסדי
ונוש לירושלים עיר הקדש למועצת ע'ו ולינועצת ע'ה
נוש לירושלים עיר הקדש למועצת ע'ו ולינועצת ע'ה

The love for Palestine and especially for Jerusalem was fully alive in the hearts of the contemporaries of our author and surely the desire to emigrate to Palestine was not an exceptional one on the part of the man who made the vow. Similarly here we may point out the close intimacy between religious and social life.

R. Benjamin is strongly opposed to card-playing not only on Talmudic or moral grounds, but also because of its futility. A certain Jew bound himself by an oath not to play cards but in a foolish moment he broke his promise. The leaders of the Community decided that he should hand over his gains to local charities. The dispute arose as to whether he had the choice

of choosing his own charity or whether he had to comply with the wishes of the local leaders and to give his profits to the charities of this locality.

Vows were also made for devotional and religious purposes. Vows of the Nazirite were also practised. In the

Responsa of R. Samuel Kalai we read:¹²¹

כאובן היה מושג על ערש דוו ובא עם שמעון דוד ספור על ענין אם ילך בחופת נחודה וקפץ ראובן ואמר הריני מקבל עליו נחודה בן דליה (?) ובתוך שני דבורים נחמה לא מן דליה א בעל דליה אם אכל בחופת נחודה ומה נחמה חסרה א נחמה על ראובן אם ילך בחופת נחודה או לא

We find that vows were made during personal illness when people dedicated Holy Scrolls for the use of public Reading of the Law in the Synagogue.¹²²

Another aspect of social life as far as it influences religious conditions may be seen in the extraordinary zeal of two brothers in acting as god-father to a newly born child on the day of circumcision.¹²³ This religious custom was held in high esteem in this time.

Similarly great religious fervour can be noticed by the Jews in this period performing the duty of the last rites. For this purpose Holy Societies were functioning and many were the members who offered their services for the performance of these sacred duties.¹²⁴ In Janina certain men were members of this Society, but through some accident they were for the time being prevented from discharging their sacred

¹²¹ Mishpetai Shemuel No. 7.
¹²² " " No. 8. 6b.

¹²³ 253.361a •

duties and another group of members was deputed to take their place. After a time the former group were anxious to reclaim their erstwhile privileges on the plea that through force majeure they had been previously ousted.

Here may be mentioned an extraordinary last testament of a certain R. Eliezer Halevi, which R. Benjamin quotes probably for instruction and as an example of one who enjoined his children to administer the last rites in such a way that he should be treated in a contemptible manner in this world so that he might enjoy greater glory in the world to come.¹²⁵ The testator ordered these instructions in order to find atonement for his sins. In quoting this testament R. Benjamin might have pursued such special aims which we cannot guess.

Our author was questioned and in his answer he explains the custom of plucking grass after burial in leaving the cemetery. He apparently bases this custom on a passage in the Psalms Chapter 72 v. 16. וְיִצְיָא מִן הָעֵץ כֶּעָשׂוּ הַמַּלְאָכִים

Our Responsa further convey the information of the existence of extreme piety among a section of the Community. Thus some very pious people would not enter into partnership with Gentiles on religious grounds.¹²⁶

וְהָיוּ לְהַלְוָה וְלִשְׁתִּימָה הָיְנוּ דִּרְךְ הַסִּידוֹת

Further they would not eat newly ripened fruits in the three weeks of mourning for the destruction of the Temple (Tammuz 17- Ab.) and afterwards would refrain from eating such fruits on account of their reluctance to pronounce the

blessing ^{די ש מספיק אג יש לברך} in this period.

^{5 מן על פירוש שבכח בון ויש לומר שט' באב אם יכולין לברך על דם לאתו ש' באב כו' תחסידיה אגם רוצים למוכס' נשעם א שאץ רצון לער בזמן אבז וצד שיהיו לזמן}

Here again we can see the expression of religious feeling

of mourning and distress for the great national catastrophe kept alive in the Community.

A reference to the special observance of fasting on Mondays and Thursdays may be mentioned as customary in this time and in a case where fasting would not be observed on account of the incidence of such days when fasting is prohibited, then almsgivings may take the place of physical privation.¹²⁸ It is quite likely that this custom of fasting was practised by the same 'pious men' spoken of in the previous cases.

Next to the Synagogue and the Home the third fortress ^{all} for the preservation of the spirit of the Torah and that Judaism stood for, was the School. How education was provided for may be gleaned from a Responsum ¹²⁹ which tells us that a pious man left a legacy of a certain capital,

¹²⁷ 163.

¹²⁸ 265.

¹²⁹ 66.

the interest of which should be employed for the salary of an appointed teacher. This Responsum apart from the aspect of religious life which it contains, namely the taking of interest, throws light on the organization of the Community. Here may be observed that permanent legacies were left by pious donors before their departure from this world to provide instruction and education to the coming generation.

These details enumerated and analysed on the previous pages throw light and shadow on the religious life in our period. We see that the Community comprised different sections, ranging from the pious who were very particular in observing the Law in its minutiae to the Apostates and wicked men who cast over board out of convenience and for reasons of comfort all those precepts and duties which should be sacred to the Jew. Further there were Marranos, who under duress and physical force gave up for the time being or for ever their Judaism. Between these two extremes, there were those who probably comprised the larger part of the Community. These latter were the adherents of the religious practices in Prayer and in Synagogue, in the Home and in Business Life. They observed the Sabbaths and Festivals, obeyed the Dietary

Laws, performed Charity with the living and the dead, donned the ~~R~~ylacteries and wore the fringes and exercised great zeal in the performance of precepts generally. Some laxity in certain observances might be noticed, but they occurred in all ages and in all countries and might be due to economic and social conditions. This of course presents only a part of the picture. The other side of it will be fully treated in the following pages, which will explain how and by what Institutions the religious life of the Community was kept alive, regulated, administered and strengthened. This will be the subject of the next chapter describing the Communal Life of the Community which should be read as part of the description of religious conditions of our period.

advanced form, was primarily and essentially serving religious purposes. All the other aspects of life, for example the friendly or unfriendly relations between the rulers of the state and fellow-citizens of different races and creeds, the rise and fall of economic prosperity, the friendly or hostile features of society, and the higher or lower stages of cultural life, all these individually and collectively, as the case might be, were a corollary of the religious experience of the Community. After satisfying all these secondary requirements of life and adjusting them to its advancement or deterioration as the case might be, the main function of the Community, for secular leaders as well as spiritual guides, was to uphold the religious legacy of the past and

provide for the survival of the Jewish Religion among the
daily changes. COMMUNAL LIFE. For this purpose a strong
organization was necessary, which would represent the preserva-
tion of the Community and its traditions.

Communal Life in the second half of the fifteenth Century and the beginning of the sixteenth Century as in earlier and later ages, was dependent on and influenced by external and internal factors, by the political status granted by the rulers of the provinces. Secondly communal life was affected by the economic conditions prevailing in those days, the social and cultural developments and movements, which all in turn exercised a strong influence on the religious life of our author's contemporaries. The communal organization whether in a primitive or a more advanced form, was primarily and essentially serving religious purposes. All the other aspects of life, for example the friendly or unfriendly relations between the rulers of the state and fellow-citizens of different races and creeds, the rise and fall of economic prosperity, the friendly or hostile features of society, and the higher or lower signs of cultural life, all these individually and collectively, as the case might be, were a corollary of the religious experience of the Community. After satisfying all these secondary requirements of life and adjusting them to its advancement or deterioration as the case might be, the main function of the Community, for secular leaders as well as spiritual guides, was to uphold the religious legacy of the past and

provide for the survival of the Jewish Religion among the daily changes of external life. For this purpose a strong organization was necessary, which would safeguard the preservation of the Community and establish useful institutions for the main ideals for which the Jewish Faith and Creed stand. This organization was a dual one, namely secular and ecclesiastical. The relation of the two bodies was very close for the work was carried on in close collaboration of these two authorities. It will therefore be necessary to divide the material at our disposal under the following main headings: firstly the composition and the function of the lay leaders of the Community; secondly the description of the authority and qualification of the ecclesiastical leaders; thirdly an account of the jurisdiction and executive power of the religious courts; fourthly a description of the educational institutions which contributed in the main to spreading the ideals of the Torah; and finally an account of the work of the charitable organizations, which were destined to alleviate distress and poverty.

There were secular leaders comprising

שבועה שלטון העיר, פירמנים, חמנים

The latter were responsible for the formulation of Ordinances

הסכמות and Statutes תקנות. The management of the

Community lay in the hands of an organized body of seven

Leaders, who were called ז' שגבי העיר. This institution of

entrusting seven leaders with the administration of the

Community goes back to Talmudic times , which was perpetuated in many countries of the Diaspora.¹ These elders enjoyed the same authority and prerogatives, which were due to their predecessors in earlier centuries.

We find that the elders of the Community carried out their duties ~~to~~ and discharged their offices jointly with the spiritual leaders of the Community. Thus we hear of R. Benjamin gathering the Elders and Hahamim of the town to force a wealthy and influential man to dismiss his concubine, who was incidently the daughter of a priest and whom he married according to Moslem law?
והנחתו ביה אביו עד שפצתו?
זקני העיר והכמ"ץ והב"ד והוצאתו מבתו

We have no special information in our Responsa as to the way in which the leaders were appointed or elected or invested with power. More details may however be gleaned as to their far reaching activities. The authority was sometimes exercised in conjunction with social leaders of the Community. Thus in a case where a woman was defamed by a Jew who had a quarrel with her husband, the elders together with the Haham were asked to impose a fine on the man. R. Benjamin decides that if the offender would not apologize to the woman then either corporal punishment (חבלות) or a fine of money (קנס) might be imposed on him.

¹ M. Weinberg: Die Organization der judischen Ortsgemeinden in der Talmudischen Zeit: Monatschrift Vol. 41, 1897, pp. 643 f 2110.

We will learn further what means stood at the disposal of
of the authorities to execute such a judgment.³

ראובן היה חקונטט עם שמעון על עסק חמון שהיה ביניהם לשותפות
להלכות ודינה אשה שמעון היה חייבה עם ראובן על חפץ אחד שזכה
השותפות ולא היה מודה באומות חפץ ובגוד דברים קרא ראובן לאומה
אשה שמעון זונה והיא טוענה לפני חכם העיר את ראובן ליסרו על
הדוניה שם רע עליה כאשר ישות עליו חכם העיר וטעני תקלה ורא
טוען שלא קראה זונה אלא אחי לה שחיה חשקרת באומה חפץ
זונה... ונה ל'ד דראו על כל פנים לתוא ראובן לפנים האשה
לאו ראוי לקונסו בחלקוס או בחמון⁴

On the other hand there are many instances in which the elders
of the Community worked independently of the **חכם העיר**

Apparently the elders were divided into two groups of
three and seven, the former had or enjoyed authority in minor
Communal matters **וכל דבר תנאי וקנין די בג' טעני העיר**

but for more important affairs like erecting or destroying,
buying or selling Synagogue Buildings as well as for the ass-
essment and collection of taxes and duties, the latter had
the administrative power. **ואם יקשה לך דכולא דזכותי**

**בעי תלמודא ז' שום העיר תוכל לזקק היינו בדברים הדולים
כגון לחוציא ב'ה מקדשא וכחצא בו**

The activity of the elders was very extensive to judge from
the instances contained in the Responsa of our collection.

Thus in cases of domestic strife between husband and wife,

it was their duty to pacify the parties before recurring to
the last measure of separation.

וְאִכְּכָן עָרִיד לְהִיוֹתוֹ זֶהִיר עַל נֶה וְשֹׁטְטֵי הַקֹּהֶל יִרְאוּ כִפּוֹ יִרְאוּ
 עֵינֵיהֶם לְשֵׁם שְׁלוֹם בֵּינֵיהֶם וְלֹא יִלְוּם לְכָתֹף אוֹתוֹ אֲחֵרֵשׁ
 אֵת כִּי דִינָה הוּא

From another instance, which as we will see throws light on the
 social life in our period, we learn that the elders were
 present and assisted at a marriage by proxy

וְאִבְאוּ שֹׁטְטֵי הַקֹּהֶל שֶׁם כְּשֶׁרִצָּה לְקַדְּשָׁהּ לְשֵׁם רִיפּאצַּל הַגִּ'ל

The elders were responsible for introducing or perpet-
 uating certain customs and usages. They had the right to do
 so, yet their power was not absolute in cases when the custom
 would lead to misuses or abuses or could not be traced from

the Law. The words of R. Benjamin are וְאִכְּכָן עָרִיד לְהִיוֹתוֹ זֶהִיר
 עֵינֵיהֶם לְשֵׁם שְׁלוֹם בֵּינֵיהֶם וְלֹא יִלְוּם לְכָתֹף אוֹתוֹ אֲחֵרֵשׁ
 אֵת כִּי דִינָה הוּא

The Talmudic rules that a religious custom annuls an
 Halahic principle (מִשְׁמַחַת מִבְּשֵׁל הַלְכָּה) and the other that due
 importance has to be attached to a religious usage⁸ (מִשְׁמַחַת
 מִשְׁמַחַת הוּא) -- these hold good only under the following consid-
 erations: (a) if the custom or usage does not lead to an
 obvious transgression of the Law, (b) if it was ordained by
 seven elders with the consent of the whole Community

⁸⁸⁸.

1484b.

Masseheth Soferim XIV. 18.

הנחיה ראשונה .

Consequently we see that the seven elders have the authority to introduce religious practices as long as the latter will not lead to religious or moral abuses.

In the second part of R. Benjamin's ruling, the negation of this authority is also expressed when he says that inferior or pernicious customs do not annul the established Halaha. The example for such inferior customs are given as such that are not established or sanctioned by the Elders of the Community. This shows the great importance of these dignitaries or worthies in the religious as well as in the Communal Life of the Community.

These lay heads of the Community were probably learned men although scholarship is nowhere mentioned as a special qualification of the Members of this Council. Yet one qualification for entering this College of Lay Administrators of the Community is laid down emphatically, viz. their honesty^a and integrity.

ואמר להשיבו לפרק עניני העבור עם נק
ט/ב' הקהל
It is only natural that persons suspected of or condemned for dishonest dealings and who had some stain on their character could not be members of a College which was entrusted with the financial administration of the Community in more than one way. They were entrusted with the assessment of taxes and duties, and their collection, together with the handling

^a 272 .

of funds left by testators for religious or charitable purposes. Consequently only men of the highest and purest character could be chosen to discharge such offices.

The lay leaders were also known under the names of

פירנאס & חמורא. There are some references to both these categories of officers acting in an honorary capacity. Both were responsible for the discharge of the financial affairs of the Community. Their task did not work smoothly in all instances and they met with some opposition. In one case a Jew refused to pay the bill presented to him by the officers (**חמורא**) on the plea that his assessment was too high.¹⁰ He was willing to pay only after having brought his case against the Communal leaders before the Court and if the latter found the assessment just and reasonable, then he

על עסק ראובן חמורא לתת
לחמורא הקהל מה שהשיל עשיו מחסם ואומר שרובה לצחוד
בדין אם השילו עשיו כחוקן ואז יפירע לה' לצ' ד' דפרע
תחלה מה שהשילו עשיו ואחר כך יתחייב לד'ן

The text in question does not make it clear whether the summons was to be issued by Gentile or by Jewish Courts.

From the answer however, quoting the Ordinance of R. Gershom, the Light of the Exile, one can gather that the reluctant payer might have tried to submit his case before a Gentile

¹⁰295.418a.

Community who employed teachers and paid their salaries from this income.

Court. We saw previously that such conduct was not unusual and was disapproved of by the spiritual as well as by the Lay Leaders of the Community. Yet it is doubtful whether the Jew would in this case apply to the Gentile Courts for the latter would surely be inclined to endorse the claim of the Financial Representative of the Community in order to extort as much of the Jews' money as possible. It may be therefore that he invoked in the first instance the help of the Jewish Court.

These honorary officers were also entrusted with the management and administration of legacies for sacred purposes. Thus a man left before his death in his will a hundred golden ducats for the purpose of defraying the salary of a teacher from this money. The officers questioned whether they might increase the capital by lending it on interest in order to discharge their duties: "

על ראובן שצוה לפני מותו לבניו שיורנו לפרנסת הקהל
מאת זהובים שיורנום לסותרי הקיור להסתתר בהן ומאותו
הרוח ישכוח מלמד המעקה וכן עשו בניו ומאותו ליד
פרנסת הקהל כפי צוואת אביהם . . .

The legacy of a hundred golden ducats remained with the children of the testator who lent the money to the traders and merchants of the town on interest. The accumulated interest was duly handed over to the lay leaders of the Community who employed teachers and paid their salaries from this income.

We learn also that the Community deposited their golden and silver utensils for the ornament of the Holy Scrolls and for other divine purposes with the Parnass (פרנס). Owing to the insecurity and uncertainty of the times as we have described previously these valuable articles were stolen from the house of the Parnass and thus the question of his liability to refund the lost articles

arose in the Community. ¹²ועל זה שטוענים הקהל להאצין שהיה פירס חתוקר והיו ביזו כלים חבית הנסח ובאו הגבית בליטה בביתא והיה ירא פן יהיה חתוקר וטקח אותן הגבית והגם להגבית וטוענים הקהל כהנא אומא פרנס איך הציב עצמו בחסון אחרים וחייב ויאותן טוען שהיה ירא כגפשי ונפשי בני ביתי פן יהיה חתוקר ופדתי עצמי באומא כלים ואיני חייב

(4) There were also collectors of charity, but as we have seen previously, this function was combined with that of the Hazan ^{חזן}. This practice may have been confined

to smaller Congregations where the reader was supposed to discharge many duties. We hear of another ¹³הגבאי צדקה

who kept in his place money that was collected for charity and for distribution among the poor. Like the previously mentioned Parnass of the Community, he was the victim of the insecure conditions prevailing in his place and time, thus accounting for the deposited money being stolen by robbers.

כיד רבי יוסף הגבאי צדקה היו לו חמא וטכ צדקה והגבאי והגבאי וטכ פסקת אם חייב לשלם וחייב באחריות או לא

For the clerical work special Communal Recorders or Scribes were appointed. Thus in Arta a certain R. Shabbetai

filled this office. The evidence submitted to the Beth

Din of Arta is recorded in the following words:

ואנחנו כשמענו העדות הללו בהגות על ספר סת ק"ק
קרינו דברי חיים חקיה הוגה ונגב על ידי סופר חקיה הלל
על ידי זי שגרי סופר בית הלל

Here a few words must be added as to the composition of the

Community of Arta comprised the Community of Arta consisted of five

different groups comprising: (a) the descendants of the original inhabitants of this place קהל תושבים.

Similarly in Petras there were four Communities one of them

being the 'original settlers' קהל תושבים.
שאז חקיה תושבים אשר בפטיק

(b) the Spanish and Portuguese exiles (c) the Sicilians

(d) the Calabrians and finally (e) the Apulians. The old

inhabitants retained the common custom derived from the

Community of Corfu. They also had in common with the other

Communities the same law and ruling as far as the dietary

laws and taxation were concerned. From the wording of the

Responsum we learn that these Communities were bound together

by a sense of solidarity and were united in regard to these

customs and laws. בער אחסא נתישנו דקחלא שבאו¹⁵

בער אחסא נתישנו דקחלא שבאו¹⁵ customs and laws. חקיה

מגיש חלכות ספיד ופריטומול ציצעלע וקלגייא ופאליא וקהל
תושבים הוו שם חקיה קדמא חושבים בשירותם
מנהג אחד ב"ח אדלער' ויהי גע' גענטי' ישי'ס' ואימא
כולם וכו' . . . איש ליעהו יעירו ודברו ואלו גפידו

¹⁴ Mishepetai Shemuel 25.
¹⁵ 303.

The composition of the Congregations in Arta is similarly described by R. David Cohen who however adds some details as to the names and character of the individual constituents of the Community. According to R. David Cohen the Community of Arta comprised the Corfiotes, who may be identified with the original constituent congregation

קהל תושבים, the Sicilains, the Calabrians and the Apulians.

Attention has to be paid to the remarkable omission of the Spanish and Portuguese Jews who are not mentioned in the Responsum of R. David Cohen. The reason for this may be sought in the presumable date of this Responsum which was written before the arrival of the exiles from the

Iberian peninsula on the shores of the Ionian Sea.

במה ארשא נתישב ד'קהל קורפיוטי וסיסליי וקאלברי
ופוליי וכל קהל בית תפנית לעצמם נאמרים כמנהגם
כאשר הורם במקומם וקהל ..

Each congregation belonged to or possessed a Synagogue of its own and wherein they perpetuated their ancestral rites and usages which they brought with them from the country of their origin, for example Corfu, Sicily, Calabria and Apulia.

There arose however difficulties and differences of opinion about taxes and duties and in order to settle them the four congregations elected representatives in order to settle the impending quarrel either by Jewish Law or by

הקהלנות הקדושה אשר בארץ ישראל
הפיוש בניהם על עניני חסים וארמונות וכו' ד' 16
arbitration.
אנשים אחד מכל קהל וקהל וקבלו מהממונים של הקהלות קנין
שהם שיפסוקו הן דין הן פשר שיקבלו עליהם ביקום שבועה
וושב הדל דינים ושחקו שעמיתיהם כפי החוק וכו' הולחל
וכדי שלא לחדל להסעיה הדין פסקו להם בדרך ביצוע
ופשר להוציאה כולם כאשר נראה בדיניהם
The procedure was as follows. Each representative

was elected by one of the four communities, the leaders of which promised to accept the verdict of the elected council as binding. This promise was given in the usual form prescribed by Jewish Law and which had the force of an oath. The electors settled the case by some compromise without resorting to the exigencies of the Law.

As in Arta so in Lepanto there were many congregations with separate Synagogues but which were all combined in one Community.⁷

These Communities and individual congregations were organized on the basis of Ordinances and ruled by bye-laws called *הסמיות* or *תקנות*. Dr. L. Finklestein⁸ in his "Self-Government in the Middle Ages" discovered some of these Takkanot, which were instituted in Corfu and published them in his work. He overlooked however the rich material embodied in R. Benjamin's collection and in that of R. David Cohen which material is more than one hundred years older than the Takkanot of Corfu preserved in the MSS of the library of the

⁸ 302.

⁷ 290.

¹⁴ pp316 - 327.

Jewish Theological Seminary of New York.

The Communities were ruled by *הסנהדרין* and *הקהל* agreed upon or promulgated by the spiritual and lay leaders of the Community. They touch all aspects of political, economic and social and last but not least of religious life. It is to be investigated firstly how these ordinances were established.

This custom was not an innovation by the Jews of Southern Europe, for they were modelled on the famous Takkanot instituted by R. Gershom, the Light of the Exile in the eleventh century and by R. Jacob b. Meir called R. Tam in the twelfth century, and by several French communities and others. As a matter of fact, R. Benjamin offers very frequently valuable material for the study of these older Takkanot.

It will not be superfluous to enumerate here these Takkanot cited by our author and to compare them with the material offered in the work of Dr. Finkelstein. First of all there is to be mentioned the ordinance quoted from the Takkanot *קדמוניות*: R. Benjamin writes to his opponent R. David Cohen in his long letter which is partly apologetic, but also at the same time full of accusations against his

opponent: *ונעלם חמך תקנה קדמונית שלא להוציא לעז על החתים שהם שוכני עפר כמו שתביאו הסידט ביבמות פ' החולין ב שם ראביה והמוציא שם רע אין לו חטא ואלוהי וכדמיוני לה הסידט פ' דיוקא חשם תרושטי.*

According to this old ordinance it was strictly prohibited to spread evil reports or rumours of defamation against men who had departed from this world. Responsum 400 cites

another תקנה קדמונית. The text reads:¹⁹
 וראוי לעשות כהקנה תינתן קדמונית שיעשו דין בהקנה
 הענין הקדומה להם אם אין בעיניהם בלד חשוד ונא
 יצטרכו לזכות למיחזיקם מעל רב אחר

In the same Responsum we read of another ancient ordinance which regulates the juridicial power of Judges.²⁰

ותקנה קדמונית תינתן לבלתי שפוט שום דין ורב על
 דברי יתיד אפילו באם כן הוא ואם ישפוט ויפסוק
 דין באם כן הוא לא יורה עוד

From a Takkanot of R. Gershom, our author quotes the following:

(a) in No. 449, R. Benjamin writes in the name of the Agudat
 as follows:²¹ כתב בספר אגודה בבין פ' הכונס ריש סימן
 פ' חטא ל' חושב דפסק על אגס חז' שאנס ביגו של
 ישראל ובא ישראל אחר ולקחו חסנו שלא וחזר לבעלים

that is if a Gentile robber deprived a Jew of his property or house and another Jew bought the robbed house from the Gentile, the second Jew may claim compensation from the first one. Considering the insecurity of Jewish property and Jewish life in our period as shown in a previous chapter, this decision of R. Gershom has not lost its actuality and validity

¹⁹ 400. 516b. Finkelstein 'Self-government in the Middle Ages' p. 30.
²⁰ 400. 516b. p. 122.
²¹ 449.

and must have found frequent application in the sixteenth century in Greece just as much as in the earlier period in France. Neither the geographical nor the chronological distance improved in the least the political status of the Jews.

(b) R. Benjamin further quotes from **היהנות דשיני גינתות**

פ"ט the established rule forbidding the husband to force a divorce on his wife without convincing evidence of her guilt.

(c) R. Benjamin used a MS of the Takkanot of R. Gershom²²

and copies the following item: **דכן מצאנו בתקנות שגיון**

**הגאון ל' הרשום ח"ה ונביאו גם כן שהיה בגשונותיו בשורש י"ז וכל
הגאון ל' הרשום ח"ה איש שהשיאו עליו חתנה לו עד תפקיד או
להמין חשיט או החובה לבד עד שיפיר ח"ה שהשיאו עליו
במענה או בשכונות ואי יוכל להזמין מי שעשה שלא כדיון
קודם שיפיר תשל-ואמירה לו שתחטף עושה לו שלא כדיון
מן החתנה עצמה יש כח לבטל עליו הגפלה לחיות עליו
בלא ב'ד עד שיעשה לו כדיון וכשחזר לפי ראות עיניו טובי העיר
כן היה יכול לקח השאו עכ"ל חזק ויאהר כי בשביל החתנה
הוא בוקר עכ"ל.**

This version is to be compared with that of Dr. Finkelstein

which reads thus: **מי שהשיאו עליו חתנה וכמו להבונה**

**אינו יכול להזמין חתנה לבד עד שיפיר מענה או ששכונות
כד יכול להזמין כדיון ואפילו קודם שיפיר יש לו כח לעצור
בלא ב'ד עד שיעשה לפי ראות הקהל דאם לא כן יקח
אשר לו על ידו איום ויאהר כי בשביל החתנה**

This version is taken from MS B. (Munich MS. of the Talmud).

There is another version of the same ordinance taken from^a MS.

that is the quotation of the Takkanot of R. Gershom taken from

²² cf. Dr. Finkelstein 'Self-government in the Middle Ages' p.30.
ditto p.122.

the Takkanot of the Rhenish communities. (שום). The

latter reads as follows: ושלוהי הקהל שחובים החס [בין על

ידו ושואל] בין על ידי חוב או אחרת שהשיא החס אין יכול
שירדו עמו לבד עד שיפיק מעות או משכונות או יוכל
מי שעשה לו שלא כדין או אפילו קודם שיפרע אם
בעינו שפושטם לו שלא כדין יש לה ביטול וצדקה וצדקה
שיעשו לו כדין וימקן עותו לפי האותעתי הקהל
כן ויקחו ממנו ברכה ויאמרו בשביל החס להקל

Dr. Finkelstein adds to these text the following observation.

"The custom described in this ordinance is well established.

The section is quoted in the Responsa of R. Joseph Kolon (17)

has an ordinance of R. Gershom. There is good reason for

believing that even M represents an outgrowth from an older
text. First as M stands before us it contradicts itself.

It begins by saying that one cannot cite the collector or
assessor to court and ends by permitting one to complain
without calling a court'. It is clear that the 'complaining'

is only an evasion, for surely it would require a Court to
decide what was fair taxation, to state what seems best to
the Community. Some of the texts (L.P. and so on) try to avoid
the difficulty by assuming that one may complain only when
the gift (contributed) itself is wrongly assessed against one.
But these are obviously mere attempts to rectify a difficult
text. It is evident that originally there was no provision
for 'complaining without a court'. Moreover the various

texts are so confused that it is clear that there has been some juggling with them also. There can be no doubt that originally attention was paid only to the assessors. If they found difficulty in having the assessment paid, they would appeal to the Gentiles for help. The later compiler or copist could not understand why any attempt should be made to restrain the assessor when it was really the one who was collecting through Gentile powers that was at fault, and so he added also 'the collector'."

That there was no provision originally for special cases is evident from the Takkanot of Speyer, Worms Mayence, text assumed by Dr. Finkelstein. The

Δ / Δ where the three communities adopted this in principle as a local Takkanot. There is no mention there of any complaining without a court.

Dr. Finkelstein could have added the version of the Takkana as used by R. Benjamin the analysis of which shows the following observations: (a) the Takkana refers especially to taxes imposed on the Jew by the Gentile ^{72y}7'p5h and is in full agreement with MSS. N and 2 namely that the assessed is unable or is not permitted to call to the courts either the assessor or the collector before paying the sum

whole text and assuming that the Takkana was originally made to safeguard the assessor or collector for whom such an ordinance was not necessary because he could defend his rights by calling in the support and the assistance of

imposed on him. After payment however he may summon to the court whomsoever he accuses of having acted illegally: (b) the Takkana provides for a self remedy in the alleged overcharge of taxes even before payment by holding up the Divine Service even without applying for the assistance of the Court if he is in possession of the permission of the Elders of the city who approved of his action and who were aware of the righteousness of his case.

יד שיעשה לו כדון וכשורה לפי צדקתו ויניח לו

This means that the Elders of the city acted as substitutes for the Court. This disposes of the contradiction in the text assumed by Dr. Finkelstein. The Takkana therefore provides two remedies, either the help of the Court after payment or the permission of the Elders of the Community to seek a remedy against the alleged injustice before payment. (c) The reason for the second remedy is to defend the assessed member against the assessor or collector who by appealing to the government would be in the position to deprive the plaintiff of all his possessions alleging that he takes them from the taxes. This interpretation of the Takkana makes the far reaching suggestion of Dr. Finkelstein quite unnecessary by turning over the meaning of the whole text and assuming that the Takkana was originally made to safeguard the assessor or collector for whom such an ordinance was not necessary because he could defend his rights by calling in the support all or the assistance of

the government. Our interpretation of the text is also

implied in that of R. Benjamin's words when he says ²³.

ואפילו לדברי ר' א'ה' שכתב בסוף ו'ל' ו'כ'... היינו הינא דיאחר
לא הוה טע' הקהל שהוא עושה לו שלא כדין וכשורה אבל הינא דאין
טובי העיר אחרים שעושה שלא כדין ופי' קודם הטלתו

(d) In Responsum 301 reference is made to the ordinances of R. Gershom generally and to one of them in particular. The

author writes

ובמקנות דר' א'ה' כתוב ושויתון והמיתג עם כל סיעתו הקדושה
ותיוון תקנת רגור על כל ישראל חכם שלא יבוא שום אחד מישראל
שיקח תוקת חביו... וראוי לכל אדם לחוש כחמקאיו של
המאון ר' א'ה'.

(e) In Responsum 400 we find Takkanot are referred to and quoted in the following terms

פון חזי אגרת המאון ר' א'ה' נעשר נרפסטו אגרותין
ישראל ואם מותרין ומותרין עליהן שגיון ואמר שלא להשכיח
חלוי בית שדר בו חבירו בלא רשומה עד חלוא בו שנה
יצאנו

This ordinance reads in the appendix to MSS. A and 2 given

by Dr. Finkelstein as follows

ולא להשכיח בית שלא ביטול חבירו בזמן שחוג דר' לשם
נקודת אם היה חבירו חתום שלא לדור במהך תבית אלא
לאחר שנה שפטר חמבה אל ידור

Here again we see that the MS. from which R. Benjamin copied his text varied from that used by Dr. Finkelstein.

(f) Responsum 287 contains the ordinance of R. Gershom

forbidding under threat of excommunication the calling of a penitent by the derogatory name of Apostate or

This ordinance is not to be found in any of the MSS. record-

ing the Takkanot of R. Gershom. It is however preserved in a different form from the text used by R. Benjamin in the Takkanot of R. Tam where we read²⁴

שלא לביש בעל תשובה

Incidentally it may be pointed out how history repeated itself. The forced or frequent voluntary apostasies in the fifteenth and sixteenth centuries called for similar regulations which became necessary owing to similar conditions

five centuries before R. Benjamin writes^{26.}

כאמ"ל... חייש חמדת דל' חסד והוא אומר

(g) Another ordinance דהאומר לא תאמץ

our author introduced the law forbidding the husband to divorce his wife against her will. The text reads²⁵

והקנה ל' ארשום קנה שלא לגרש אשה בעל כרחה...

(h) The decree against bigamy promulgated by R. Gershom is referred to in one of our Responsa and qualified as binding only on those who observe loyally and faithfully their Religion. It has no bearing on persons who change

their Faith. R. Benjamin writes^{26.}

על כאמ"ל... חייש חמדת דל' חסד והוא אומר שבעל שאל

לישא אשה נשים... דהאומר לא תאמץ כשהוא אומר דה' ומנהג ישראל ולא לנו שפסד דבר וכחמיוש לערוב

These eight ordinances ascribed to R. Gershom were in the

greater part copied from a MS. which is no more extant and

which in language and composition differs from the liter-

ary sources available for the study of this important

Takkanet. In some cases R. Benjamin refers to other lit-

erary sources like the Agudah, Ravyah, Mordecai and R. Joseph

Kolonz which however do not exclude the possibility that

in these special cases our author did not avail himself of an original source of the Takkanot. We have already noticed that R. Benjamin was fond of confirming his Talmudic references by additional quotations from the Codes like that of Alfasi or R. Moses of Coucy, the Aguda and many others. R. Benjamin as a descendant of French Rabbis, may be considered as one of the prominent agents who introduced the Takkanot of R. Gershom to and established their authority in South Eastern Europe where Spanish and Portuguese Jews on the one side and Franco-German Jews on the other established new settlements. This valuation of the Takkanot of R. Gershom is expressed by R. Benjamin in the words²⁷.

... כן נהגו ר' גרשון ור' יצחק ור' יעקב ור' משה ור' אברהם ור' יצחק ור' יעקב ור' משה ור' אברהם
Consequently anyone who transgressed these Takkanot was threatened and punished by the local leaders by excommunication in a milder or stronger form as shall be discussed later on in this chapter.

We turn now to a third group of Takkanot namely those of R. Jacob b. Meir called the Takkanot of R. Tam. The first of these ordinances was of utmost importance to the social life of the Jews in the twelfth century. The ordinance protected the right of women that they should not be deprived of their matrimonial status and be treated cruelly by their husbands. This far reaching ordinance provides that a husband should not leave his wife without her consent for a period lasting more than twelve months. In case he does

so he must have the permission Court nearest to his domicile. Secondly the leave ~~for these twelve~~ for these twelve months was granted only to such persons who depart from their homes for special reasons for example business, assuming that a husband and wife lived peacefully together. Thirdly the prolongation of this term of absence for more than a year without the consent of the woman could be granted by the seven Elders of the city if they recognised the necessity or the importance of such an action. These circumstances which might arise are fully detailed. They are the collection of debts

למבית דין study

לצורך

לכתיבה writing, (כחול) and business or trade (סחר). By these occupations during the husbands absence from his home, he would be enabled to maintain his wife and children. After his return he might not leave his wife for six months.

The fifth stipulation of this ordinance was that the absent husband was bound to provide according to his means for the upkeep of his home that is his wife and children by six monthly contributions from his new domicile or place of his occupation. Furthermore he has to repay the loans which the people of his house-hold contracted during his absence for their maintainance and the education of his

children. Finally ^{it is desired} that no Jew should leave his place with the intention of desertion and if he did so he should not delay his return for more than six months, having received a summons in this respect from the leaders of the Community who act at the request of the deserted wife. This ordinance was confirmed by R. Tam who endorsed all the threats against persons who were reluctant to conform with these regulations. R. Benjamin copied this ordinance from a MS. at his disposal

זה קצתו דברי העני בנימין ב
חתימתו ז"ל

²⁸ Dr. Finkelstein noted the variants offered by the text of R. Benjamin.

R. Benjamin quotes the following ordinance of R. Tam about the obligation of the husband to return to his wife's family her dowry if she died within a year after her marriage without issue. He copied this ordinance from the ספר

הישר and adds that the validity of this ordinance was limited to the Jews ~~from~~ inhabiting provinces like Narbonne, Ile de France, Anjou, Poitiers, Normandy and so on for whom it was originally instituted. The Jews of South Eastern Europe however were not bound by these regulations

for they were never promulgated for their sake ²⁹

ולפי זה מה שהחיים ר' יום על כל נשוא אשר וסר במיד
שנתה לחתונה הנדונה ליומם או לנתיב הנדונים אינו
תקנה בעצמה וחומת יגורה לא מדין גלמוד וסכס הכנה
והחרם לא תקט ר' יום אלא סמוך לאילץ צדפת ובמדינות
ההם ולא נתפשט באילוף הכלל

Dr. Finkelstein quotes a passage from the Palestinian Talmud Ketubot 9.1. which would disprove R. Benjamin's assertion that the whole ordinance is a

חוקה בעלמא וחומה ימורה

and has no authoritative basis in Talmud and Halaha.³⁰ It

may be that our author ignored the precedent set by the Palestinian Talmud because there it was explicitly stated in the marriage contract and could not be applied to general cases where no such condition was laid down at the time of marriage.³¹ In this connection it is interesting to compare

the Responsa of R. Elijah Mizrahi where this ordinance of

R. Tam is cited and discussed in the question of סבולנות

R. Elijah Mizrahi contrasts the ordinance of R. Tam with

that of the ordinance of Toledo טולידטולא.

Thirdly R. Benjamin quotes an ordinance of R. Tam derived from the Responsa of R. Joseph Kolon that in certain cases the evidence of near relatives or women may be accepted.³²

The rules governing the Community must be laid down by the whole congregation unanimously. Even if one member opposes the ordinance it loses its force and validity.³³

דאין כח ביד אדולי המקום במסכת רוב בע"ר לאנו
אזייה אם לא מדעת כולם ואפילו עירובי קצת כדקאמ
ואפילו אחד מבני עירי כ'ש וק'ו בני דין זה אשר חסמ
הקסמח. לא הוה רק ע' אנשים יחידים ושאר כל הקהל
לא הוה בחסמם כלל דמיה לעין כל שח'מכבוד

Therefore only such Takkanot were recognised which were promulgated by the consent of the entire Community. This rule of R. Benjamin is not in agreement with one of the ordinances, promulgated by R. Gershom according to which the minority is bound by the vote or decree of the majority. No. 6 of the Takkanot of R. Gershom reads:

אם עשו הקהל תיקנה ענין 34
תקנות אחרות והסכימו הינו אין המיעוט יכול לבטל וזו
נבוא לבד להעיש בדבר כי הכל לפי ראות שונו העיר
לפי מנהג קדמונים או לפי צורך שעה .

It is therefore extraordinary that R. Benjamin who attached such great value to Takkanot of R. Gershom should have overlooked or ignored such a rule. But we know from History generally and from our own literary documents that it was not always and everywhere possible to uphold the principle of the majority against the minority. R. Benjamin presumably had good reasons for deciding in favour of a minority vote.

Interesting is the record that in Lepanto there were twelve members who decreed rules about the payment of the ^שאלופרי without consulting the members of the Community and which provoked the protest of one of the prominent members of that place, viz, R. Jedidiah ³⁵הרופא.

שהרי כשבדק לא רצו לקים הסכמות ויצאו הם חבית
הננסת שלך ושאר הקהל לא יצאו מפילו אחד נראה שלא
הסכימו בתקנתם כלל ולא עוד אלא שכל הקהל היו חסכים
ויחיד לבד היה מחבב מילנים צמחם אין להם כח כלל לבטל
Not only is the ordinance not in force or binding for those

who originally objected to it but even those who originally agreed to the establishment of the ordinance may after a time

change their minds and withdraw from it if it turns out to their disadvantage.³⁶

הכאן משמע שכל עק שידוע
שהמערער איז יבול לסובלו א'ע'פ' דשאר בני אדם פוב'ין
אין לו חוקה נגד המערער ה'נ' י'ל בנדון זה דלאו דוקא
אותם שאינם בהסכמתם אלא מפיו אותם שהיו בהסכמתם
ועתה אינם יכולין לעמוד על אותה הסכמה וכלא לספק
עצמן דהנה ליהו כקנין בטעות ול' קנין בטעות
יכול לחזור בו

Besides these Takkanot which were sanctioned by age or synods headed by generally recognized authorities, there is some material in our Responsa adding to the History of the Takkanot.

Thus in Lepanto there was an early established ordinance that members belonging to one Synagogue should not change their membership and worship in any of the other Synagogues existing in that town. The ordinance is called הסמרת חית but it has all the characteristics of a local Takkanah. The text

reads: אפילו שכני יש בניהם חקדמא דנא הסכמה
בחרם שלא יורשו שום אדם לעזוב וללכת חב'ה אשר
חותמיו הם תפלוהו בשום סבה שבגללם וללכת בתפלה
לתפלת כב'ה אחרת אם לא בדרך אקראי

We have no direct or indirect information of this Ordinance but it can be assumed that the history of the earlier settlements of the various communities in Lepanto favoured such a

rule. Perhaps the small number of members or the different rites used by the worshippers or perhaps both caused the introduction of such a rule.

A similar ordinance existed in Avlona where as we are informed by R. David Messer Leon ספר חכמים p. 6 in the four existing communities there was insistence on this rule

שלא יצא שום חפץ לזכרון חטאיו בשרו או שום חפץ

This ordinance played a great part and gave rise to many Halahic discussions in the feud between the Portuguese and Castilian Jews in Avlona. The argument was advanced by the Portuguese that this strict ordinance is binding ^{on} individuals and not ^{on} the majority of the Community, implying that the Castilians were in the minority compared with the Portuguese, who were numerically superior to the others and bore the greater burden of the taxes.

Responsum 307 throws welcome light on ordinances which were promulgated at a later date in the two Communities in South Europe, viz. in Corfu and in Candia. The ordinance of Corfu is dated 1642 and that of Candia 1238. The former, that of Corfu, reads ³⁷ לא יוכל ולא וורשה שום חשוד ללכת לבית חשודת ולא החשודת לבית החשודך שלא בשום מקום ובשום זמן אלא חדש ימים קודם הנשואין וכו' . . . The material contained in Responsum 307 which is dated after the Ordinance of Candia and before that of Corfu, describes the conditions prevailing at the end of the fifteenth century or the beginning of the sixteenth Century and contains some

material contributing to the history of this ordinance.

From a letter of R. Assilrad Bendit addressed to the leaders of the Community in Arta, we learn that the Rabbi of Venice urges the spiritual and lay leaders of Arta to introduce an ordinance which is firmly established in some other place, the reference probably being to Candia, saying:

ועליכם אנשי הדעה לאדורי הפרצה והנמצא במקום אחד
ועליו תקנו לאדורי הפרצה הוא ובהחלוקה

Consequently only in this period was it established in Arta, thus preventing the fiancé from visiting his bride and prohibiting dancing between the two sexes. Considering the close relationship between Corfu and Arta, we may take it for granted that a century or more before the date of the Corfu Ordinance, the two Communities prohibited such illicit relationships.

On the advice of R. Assilrad Bendit of Venice, the spiritual leaders in Arta actually promulgated such an ordinance which reads thus:

ואתכחית השלמים רצו לאדור³⁸
למיגדר מלחא והסכימו שלא יורשה שם איום ליננס בית
האיוסה וגור שיעשו בכת אירוסין וסעודת שבת עד וסן
הננסתם לחופה . . . גם לא יחולו אנשים ונשים ואד
בשביע הפועל החמונה כדלעיל . . .

The lay leaders, מסוננים, of all the Communities in

Arta agreed with and approved of this *חכמה* and it was in force for four years. Yet after this period the members of the Apulian Synagogue revolted against this strict Law and declared that the *חכמה* was not binding as far as they were concerned. They based their protest on the plea that the pre-nuptial intercourse between the bride and bridegroom as well as dancing were permitted by the leaders of the previous generation as an old-established custom.³⁹

The opposition to the ordinance of the Rabbinate in Arta was stirring up strife and quarrel. It was led by a certain unknown Rabbi styled *רבי נח* who, according to the description of R. Benjamin, was an unqualified scholar,⁴⁰ so that R. Josef Taitzak, the spiritual guide of the Jewish Community in Salonika and the well-recognised authority in S. Europe, was invoked to confirm the *חכמה* of the three *חכמים* in Arta.

An interesting side-light on the history of the *חכמה* is thrown by an ordinance made by twelve prominent members of the Communities in Lepanto which changed the existing mode of paying the tax called *מס השבט*.

Unfortunately the text of the *חכמה* is not preserved in our Responsa so that a clear picture of the case is not preserved. In the course of the discussion, however, some details of the *חכמה* are preserved. These may be

regarded as copied verbatim from the original document.

Thus when we read: שהרי ההסכמה בזה שאם יהיו רשומי
כשום אחד לעקו מעות מאשר שמעמדם בלוי רשומי ה' חברה
ואם שכל מעות שיקח אחד מהם יגמיל להביאם לחברה ולמלא
להם והרי שיש פסידא לזה שקבל חובו כבר ובאו לידו
ואין יתגמל לחברה ויהיה חמורין הוא לאמר זמן לאבדו חובו
משל אחר ומי יודע מה ילד יום.

we must infer from these quotations that the הסכמה regulated more than one point of Communal Life: first of all the אכאפריש, and secondly the financial relations between the ruler or Governor of the place or province, and the local Jews who lent him money. This debt was a collective one and it was necessary to prevent one individual safeguarding his own interest to the disadvantage of his colleagues. Therefore these twelve members agreed that the collecting of the debt should be done collectively and an individual creditor should not take the money from the ruler without the consent of the others, and further that he should not detain the money in his own possession-- and keep the others waiting for future payments, because no one knows what the morrow may bring.

In this case the הסכמה was not made by the lay heads of the Community or by the spiritual leaders but by twelve members who were interested in the matter or influenced by their vested interest to change the existing order of paying the אכאפריש or collecting their debts. The former was a local tax paid by the members of the Community irrespective

of their economic position for the upkeep of security and order in the place, that is for the police. This payment was registered and recorded in the books of the local judge. This was the old-established custom in Lepanto. Now twelve wealthy members of the Community tried to change the order by making a *חוק*, which they intended to force upon the Community. This force was of a very stringent character in so far as it would entail grave consequences in the sphere of economics and society as well as of Religion. For the former they would be outlawed in trade and business and for the latter they would be prevented from worshipping in the Synagogue to which they belonged. From the further development of the case, one can reconstruct approximately at least the situation as it existed before ~~before~~ this new *חוק*. One of the worthies of the Community went in spite of the new ordinance and acquired two shares of the ~~of the~~ *שליש* for himself and probably his party refused to join the twelve covenanters and hand them over his share of the contribution. Moreover the new ordinance was not known even to the leading members of the Community outside the circle of the twelve. It seems from the whole description of the case⁴¹ that the *חוק* was intended for the benefit of the rich to the detriment of the poor. For our consideration two principal

Questions arise: (a) whether individual members of the Community have the right to promulgate an ordinance without the consent of at least the majority of the members, and (b) granted that such power or right can be invested in the Covenantors, this would however hold good only if the ordinance would improve religious and social and economic conditions, but not in a case when obviously the rich would like to impose their selfish will on the less wealthy or poorer classes. The decision in this question was given by R. Benjamin and his son-in-law R. Samuel Kalai. Both these scholars elaborate the case on the material at their disposal. The question was not a new one and therefore all the authorities could be cited and more ancient controversies could be revived. Here only the main points which throw light on the history of the Hascamah will be considered. There was a consensus of opinion that the majority cannot force the minority to submit to a Hascamah.⁴² וְאֵין כּוֹפִין אֶת הַמִּצְטָרֵיט
הַחֹלְקִים כְּלַחֲמוֹ מִלְּדוֹ דְּאֵין הַמִּצְטָרֵיט וְכֹל כְּכֹחַ אֶת הַיּוֹב
There is further an indication that the majority tried to put some force on the reluctant members of the Community to agree to the ordinance. According to the ruling of R. Joseph Kolon however such an action was not valid and such an ordinance not binding upon the minority.⁴³ There is one exception in agreement with the ancient Talmudic

⁴² 290.

⁴³ 409a.

constitution that if a statute or ordinance was firmly established with the consent of the whole Community, an individual or even many individuals are not permitted to remove that ordinance.⁴⁴

ד"ר דקלני דשאין בט העיר⁴⁴
ליסע על קיומן דוקא שכבר שחגגו בנחם מדע
כולם או שאין להסיע מן המנהג על מי שעובר על
מי שכבר נהנה אצל אם לא הוא מחלצה אין כח בנ
העיר להנהיג אחד מבני העיר למה שירצו

Another exception to the use of force is laid down by

R. Meir b. Baruch of Rothenburg (1220-93). This authority ruled that in certain ages when the religious and moral sense of the people is feeble, the leaders had the duty or the right to impose by ordinance or institute improvements and restrictions for the upkeep of or the strengthening of the Law and Religion even against the will of the majority.

This rule of R. Meir of Rothenburg as one of the youngest authorities (א דר"מ), was upheld and endorsed by the leading Rabbis of our generation. This seems to be contradicted by the decision of R. Joseph Kolon, who requires a majority even for religious restrictions or innovations. R. Samuel Kalai tried to reconcile these two authorities (R. Meir of Rothenburg and R. Joseph Kolon) by drawing a line between well established religious usages on the one hand and locally or partially established rules on the other.

In the former case the ruling of R. Joseph Kolon was accepted and in the latter case that of R. Meir of Rothenburg: namely that even a single individual scholar has the right to make an ordinance and that this is the normal rule.

ואל תגלה על דברי חכמים איך פסק דגם לדבר מצוה שהדור פרוק
בעינין רע דמאתי שקלא בדבר מצוה מפניו יחיד חתן שהרי ישנים
חכידין ועל יום חסידין כל אדם דפשיטא כשאומר היחיד הוא
אדם חשוב וגדול בעיניו ודמי יש לו כח כגדול ולגדול ולהפוך
בדבר מצוה על כל הכלל אבל כשאומר גדול חדוה ואם שהוא
בדבר מצוה חסידין לו כח כגדול בכלל שהרי כלל דבבור

Further a distinction has to be made whether the ordinances were instituted by a generally recognized Rabbinic authority or by a scholar whose authority was not acknowledged.

There is a further very important detail for the History of the Ordinances to be noted which throws light on the previously mentioned function of the seven elders of the city who were entitled to formulate the ordinance even without the formal consent of the whole Community or of the majority of the Community, if they were especially commissioned or appointed for such a purpose.

והלא דבר פשוט הוא שז' טובי העיר יש להם לעשות
כל מה שירצו... הי"א שנבחרו שג' העיר מתחלה לכך
ואז כחם כח העיריה אבל כשלא נתבררו מתחלה לא

Another requirement for strengthening an ordinance was by making it public. This rule was kept in all the Congregations as a necessary requirement for enforcing the new regulation

ולש שבנידון דידן דמאתה שהתמוסין לבד קבלו
 עליהם ההסכמה ולא הודיעו הדברים בפומבי כמו כל
 תקנת העצמות בקהלות בכלי ספק אין בהם חשש.
 דאין כח ביד ראשי הקהל כהן מלמד דאין חומא
 להאי ופסידא להאי ה"ל לאדולזי תדור ע"כ מהריק.

When the elders of the Community were entrusted with the
 establishment of ordinances they could do so if these reg-
 ulations were for the benefit of every member of the Comm-
 unity; but if their ordinance would bring gain to one party
 and loss to another in such a case their Takkanah is null
 and void.

So far does our information go regarding the ordinances
 of the twelve Covenantors of Lepanto. Our information is
 taken from a Responsum of R. Samuel Kalai.⁴⁵ Since the whole
 text of the Ordinances is not recorded or cannot be recovered
 from the archives of the Jewish Community in Lepanto, our
 knowledge is accordingly limited to this Responsum of our
 author's son-in-law dealing with the twelve Covenantors.
 It must be borne in mind that the material as far as it is
 available at present reflects the case of the opposition.

However in the Responsa of R. Benjamin in this matter,
 there are preserved additional rules besides those mentioned
 about the *מ.כ.ס.א* and the relations to the Government.
 This ordinance had a further clause which is given by our
 author in the following quotation.

בהסכמת י"ב כוונת שכל המאיר שיקח סחורה או מעלה
 בתלויה וכו'... אם ידע שהמאיר נדד למסכרו לחבירו
 שלא יוכל לקנותה חסרו 46

From the further discussion of the case, we are able to supplement the lacunae of the text in the following way. Apparently the Gentile, here the Turk, received merchandize or a loan on a cheaper rate than was given or sold usually. This was done in order to obtain or to hire the Gentile for a certain work which was called *מסופא*. The main purpose of the ordinance was therefore to protect the business interests of the Jewish traders or money-lenders. This *מסופא* registered at a Gentile court as we saw from the Responsum of R. Samuel Kalai. The explanatory details as recorded by our author read thus.²⁷

אם כן בנדון אם המאיר ספק סחורה או מעלה מראובן
 בתלויה אפי"ל נדד לחסרו כל המכירות שלו דהיי"ל המקור בלשונם
 ובנידון דידן שראובן תלויה מעלה למאיר ונדד כל המכור
 שכתבנו בנדאו זכו כל מעוריו... 46

In another place we read :
 We see therefore that there was a competition among the Jews to hire the services of a Gentile for the *מסופא*. Naturally the first Jew by lending the money or by giving merchandize to the Gentile acquired the priority of the latter's services. Consequently R. Benjamin fully agrees with this paragraph of the ordinance which in his view is in full agreement with the

46 296.418b.
 47 419a.

decisions of all the authorities ⁴⁸

ולכן ופה כווננו
המסכומים בזה

R. Benjamin copies a further paragraph of the Ordinance of Lepanto which reads thus

בהסכמת י"ד דיוש שם דברים
חמיהם ראוי להתעורר עליהם דין כבוד שם שכל מי שלא
יכנס בזאת ההסכמה תיאושם הקונים האלו פרוש שלא יוכל
להתפלל עם אנשי התורה ולא לעשות עסקו חשך וחר
לא משום פרושה ולמעשה ולא משום פרושה ולמעשה ע"כ

Paragraph fourteen of the Ordinance decreed as follows:

Any individual who bought the ^{אלופרוש} independently from the Covenantors lost his right to worship in the Synagogue with the other members of Society and the latter were prohibited from having any business dealings with the transgressor. This paragraph was not endorsed and did not gain the approval of R. Benjamin.

Based on a Responsum of R. Meir of Rothenburg who decided in the case of charity contributions an individual retains his right to contribute separately in case a communal or general contribution was not established in that place. The leaders of the Community cannot force an individual against his will by ordinance to submit to their new rule. If this is the case in a religious matter, how much less can the Covenantors enforce their will on an individual in a new regulation of the ^{אלופרוש}.

of the Responsa

Further points arise out of the discussion of R. Benjamin which throw light on the history of the Ordinance in this period. They are briefly: (a) an ordinance must be made by

or with the assistance of an important or leading member of the Community ²¹⁴ or (b) even such members who originally signed the Ordinance may withdraw or change their minds if they become aware of the harmful consequences or character of the Ordinance. Needless to say that no ordinance is binding upon those who originally refused or refrained from entering the Covenant. (c) The Haham or spiritual leader of the Community is entitled to introduce ordinances for the improvement or benefit of the whole Community with the consent of the lay leaders of the Community. ⁴⁹

וראוי לכל חכם ופנהיה כשחצה לעשות יאיתח מקנה
 שיהיה לו שחור מקנה לרבים שוכניה חראשי הקהל
 (d) A well-established ordinance or oath may not be broken under any circumstances. ⁴⁹

In Janina there was an old ordinance according to which nine elders (six from the old Community and three from the new) had the power combined with the local Haham to introduce new regulations which would be binding on all the members of the Communities. ⁵⁰

Dissensions grew between the older Community and the newcomers. Thus the leader of the latter made a new ordinance which declared that the ordinances made by the old Community were null and void if instituted without their knowledge and

⁴⁹ 421a.
⁴⁹ 422a. b.
⁵⁰ Mishpetai Shmuel 40.

consent. The strife in Janina took such dimensions that it finally led to the establishment of ^anew Synagogue in opposition to the already existing older ones.

An interesting contribution to the History of the Ordinances ^{הוראות} can be found in one of the Responsa of R. Samuel Kalai where at greater length the regulations of the Community of ^{אגרופול} (probably Agropoli in Central Italy?) are recorded. Here for our purpose only the main points should be noted.

(a) The ordinances purported to make an end to the quarrel and strife in the Community. (b) For this purpose the organization and administration of the Community were put in the hands of elected leaders. (c) The election of these leaders ~~were~~ regulated: (d) they had full power during the tenure of their office over the members of the Community: (e) provision was made during the tenure of their office that disturbing elements should not take the law in their hands by lodging complaints against the Communal Leaders at the Civil Authorities and (f) finally they had the right of imposing fines and the ban on disobedient and recalcitrant elements.⁵¹

The Takkanot as given in detail aim at preserving the peace against unruly members who seemed to be violent and numerous.

Another type of ordinance is recorded whereby men or

⁵¹ Mishpetai Shemuel 54. 58.

women, young or old, should not wear silk garments. ⁵²

This was probably instituted to prevent luxurious tendencies in the Community.

שמות בר ישראל בין קטן בין גדול בין זכר בין נקבה בין תושבים בין גר שיבוא לדור במקומו
נוכח להביא עליו חוק חבירו שום מן מלבוש שלם חשוש
בגדי משי לא עליו ולא תחתיו עד כאן לשון ההסכמה

This latter point may be connect with the regulation in

Petras which decreed that Jews should not buy silk or

from Moslems or Christians. This regulation

was also conditionally accepted by the Jews of Lepanto.

הסכימו בניהם שלא ירשאו אדם חם לקנות משי
או קוצא משי אדם רוצה לומר ישמעאל או עיר
בהמנה בלי שום ערמה ומרמה וכו' וכו'

An ordinance in Plevna - Bulgaria, where an

Hungarian Community existed comprising emigrants from

this country after the defeat of Hungary by the Turks in

Mohacs (1526) ordered that no one should solicit the

case of an individual before the lord or judge or an

official called *szolgálat* except when the accusation or

libel is made on religious grounds.

שלא לעשות השגאות
לשם ויחיד מיוחדו הקהל הארץ לא לפני השר ולא לפני הדיון
ולא לפני הבוידא אם לא כשיעלילו עלילה מעבירה חדת
או רשאים כל אחד להשגות כפי עצמו או שיהיה אינה
עלילה או דבר שיהיה נועץ אל יחיד משאר יחידיו ששאר
הקהל עם יחיד אחד ממי הקהל הנכבד או רשאים להשגות

Another source for the regulating of Communal Life was

the Minhag or established custom. By the comp-

osition of the Communities, it was natural that various

customs and usages in the sphere of religion as well as

in the administration of the Community should arise, which clashed with newly established ordinances or with the older Minhagim of the previously settled Community. Thus the members of the Apulian Synagogue in Arta invoked their own Minhag which saw no harm in the bridegroom visiting his bride before the marriage and in dancing among the sexes. Consequently this clashed with the Communal Ordinance forbidding such conduct. R. Benjamin following earlier authorities draws a line between usages introduced by qualified authorities and erroneous customs instituted by ignorant or unreliable leaders. Furthermore even well-established customs which may become the source of irreligious practices may be disregarded. This he calls *להחמיר ולסוּף*⁵³. A similar decision can be found in the Responsa of R. Elijah Mizrahi ^לwere the discussion follows the same lines of argument as expounded by R. Benjamin. This is in full agreement with Talmudic and post-Talmudic legislation, which is full of usages based on the principle laid down by the Men of the Great Assembly, 'Make a Fence round the Law'.⁵⁴ Our author however is inclined to remove such fences, the causes of which become obsolete and out of date,

⁵³ R. Elijah Mizrahi: Responsum 16.

Sinai Vol. 4. 5701.

A. Perles: Der Minhag im Talmud in Festschrift für Israel Levi
Breslau, pp. 66-75.

361.

⁵⁴ Abot 1.2.

and may turn into a stumbling block.⁵⁵

ולא מביעיא חנה שיש בו עבירה לכל דיש להגביות
ולבטל אלא אפילו חנה שעשו להיחקה ולסין ויכול שיבוא
חנה שום הקינח יש לבטל ההוא חנה

Such a custom has to be either annulled or changed according to the requirements of the time. Further there may have been in business life differences of customs for example (a) repayment of dowry and (b) the relation of partners in the Law of Companies.⁵⁶ דבענין הנדוניה שיש אחד הוא חנה

57. אחנה נ'ל'ד' דאם הוא חנה בין הסותרין דין הוא
לגבול פדיונו מהשגפום דהכל הולך אחר חנה

The question arises what executive power was invested in the hands of the leaders of the Community to enforce their Ordinances. We saw previously in paragraph fourteen of the Ordinances made by the twelve Covenantors of Lepanto that they tried to enforce their regulations by refusing the right of worship in the Synagogue for those who were reluctant to submit to or who were breaking their new regulations. Furthermore besides the moral pressure, economic disabilities faced such individuals who were unwilling to accept the new order, namely they were barred from business and trading activities with their fellow Jews. This application of the ban was general in our

⁵⁵ 361.484a.

⁵⁶ 55.

⁵⁷ 384.503b.

period and must have deterred many from separating themselves from the Community. The Herem was an old but still sharp weapon in the hands of the leaders to enforce the Law. The Responsa of R. Benjamin furnish some material for the history of the Herem as it was practised in his days. Here an account of the most prominent features of the administration of the Herem and the various contributory causes will be attempted. Considering the fact that no full monograph is at present available, a detailed analysis of the material may be useful. Firstly what do we learn from our Responsa about the application and administration of the Herem ?⁵⁸

The ban was solemnly announced in the Synagogue and the accused person was mentioned by name or in some cases as in that of a pregnant woman which was announced generally without naming the person.⁵⁹

וכן ראוי לעשות להוציא עיניו מן המנהג
דלוק וחרים בשבת ובכח הקהל אך אם הצעה מעוברת
יחזיק עד שיהיה כי מזה נהגין קעולם שלא להשיבוע אשה
מעוברת ואפילו תהא דאחיותיה סתם בל' הנסח לא
תהיה אלא עד שיהיה דהא כולם חתם עליה הוא

Even after she gave birth to a child the proclamation of the

Ban by naming the person was delayed.⁶⁰

Once a month the reader announced, generally after the Blessing

⁵⁸ There are two monographs on the subject (a) Wiesner, Der Bann, Leipzig 1864: (b) S. Mandel, Der Bann, Brunn, 1898, which how-

ever are insufficient and do not cover the whole ground.

for the New Moon, the Ordinances and Excommunications.⁶¹ Just as the announcement of the Ban so also its dissolution had to be proclaimed in public.⁶²

We turn now to consider the following question. In which cases was the Ban, whether in a milder or stronger form, applied to disobedient or recalcitrant members of the Community.² Firstly there is the case of a certain widow in Lepanto, who out of grudge or greed was outbidding traders who had been established for many years in their shops belonging to Gentiles, thus forcing them to pay a higher rent for their tenancies. R. Benjamin decides that the local Rabbi is empowered to impose the Ban on her and on all her associates in case she does not repay the damage caused by her action.⁶³

ועל כן אני אומר דראון
עליה ועל עוניה קללה נחמדת עד אשר תשבו היא וכל
עוניה כאשר תחיש יאודו ועון עקבותיה וסוגבנה ונוסרו כל
הנשים ולא תעשה כזאת בנשיא... וראוי לעשה בתקנה
הרם קדמונית שיעשו דין בתחמת העיר הקרובה להם
אם אין בערים כ"ד חשוב

Secondly there is a case of a certain Shabbetal which is of a more complicated nature. This man refused to pay the communal tax assessed by the leaders of the Community and to be collected by the communal collectors. The case was brought before the local Haham who imposed the lighter ban on him for one day

⁶¹ 308.

⁶² 309.

⁶³ 400.

The final organization of the Jews in Salonika as contained in the memorandum of R. Moses אלחשיני paid special attention to this misuse and tried to stop this conduct. cf. Sinai Vol.4.5761 pp. 255-256.

The man in his arrogance and disobedience rejected the Ban and put it on the communal, spiritual leader, thus putting him to shame by abusing him. There were therefore two different causes ; (a) the refusal of payment of taxes or in other words disobedience and (b) the abuse and contempt of a recognized spiritual head. Furthermore he threatened the communal leaders that he would put the case before the Civil Authorities and thus endanger the welfare of the whole Jewish Community.⁶⁴

Thirdly the Ban was imposed on persons who did not behave correctly. The term used was *שלא היה נזהר בשורה*. This phrase does not convey clearly enough what the faults or short-comings of this man may have been. Suffice to say, that it was serious enough to call for repeated admonition^{tion} or rebuke privately and publicly, probably by the spiritual or lay leaders of the Community.⁶⁵

התוכחה אמרו כמה פעמים בסוד
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In his obstinacy the man refused to listen to the words of his teachers and he was put under Ban. The consequence of this action was (a) that he could not join in the Grace after Meals, (b) that he could not be reckoned in any quorum at a sacred gathering or function, (c) in the case of his death or ~~one~~

⁶⁴286.

⁶⁵289.

of one of his dependants during the duration of the Ban, burial rights should be refused to him or to them, and (d) if a male child were born in his family, the religious rite of circumcision was not granted to it.

שלא ינחנו אותו בשלשה ולא יכפרוהו לעשר כלל דבר
שבקחשה אם ימות לא יקברוהו ואם יולד לו בן שלא
ימולו אותו אם לא ישוב

We may perhaps gather from the words of our author that the transgression of the person in question was that he rebelled against the ordinances and decrees of the authorities:

וכן ראוי לעשות כל איש אשר ימרה בלד ולא יקבל היותו

Correlated with this case, there is also the instance of certain persons who abused scholars for which they were excommunicated in the Synagogue. They however regretted their misdeeds and the ban was removed from them. Thus we read:

שאלת על קהל שנינו אג ראובן ושמעון בשביל שבינו אג בעלי
ונידום בס' כשהתי על חסכן ואחר כך עשו תשובה מעכשיו
כאשר שר עלתם חסד והחיו להם אותו תמיד

Fourthly a serious evil in this period was the activity of Jewish informers. Notwithstanding the great danger incurred by any chance offer to judges and rulers to ill-treat individual as well as whole Communities, as described previously in the chapter on the political conditions, there arose evil-minded or selfish persons who informed against their fellow-Jews before the Civil Courts. This fact throws gloomy light on the communal life of the Community. The

frequency of these informers with which we meet in our Responsa and in other contemporary writings make it necessary to deal with this fact in this place in detail, since the only possible counteraction applied against them was the ban. Although as we will see, these informers did not stop short in their endeavour to call on the Civil Judges to prevent the spiritual leaders from applying the severe and effective measure against evil-doers. The term informer (*מכשין* or *מוסר*) was used in a very wide sense and covered every action in which one Jew went to the Civil Court without the consent or the knowledge of the Religious Courts against a fellow-Jew. It made no difference if the claim was of a financial nature or a more serious accusation for any appearance of a Jew before Gentile Courts or authorities involved danger of life. R. Benjamin pleads his own case when he says ⁶⁷

אומר בנימין אה' אם נדיב' איה' אדם כדן וכהלכה נדיב'

As often as he was forced to impose the Ban or excommunication on a member of the Community, he did so according to the prescribed law and usage. One of these cases was directed against a certain Shemarya. This man committed the evil of informing publicly before the Civil Authorities that the Jews deceive the King or Ruler in assessing and collecting the taxes and that they do not discharge their duties properly.

נוכחני שנדתי שמיא על אשר הכך והלשין הקהל
 איננו שופט העיר בפני הכל איך את מטעים באדמית
 חסדך חסדים ואימנות ואנו מסתירים אותם.

R. Benjamin disproves the contingent that he acted in a single-handed manner by reporting that the Ban was proclaimed by him jointly with the assistance of and collaboration of his Sefardi colleague R. Abraham Obadiah. Further we learn that the imposition of the Ban served the purpose of deterring any would be informers. The evil spread so far that our author furnishes us with a case of six members of the Community who lodged a complaint before the Civil Authorities and achieved a decree to the effect that no Jewish judge or lay or spiritual leader should be permitted to deliver judgment in civil affairs or matrimonial cases or apply the Ban or excommunication without the previous permission or consent of the Civil Authorities.

This was also an act of informing *חכשנות* and was rightly punished by the imposition of the religious ban.⁶⁸

ששה אנשים... נחשפו והלכו אצל שופט העיר והוציאו
 מחנה שלא יוכל שום תפס רב וחמונה משיאצ' לדון דין גורו
 בדיני חומות הן בדיני שם הן בדיני תרומות ושחמא אם
 בחשוד השופט וכדאי ראויים הם לנדה

Here again as in the previous case the evil doers were

supported by some unqualified scholar who depended for

his livelihood on them.⁶⁹

ואף על אהב דאיכא ג' זה בר
 בירב עסקן והיה אברא נמי איכא עמון דהוא אכל
 ויאחרו לכן אנו נגזרים אחרים... והיה ב' בי רב
 ד' יש לידו...

The terror of these informers on the leaders of the Community was so great that our author omits to record the names of these six people for he was afraid that his writing might be used against him by the informers before the Civil Authorities.⁷⁰

אגל מצד שלא ילכו להשיג עלינו הסתירות
מלפניו

An instance of slander and informers is recorded by R. Samuel Kalai⁷¹ who informs us that in Janina there was a certain person who abused Jewish women and was fined by the Communal Authorities. By way of retaliation, he informed against the Haham to the Civil Authorities.

והלשינו להם כנדוץ

It is very interesting to note that the old Spanish rule condemning to death any informer who causes financial loss to his fellow-Jews was transplanted to this part of the South of Europe. Whether it was actually practised cannot be documented by evidence. Probably the theory alone was sufficient to decrease the number of would-be informers.⁷²

וכל מי שאומר לחסור חסון ישמעל הקודם לבוראו

It seems from this that Ban and Excommunication did not suffice to uproot the evil of informing and in some cases stronger measures became necessary. Indeed the documents at our disposal prove convincingly that Ban and Excommunication did not entirely stop informers from doing their evil deeds; for in another Responsum⁷³ we read of a man who besides handing over money of fellow-Jews in Arta to the Authorities committed other misdeeds in addition. He called his fellow-Jews Apostates.

א' צ' ו' ד' and publicly abused Jewish scholars. In this case he was punished by the imposition of the Ban but further action could not be taken against him. Sometimes the Ban had an evil effect that out of revenge, the excommunicated person became an informer. As it was in this latter case, the excommunicated person turned informer against his brethren.

R. Benjamin himself complains that in his generation the number of informers was very great, and he advises to deal strictly with them.⁷⁴

שבחורא הלל שרבו כחורבן
המשפיעים כחורבן להחמיר עליהם
באחור' אחור'

These words were written in describing a case when one Jew threatened his companion to inform against him and actually by doing so, he caused financial loss to his fellow-Jew. In this case, the Herem was not imposed, in case the informer refunded the loss of the damaged person.

A similar procedure was applied in a case when an informer confessed his own crime and discharged his duties by refunding the damage caused to his companion.⁷⁵

Not only were men guilty of such evil conduct but women also, in which case the question arose whether her husband

⁷⁴ 401. 517a.
⁷⁵ 400.

could be made responsible for his wives misdeeds.⁷⁶

The prevalence of these informers may be responsible for the insertion of the word *מזשאים* in the sixteenth Benediction of the Amidah generally known as the Prayer against the Heretics *ברכה המ'נים* which went through many textual changes during the centuries.⁷⁷

In conclusion we can summarize the three different methods with which informers were treated (a) in financial matters they were forced to repay the loss caused to their fellow-Jews (b) at an earlier stage they were punished by death or other corporal punishment was administered to them (c) there was the Herem applied in order to force them to give up their evil ways.

⁷⁶ 386.

⁷⁷ I. Elbogen: Der jüdische Gottesdienst, Leipzig, 1913, pp. 51-52.

BETH-DIN.

Apart from the lay leaders there were the judges who watched over the religious and communal welfare of the Community. The judges formed the Court, or Beth Din. The members of the latter were appointed by the whole Community and were vested with the right of punishment in the imposition of fines and administering the Ban in its various forms.¹

וככל ה' שגמלא
במילי דשמיא תמי הן כלד של חשה אחינו לעניש נכסין
ולתסקור הפוך חסע. ... וא' סעו העיר חסובים ככל העיר

Our sources bear out the information that every community of some size and importance possessed a Beth Din in its midst.

Interesting is a report of R. David Messer Leon who writing

of his Beth Din says² כי היו ראיון בית דיני בירק השם

עולה למעלה בדינים כי הוא מלאכה חקורתי בחייו אדוני
אגו ראש אולת אריאל ולכן שמו יד על פה

Accordingly one of the chief functions of the Rabbi was to act

as judge and to establish a legal court. Incidentally we

learn that R. David Messer Leon acquired his legal training

and experience at the Court of his father in Naples.

Our sources give us no further details as to the method

of appointment, whether this was done by the Elders of the

Community or by the Community as a whole: for example in

Salonika where the Ashkenazim and Sefardim constituted a

Beth Din for their own Communities.

וכמו שגמלא היום

בשלוניק העיר הגדולה אשר היא אגו בישראל שתספיד

ב'ד בפני עצמם ואשכנזים ב'ד בפני עצמם אגו

נלהגים מתגיתם כמתגשונה ועלו נלהגים כמתגשונה

[ו כמו שהמצא היום בשכונת העיר האחד אחר הוא אשכנזי
 בישראל שהספרדים ב'ד בפני עצמם ואשכנזים ב'ד בפני
 עצמם אלו נוהגים חתומים כתבמסורת ואלו נוהגים כחב"ד]

Still in Arta we find the Sefardi Haham and the Ashkenazi
 Rabbis officiating together on various occasions. Thus we
 read: ⁴ ואנו הסכמנו בהסכמת חכמי אברהם

ואבדיה הספרדי
 Similarly we find in the letter of R. Joseph Taitzak⁵ that
 the spiritual guides of the two sections of the Community
 acted together. He says ⁶ ואם על דבר האיש אשר נשבע בחיים
 אינו תפסן לכתוב דבר די במה שמכתב לו והסכים עמו
 חכמי הספרדי חתומים אברהם ונבדיה

Other instances of this joint collaboration of the Rabbis
 of these two sections of Jewry can be gleaned from doc-
 umentary evidence preserved in our collection. Thus in
 one responsum⁶, R. Abraham Obadiah acknowledges that R. Ben-
 jamin decided with his consent in a certain case, saying

כי כן קבלנו שניהם עדות נאמנה כפי דין ה' ⁷
 Further we read

ועוד חד דעמי חתומים אברהם ונבדיה הספרדי שקבלנו שניהם
 העדות שהעידו על העניינים משה מוסי ועל נבדיה השבע
 ואנכי . . . הסכמנו והגירנו בשוגגים וכו' . . .
 אברהם בן משה רנאו ד"ל דין

probably also the signatories ⁸ and ⁹ who signed together with
 our author in the case of ¹⁰ were of
 Sefardi origin.

From the references at our disposal, we gather that the

³ 11.32a.
⁴ 356b.
⁵ 239.329b.
⁶ 47a.

activities of the Jewish Court were not entirely independent of the Civil Authorities and therefore did not enjoy full autonomy. We saw already in a previous paragraph that at the information of unruly and disobedient members of the Community, the right of jurisdiction exercised by the Beth Din was threatened and probably seized from them. Generally speaking Jews in the case of litigation applied for decisions to their own Jewish Courts. There are however some cases mentioned previously in which Jews defied their own authorities and invoked the help of the Gentile Judges. Such conduct in our period was generally condemned, and the authorities were forced to make a concession in case the Beth Din could not satisfy the litigants to apply to the Gentile Courts.

There are other cases mentioned in the Talmudic literature which show that the Jewish Court was not always successful in its efforts to maintain its authority.

In spite of this continual interference of the political and legal authorities our material indicated that the Jewish Court acted without much hindrance. Like the Elders of the Community, they had the right to promulgate statutes and institute safeguards for the preservation of Religious Life and the moral standards of the Community. Thus we read:

דמיון לכל היסוד ובר היסוד לעשות חקנה ואדר של
 החינה במוע ושיאל פרוצות בעריות ונוסרו הנשים וכו'
 בזה דמיון לעשות לאדר וסיה לאורה (ה)

These words convey the unmistakable evidence that the judges acted not only in a jurisdictional capacity but also possessed the power of executive rights. They could enforce their decisions by administering punishments on transgressors as well as ^{by} introducing solid improvements in a legislative way for the advancement of Religion and Morality. We read in the continuation of the previously cited sentence

ולכל הפחות יש צדק ויגש חזקת ומוא כאחד מן החמור

These words give a clear indication of the right of the Court to impose corporal punishment. כוסין היינו בשושים

There are other signs that the Beth Din in this period inflicted corporal punishment quite apart from making use of the Ban and Excommunication. R. Benjamin informs us that the contemporaries of his age enjoyed the right and authority to extend the legally prescribed punishments even to cases which were not provided for in the old Law, in order to preserve the high standard of ~~of~~ moral conduct especially in an age of low religious morality among the people.

ולא יהיה הכא מצד דינא אלא מורא גשעה דמארי הוא
 דמיון לעשות אפילו שאל מן המורה דבד סכין ועונשין
 שלא מן המורה ולא לעבד על דבר מורה אלא לעבד
 Each local Beth Din was authoritative for all disputes and legal

cases in that particular district and although there may have been more empowered Judges in a larger Community, the legal

cases had to be submitted to the local Beth Din. Thus, a man called רבי חפץ refused to acknowledge the jurisdiction of the Beth Din in his locality and submitted his lawsuit before the Court of Salonika. R. Benjamin condemns such an action as illegal, basing his standpoint on numerous decisions to such an effect in the literature of earlier centuries.

על אשר טוען רבי חפץ שאינו רוצה להדין
בעירו אלא שיפטרנו טענותיו וטענת היושבים בלד
החדש שבשלוש ימי דמיו . . . לעד ליגא להא
טענה

Every local Court enjoyed the highest standing and every judge the authority and the rights of earlier teachers and judges.

The cases brought before the Beth Din were of a very great variety and from the numerous instances recorded in our Collection, we may safely assume that the members of the Court were very busy. The daily routine extended to almost all aspects of religious and economic life. In the hands of these judges was also entrusted the social and moral welfare of the Community over which they watched carefully and conscientiously. A brief summary of the cases dealt before the courts will be appended here, for the details are described more fully in the subsequent chapters dealing with the social and economic life of the Community. Firstly the Court was active in drawing up documents of different kinds,⁹ the formulae for which are recorded verbatim in our collection.¹⁰ Incidentally these

documents enrich our knowledge of contemporary worthies and local scholars, whose names are partly new and partly known from other sources as was pointed out in the first part of this work.

Further the Court heard evidence in certain cases for example in the case of the death of ^{ח'ס'ס' נ'ש'ס'} or the death by drowning of Obadiah ^{נ'ש'ס' נ'ש'ס'} and many more. These documents were drawn up with the intention of giving permission to the respective widows to remarry. The Responsa of R. Samuel Kalai ^{נ'ש'ס' נ'ש'ס'} are especially rich in legal documents drawn up by the Courts of Janina and other places of the Greek provinces. All kinds of civil disputes for example loans, deposits, alleged theft or robbery, the redemption of captives, ^{נ'ש'ס' נ'ש'ס'} and the dissolution of partnerships were brought before the Courts and decided according to Codified Law or precedence given in earlier works.

As to religious affairs, their power extended to the confirmation of marriages, administering divorce, executing Levirate Marriages or their dissolution, supervision of ritual or moral laws and oaths and vows.¹² In order to be able to judge or to deal efficiently with such a variety of cases, the judges had to acquire a wide range of scholarship. This point borders closely on to the subject of the next paragraph, the status and the position of the Judges,

which will be described in the next chapter dealing with the contemporary Rabbinate.

THE RABBINATE.

Closely connected with the organization of the Community, with the function of the Court is the History of the Rabbinate in our period. The Rabbis were the spiritual leaders in the Community acting in close cooperation with the Lay Heads, as pointed out previously, in administering the ban and excommunication on the one hand and establishing ordinances of various kinds on the other hand and in Courts Rabbis officiated as Judges. R. Benjamin has many indications throwing light on the qualification and function, the status and position, the authority and power of the Spiritual Guides in his time. The first requirement of a Rabbi was Qualification or Ordination. Only ordained people were entitled to give decisions in ritual and Civil Laws. R. David Cohen formulated the rule that even learned men were not permitted to decide religious questions or to act as Rabbis unless they were duly ordained by their teachers, ועוד נראה תסתייגה שכל מי שאין לו רשות מרבו להורות אסור לו להורות אפילו אם תכס הוה

Ordination was not accepted by every teacher but only by a

18.46b.

man whose authority was acknowledged by his confreres.

Thus we read ² *דמינו אשמו על פי חוכמה דרבים*
נודע על פי חכמים

In our period and in the provinces of S. Europe, the Spiritual Leaders received salaries. Thus R. David Cohen received a salary of seventy ducats in Corfu.³ R. David Messer Leon enjoyed a similar emolument in Avlona⁴ and from our Responsa we gather that R. Abraham Obadiah *הסבא* received his regular financial support from the Synagogue to which he was attached. His last will shows that he accumulated some moderate wealth from this source and in gratitude for this he bequeathed, before his death a legacy for the poor of the Community.⁵ These salaries were granted to the recipients for several functions, for preaching, teaching, and communal services generally.

The Rabbi was appointed by the Community or Communities. If such an appointment was not made officially, then his religious authority and legal power was not valid. R. David

Messer Leon ~~on~~ writes:⁶

ואיב שאב פתחא חסדבור אינו יכול לכתוב כעצ' ב'מ'

Since they acted simultaneously as Judges, the question arose whether that part of their salary did not interfere with the prohibition of taking bribes. Thus we read!

²46b.

³R. David Vital in the beginning of

⁴S. Bernfeld *כבוד חכמים*, Berlin.

⁵422.

⁶9a.

⁷254.

שאלת חתונת

שאלת חסדי היטב דדין בוקר שבר והיז קרוב בשות
דלא חוכמת כדו כדון

Interesting is the following exclamation of R. Benjamin and
condemnation of Judges, who were not particular in this

respect, when he says ^{אין ואבני לנפשם דעינינו יואות}
שגזעונו הדינים ונגזקו משפטיהן וכל איש מהם אל
החמון עינו וכלש דאין חוסתין ואין חוסתין בעינין כלומר
חוסתוֹלֵבֵינָא

These words of R. Benjamin speak eloquently and depict vividly

the prevailing conditions as well as the ideal which lived in

his mind as to the perfect Judge. The words ^{עינינו יואות}

are witnesses to the fact that the writer speaks of actual

conditions and not of mere theories. First of all that

some of the Judges were out for gain and thus perverted

Justice and secondly that there were among them unqualified

or unauthorised members of the Court, who were unworthy to

act as Judges. Great stress is laid on the foremost duty

of the Judge, viz. to discharge his duties in righteousness

and with impartiality. In a long passage, he eulogises

the true Judge and condemns in no uncertain or ambiguous

language their opposite numbers.⁹

The salaried Rabbis and Judges were however not general.

R. Benjamin himself, as we described in his Biography, was

engaged in business and so many of his contemporaries acted

as Spiritual Guides in an honorary capacity.¹⁰ They acted

⁸ 336b.

⁹ 418. 549a.

¹⁰ 252.

as spiritual leaders, thanks to their qualification and learning; scholarship and study were the chief essentials and the main occupation of these men, whether they were salaried officials or Honorary Rabbis. That Rabbis were engaged in trade and business can be adduced from the case of a certain Gershom b. Elijakim ^{הגתן}, who met a violent death on the highways whilst engaged in business. His partner is called by the Greek, who reported the death of R. Gershom at the hands of non-Jews ^{הדשקל}, the Greek

^{διδασκαλός} רב . As such he was recognised by or known to the Greeks. ^{אבל דע נד כי נהיה תלמודו שהיה}
^{מוכר סחורות בחניות שבגאט הדשקל} ^{היה רב}

The next requirement of every scholar, who was engaged in Rabbinic activities was to possess a copy of the Talmud to which he could turn in all difficulties, presupposing that he was fully conversant with the contents of it.ⁿ

^{ועוד שכל תלמיד וגלמוד אשר אין לו חלק ראשון}
^{שגור שידע לחימה לפניהו עריך שישלחן עריך}

The term ^{עריך} שאלחן used here before the compilation of the Codes by R. Joseph Caro and R. Moses Isserlis whose activities fall after the writing of our Responsa, suggests that this title was current in the age, before the time of the great Codifiers of Jewish Law, designating the essential requirements of a qualified Rabbi.^{13.}

^{148.}
^{13.} Mithla of R. Shimeon b. Johai, ed. Hoffmann, Frankfurt-am-Main. p.117.

Apart from learning, personality and courage of conviction, integrity of character and a deep sense of piety were the real equipments of the Spiritual Guides in this time. This was the more necessary for, as many instances show, scholars and Rabbis were openly criticised and people were prone to abuse them. A few instances will prove this:

(a) There is the Responsum of R. Benjamin in which he defends himself against four members of the Community in Arta who dispatched a letter of abuse and accusation against him and which was addressed a to the Rabbis of Venice.¹⁴ He pours contempt over his opponents by characterizing them as

and calls them¹⁵ כמו
לא שדימו הטפשים הצבועים
לא ידעו ולא יבינו בחשכה וחמא

(b) Another Rabbi, who administered the ban on one of his congregants for bringing a lawsuit against a Community

before the Gentile Courts met with strong opposition and contempt.¹⁶

על אשר תחזק החוטא כשע
כשעשר הרב על עסק הקהל מי שילך בעסק זה לפני
הערכאות שיחיה בהם והחוטא ושע
והקהל ואחר ונתן בהם מי שאחרי השית דברים
רבים נגד הרב

(c) Thirdly there is the case of a certain Solomon פלגא (Quarrelsome), who among other misdeeds called the Rabbi

והמציא עזתו ברור איד קרא לכלל הקהלות 'Donkey!
משומדים קריא למנהג ורבעה כהנא רבה חמור

¹⁴ 13.44b.

¹⁵ 44b.

¹⁶ 283.

(e) Finally there is the case of certain persons, who abused scholars for which they were excommunicated publicly in Synagogue. They, however, regretted their misdeeds and the ban was removed from them.

שאלה על תהל שנידו אחריו
ושמעון בשביל שגזו את עני תורה ונידום בס' מ
כשתה על דודון ואחר כך עשו תשובה מעליהם כגון
לא עזיתם הים ותהו הם אומר הנדון

Here again, as in cases of disobedience against the Lay Leaders of the Community, we notice that Ban and Excommunication were the only strong weapons against disobedient and unruly members of the Community.

The causes of these regrettable conditions and unsatisfactory state of affairs in Communal Life were manifold. First of all we have to consider the composition of the Community and the origin of their members. They came from various parts of the Diaspora and brought with them their own traditions and rules. Among these were prominent the great differences between the Sefardim and the Ashkenazim. The position of scholars and Rabbis in these two main sections of European Jewry differed greatly and therefore made harmony and union in their new settlements very difficult. Secondly strife and quarrel between the leading scholars and prominent Rabbis were frequent and this disunion gave a bad example to the laity and undermined the authority of the

Spiritual Leaders. This is prominent in the literary feud between R. Benjamin and R. David Cohen or between R. Benjamin and his four opponents Abraham b. Menahem ¹⁸ 12/17, Michael b. Shabbetai, Moses Hanan b. Perahya and Solomon b. Elijah. The first of these signatories was a leading member of the Beth Din in Arta and the others may also have been learned members of the Community. Surely such episodes could not be without grave consequences on the position held by R. Benjamin in his Community.

Thirdly we know that in that part of Europe, an hierarchic system flourished and the Spiritual Leaders were under the authority of the chief Hahamin in Constantinople and Salonika. This system deprived the local Rabbis at least of part of their independence and initiative and thus weakened their authority in the mind of the laity.

Rabbis of Constantinople and Salonika had the right given to them by the Turkish Government to interfere in the decisions of the local Rabbis in provinces or to upset

¹⁹ ¹² their decrees. ועל רבונאנו בקדוש שיהיה ובשכונתו חתם
בביתם ולאנוה עץ החומה חתם כחם

Such organization would have been a great blessing for the advancement of religious life and scholarship if carried

(2) The second ²⁰ who came in for severe criticism

by our author is described thus:

וקשה כי מאד חתמו בבי רב איך לא חש אעבורה כזאת והוא
להם ברעיונה הנראה ומהם להם העבורה אשר הוא חולה רעה
והוא לא הגיע להנראה ולא נאצר בגבורה.

This so-called Rabbi was firstly rebuked for giving a wrong decision thereby permitting forbidden things and secondly for his ignorance due to lack of qualification.²⁰

(3) In another Responsum,²¹ the following reference to a

ואפילו שעינר להם איוה ברבי רב occurs :
מורה בצעקה ראו לכל מורה צדקה להזהיר

We have to note the play on words between ^{מורה} צדקה and ^{מורה} צעקה.

צעקה.

(4) A certain unqualified teacher, who is referred to as

איש גלחיד allowed a woman, whose three husbands had died to remarry. In this case it was not quite certain whether the decision was wrong because the third marriage was accidental.²²

(5) A certain ^{הלמוד} refused to accept the principle of marriage by proxy and asked for a second performance of the marriage, which procedure is plainly against the

Law. Thus we read:²³ ששאלה על בניחין ששאל שאלו

לקדש לו יגשה בעיר אחד וכשגם הוא להנמיסה לחוסה
רצה הלמוד אחד להצריכו לקדש פעם שנית
לכמה דאין צריך לקדש פעם שנית

(6) One of these unqualified scholars wanted to change

the text of the Benedictions²⁴ *ברכת נישואין* for the

marriage ritual in case of a widow.

*על אשר חכה ההוא
תלמיד לחלק בנש
ובין אלמן עם אלמנה*

He was induced to attempt this innovation on a misunder-
standing of a Talmudic passage in Ketubot 9a.

(7) A scholar is described as ²⁵ *דמהו תלמיד לא*

נתיב ולא צהיר because he forbade the re-marriage of a divorced woman who was first married and afterwards divorced by her brother-in-law. His argument was that divorce is a complete separation after a Levirate marriage.

(8) A certain *תלמיד* tried to draw a line between

'Accident' *אונס* and 'unwitting deed' ²⁶ *שוגג*.

(9) In the case of an Apostate who refused to divorce his Jewish wife, a certain Rabbi wanted to declare her separated from her husband without divorce.²⁷ This was against the Law, for the Apostate was legally a Jew and his wife could not re-marry without a divorce.

(10) R. Benjamin speaks of a scholar, who gave a wrong decision in the laws of menstruation, thus:

*הקנה תלמיד לא גמר וצליז במים אחרים ומעלה
תוס בידו דמא תלמוד צריך הוא לפניה ולא לפניה*

This Rabbi is therefore accused of ignorance and the wrong application of the Law²⁸

(11) Another Rabbi is also called ²⁹ *נחמיה וזא ענין* for being prepared to permit a woman, who was not publicly married to her first husband but merely in the presence of two witnesses, to remarry without a letter of divorce. In another Responsum, R. Benjamin warns unqualified and inexperienced Rabbis from performing ceremonies of marriage and divorce.³⁰

(12) A certain scholar attempted to introduce an innovation in the observance of the Tefillin ritual, which did not gain the approval of our author.³¹

נ"ל ד' דהנא תלמיד לא יפה כוון

(13) A Sicilian Haham presided at a divorce ceremony in Corfu and committed many mistakes in the writing of a letter of divorce.³²

ויטו התם / הסופר

(14) In one Responsum,³³ we have a description of certain scholars, who tried to put restrictions on the wife of an Apostate to the effect that she may not remarry without a letter of divorce from her previous husband, thus:

אשר זא ר' א . אנשי טו' א אשר זא ר' א

often recurs in the Responsa of R. David Cohen, who adds *זא ר' א* or *זא ר' א*

התפסות יא' . This case is entirely different from that referred to in No. 108b where the couple was married according to Jewish rites, whilst in our case

²⁹ 106.
³⁰ 107.

³¹ 108.
³² 100.165b.

³³ 198.292b.

no such marriage was ever performed. Probably R. Benjamin had similar people in his mind in speaking of the holders of his office.

(15) On the other hand, R. Benjamin opposes certain judges who permitted a man called Jacob, who persuaded a fellow-Jew, Joseph, to divorce his wife in order to marry her. He uses rather strong language in rebuking and condemning such unqualified and ignorant Rabbis. He says

ואם כוונתו כל כהן חזק המור הדיונים מדוני
הדיונים ולא יחצאו ראשים וידים

(16) Strife and quarrel were so frequent that R. Benjamin resorts to persuasion and peaceful settlement of a certain case, being afraid that some superficial Rabbi, who was not qualified to penetrate into the legal intricacies of the case, might use the opportunity to disturb the harmony, prevailing in the Community. His words are

ולא ישים קטטה יא בין החכמים מורי המורה דאולי יחצו
מורה אתה לנגד על דברי שלם בעומק הדין ויחשב דדגא

R. Samuel Kalai also speaks of unqualified Rabbis in the

following terms. ואחד מן המורים החתולים שיעצם ערערה³⁴

צדד לומר שאין ראוי לעם כי מור חליצה קודמה
ולא חש לדקדק בדברי הפוסק כל הצורך ואין
יערערה על הנעשה כבה

³⁴ Mishpetai Shemuel: No. 56.

and concludes with the words³⁵ כל זה ראיתי ככתוב על מדון דידן דנ'ל'די דהין לחנו
 וכל ענין שכתב יעם שהמקורץ הי' עשה וחשיב חציפות
 אחריו שכתב י"בם והיה ראוי לו מר פלוגתא דרב רבא

The Responsa of R. David Cohen bear out the contention of R. Benjamin that unqualified Rabbis performed ceremonies of marriage or divorce and caused considerable trouble in the Communities. His strong condemnation of these Rabbis, their ignorance and lack of sound scholarship throw an unfavourable light on the holders of this office. His words in this connection deserve to be here recorded. They are³⁶

כ"י שמעתי שהסנפר שכתב חס' היה ע"ה וגוא היה חס' ז"ש לחוש שמא לא נעשו הדברים כהואן שכל מי שאין ווד בטיב גיטין וקידושין לא יהיה לו עסק עמהם וכמדומה לו שכתב פסקתי חס'ה שמישין שעושים אנשים כאלה ויש לחוש בהם.

It is evident that many unqualified persons acted as Rabbis and performed the ceremonies of marriage and divorce for which special Rabbinic qualifications were needed.

R. Elijah Mizrahi in his Responsa, condemns certain Rabbis, who considered themselves qualified to perform Rabbinic duties and who permitted by some legal fiction the opening of shops on Sabbaths and Festivals. His description of these men depicts the religious conditions of his time and therefore deserves to be put here in full:

הן בעודני חי ופעלתי כזאת³⁷ בנשיאת לסמוך על דעתם לחצוץ היתר כזה לחצב השבת... אחרי מותו ח' יעשה מי שמע כזאת וחי רא כאלה שיקורחו אנשים אשר לא ראו אור הארה לתורה הוראות של דפי על פי דעתם הפך הדת וככל העם סבוב בוכים למשפחות לאמר יא לעניים

שכנה רוחות ולאנשים שכנה שומעו ואלם בעוד
 החכמים שביניהם סומכים על עצמם ומורים תורת
 לפי ציניהם שבקוונות היבום נמשכה המורה ומכנה
 שמים מושגא וכשומצו היתר על שום דבר הותר מוע
 שיהיו מוסיפים חלבם וזהו וזה.

Rosanis³⁷ in his History of the Jews in Turkey, also refers to this passage. These words of R. Elijah Mizrahi are very important for the history of the Rabbinate generally and for our own period more particularly. A short analysis of his words will help one to understand the possession of the Spiritual Guides in this age. R. Elijah Mizrahi was the head of the Spiritual Leaders in the then vast Turkish Empire, and as such he was surely entitled and enabled to intervene in the internal affairs of the Communities under his charge and remove or abolish misuses of a lesser or greater evil. This is conveyed by his words 'If such things as the permitting of the profanation of Sabbaths and Festivals are committed during my life time, what will happen after my death?'. The Spiritual Heads who gave permission for this open breach of the Sabbaths and Festivals are grouped

37. Rosanis: תולדות תימורה שבמזרח, Vol.1. p79.

in two categories (a) entirely unqualified men, who arrogate unto themselves the right to give decisions. These men are characterized as 'men who have never seen the light of the Torah, and who give false decisions according to their own arbitrary opinion, contrary to the Law.³⁸

אשר לא ראו אור המורה למורה חסידים שם
דעת

It is to be noted that this phrase לא ראו אור המורה occurs in the Responsa of R. Benjamin and in those of R. David Cohen.³⁹ This coincidence cannot be accidental but

was presumably general in the lifetime of these three contemporaries. (b) The second group is styled Hahamim that is qualified Rabbis who without referring to tradition or to literary sources find permissions to allow forbidden things. When there is the slightest chance to remove the prohibition or on very weak grounds to introduce such innovations, they are perfectly willing to do so. We learn that the people generally did not favour these illegal innovations. This tendency to alter the Law on slight pretexts was due, according to R. Elijah Mizrahi, to the low standard of religious knowledge and to the lack of piety. That this description was not exaggerated or does not do injustice to the scholarly and religious character of the would be reformers of the Law, is eloquently borne out by the instances culled from the writings of R. Benjamin. They

³⁸ 29.

³⁹ R. David Cohen, Responsa No. 14.

found even stronger support in the description of the contemporary Rabbinate to be met with in the Responsa of R. David Cohen to which we herewith turn.

R. David Cohen often takes the opportunity to describe in not-too flattering terms the spiritual leaders of his Age. His description also contributes to the History of the Rabbinate generally. Thus he informs us that the Title of Rabbi was introduced by the Ashkenazim in order to distinguish between qualified and unqualified Rabbis.

According to his words, the introduction of this title was a direct consequence of the increase of the unlearned and unworthy men who assumed unto themselves the right of Spiritual Leadership. In order to stem such a harmful movement, it was thought that the title of Rabbi might put an end to the anarchy prevailing in Israel. Yet there were fully qualified scholars, who out of modesty refrained from using this title in spite of the fact that they were in possession of the highest and fullest qualification to act as spiritual Leaders in Israel.

חפני שחפנונו שרבו תלמידים שלא שמעו כל צרכם
מגעסות בטחית של רב ונושלים שורה לעצמם לוש
על כסא תורה ואתם יאמר הזאת וליד כל הרעה
והרעות נאמה לכל לכן הסכימו (המשכנזים) להסמך
לאנשים תראות לתראה לקראם בשם הרב רבי וסנה
וודע לכל שכל מי שאינו חוסך דהיינו שיש לו השגה
לתורה לאו בר הכי הוא ואין לסמך עליו אלא אם כן
ינהי ידוע לכל דבר רבה הוא ומצד ענותנותו

חבוקש גדלות או משום דמוא קבול וקיים
או משעמים אמתים (40)

This was the position in previous generations, when scholars who were not fully fledged assumed the office of Rabbi or Spiritual Leader in the Communities. The condition in the fifteenth century changed from bad to worse. Probably with the arrival of Spanish and Portuguese exiles the reaction was even stronger than before. According to R. David Cohen there arrived men who had no religious education or religious and scholarly experience and who occupied or who were installed in Rabbinic offices. Their only qualification was that they possessed secular education

וכל שכן בדורא זה שב/ומהיא שרגו יש אנשים שלא
שמשו כלל שלא שעסקו בחכמות דיעוניה

This reflects plainly the condition that the Leaders of the Community were selected not for religious knowledge, which may have been entirely absent or imperfect in a high degree but rather were appointed for their secular education. It is remarkable that such educational conditions should have prevailed in the fifteenth and sixteenth centuries. Religious education was apparently entirely neglected and secular

40 Rosanis : מאבדות היהודים p.79.

שבמאנה

wisdom and knowledge was the only means of Rabbinic preferment or of gaining the confidence of the Community. These probably well-educated men boasted of their wisdom and with their eloquence and external art found favour with their fellow-Jews. One must not lose sight of the fact that the writer, R. David Cohen, lived in an age when the first traces of the Renaissance appeared and these may have influenced contemporary Jewry. The scholars of the older generation who derived their authority from Jewish learning and scholarship did not remain silent but their protest was easily broken by their more eloquent and more versatile opponents.

ואם יקום נחמד אע"פ הדיוק שבדבר אומרים לו דבר
... ושיב

The ordinary members of the Community deceived by the eloquence of these new leaders and by their endeavour to lighten the burden of the Law were greatly impressed by them and eagerly followed their lead.

Accidentally the name of one of these new Rabbis, against whom R. David Cohen went into battle, is known to us and is referred to in 7 p.24a, Samuel פ"ו י"ז. R. David Cohen describes this man as a would-be Rabbi who boasts of his ordination, but who lacks scholarship in the highest degree:

ובצורה דשמה לא ידע ולא חידושי

His ignorance is described as very extensive for not merely is his Talmudic knowledge very elementary but his main defect is lack of experience in making himself conversant with the

Codes: ואפילו בפוסקים ידו קצרה ב מקום
ג"ן קצרה

The study of the Codes available in this time was, of course, easier than the acquisition of Talmudic knowledge. But he was deficient even in the easier branch of learning, in the Codes, if some deeper penetration into the material became imperative. R. David Cohen exclaims ' Woe unto the eyes that have to see and the ears that have to hear that such a man wraps himself in a cloak, which is not his, that is, of a **מלחיד חכם** and who performs the duties of a Rabbi.

אין לדעתם שכנה רואה ולאנשים שכנה שומעת שאיש כזה יאמץ שמחה ושליו ויראה הוראתו

Further evidence for the state of Samuel's **ד' ו' 15**

ignorance can be adduced from another passage in which R. David Cohen asserts that his opponent is incapable of understanding the views of R. Aaron **הכ"ה** (כ"ה) of Barcelona and R. Nissim Gerundi (**ר"ן**) and the Talmudic passages referred to by the authorities, he could not find unless he scrutinises the whole Tractate of Gittin, page by page:

והחמירים הם הראיה והר"ן אבל לא כאשר הבין הוא והחמיר לו את דברי כי בעולותיו אין לו כל כך ידיעות לדקדק בדבריהם הטיב וכאשר אמרם לפנים בעיה וחכמה ודעים ודבריהם ושל החכמים אלא מסודרים על הגמרא ולא ידע זה הענין מוצאו ונבואו אלא אם כן ילך ויבקש כל מקום הסתמך לוטין עזה עזה . . . אלא כעור המושמש באפיקה עליו נאמר כי רבים חללים הפכה וכו'

R. David Cohen rightly and with reason accuses this ignorant and unworthy Rabbi of hypocrisy. This Samuel

ד"ר שמואל pretends to be a God-fearing man and delivers highly moralistic addresses to the Communities whilst he himself is lacking in piety and morality. He is depicted as a great hypocrite who deceives the people with his eloquence and oratory.

R. David Cohen⁴ in דברי דוד and Rosanis on p. 78 deal with the very same subject. The former in a full passage criticises the newcomers at length for their ignorance. We learn in the first place that he is against these newcomers whom he styles דברי חרוב ודברי חרוב probably from Spain and Portugal and who came to occupy Rabbinic office in S.E. Europe. The character of these foreign, would-be Spiritual Leaders is described in a very dark picture, preserved in one of the Responsa written by R. David Cohen. One phrase לא זכרו בורא בימי בחוריהם probably indicates that some of these Rabbis were Marranos in their youth or early manhood. It is repeatedly emphasised that they possessed no Talmudic knowledge

שלא שחשו כלל ולא ראו את הגמון

Neither theoretical nor practical knowledge of the Talmud was acquired by them. Further in the latter part, we read:

אנשים יגזרי לא ראו אור הלמודי - ולא אור המסורתי

They were devoid of Talmudic and other religious knowledge.

They did not find either their hands or feet in the Beth HaMidrash, to use the proverbial criticism of ignorance.

Their only qualification was secular knowledge. ⁴² לא חנאו

ידיהם ורמזים בגי' המדיש' אלא עסקו בספרים החיצונים

Such an education enabled them to gain the confidence of the communities, thus bringing confusion and disturbance in

Religious Life and conditions. Their only preparation for their

Religious Office was that they thought they were able to con-

sult the Codes without penetrating into the Talmudic sources or background on which the Codifiers based their decisions.

R. David Cohen probably meant that these unqualified Rabbis

used the Codes of Maimonides and that of R. Jacob b. Asher,

the Author of the Tur, without being qualified to examine

them or to make the proper application of their words.

אזי תתחילו לעיין בפסקים בעזריהם החוששים באפיקה לא
ולא יבינו בחשבת יתהוה

R. David Cohen accuses them further of lacking real

piety and genuine understanding of the Jewish Religion, thus destroying the established foundations of the Law and Command-

ments. ושמתי אני ואחיה עוד חלקי מנאח כי עת

לעשות לה' מצוות המורה והמצות בקולא מצהלות אבירות
קולא להם קולא אלהים כל שכן על אחיהם והו בעיותיהם מצות
אנשים חלודה לא יראו את ה' ואת מצות המצד לא שמרו האלה
באשר חולבים לבית אלקים לא חיי : נתקרב לשמוע דברי הלכה

והידועם לכל נכונה במאמרים

Finally, to remedy their ignorance and their inexperience, they should have consulted the leading scholars of their age and place, but in their pride and conceit they refused to do so and provoked the sharpest criticism of R. David Cohen, who says:

עזבו את חכמם ואת אטני ישראל לא הביטו
חמא המעק עם האדולפים בתכחה ובמנין נאד הסדור המדעי
והתכחה האחרת או חרים לכל סכלים לרע אגודת ואגודת

This gloomy description and merciless indictment of this type of Rabbi requires full consideration. It is out of question that they were the exaggerated view of a Rabbi who belonged to an older school and represented a different type, and therefore disliked representatives of a new school and more modern type. This must be borne in mind after having enumerated more than a dozen instances from the Responsa of R. Benjamin, reflecting similar conditions and who gives numerous instances of unqualified Rabbis, designating them

מאמרים רב שאלה

and bearing out as an independent witness

exactly the same conditions. This cannot be a mere coincidence based on similar antipathies and common self-interest, for there is further evidence to which we shall turn in the next paragraph to examine the further material on the same subject which cannot be rejected as groundless or biased.

The opposition to secular studies so emphatically denounced by R. David Cohen in his condemnation of unqualified foreign Rabbis finds its counterpart in the hostile attitude to the

התכחה (secular studies) of R. Joseph Javetz in

his works generally and especially in his ⁴³ **אור החיים**

Considering the fact that Joseph Javetz was of Spanish origin and knew his countrymen well and did not mince his words about their faults, it is not surprising that the Rabbis of the old school in the Greek Island and in the new Turkish Empire received their foreign visitors with displeasure and hostile feelings and used scathing epithets to describe their unworthiness and ignorance. Dr. Salomo

Bernfeld in his introduction to **כבוד הנחלים** of R. David

Messer Leon remarks in this connection: **אם נכיר בטעם**

**החיים החסידים והרחמים של חרשי ספרד אז נודה בדבר
כי לא רין אור הפיו בבוטא אל אחיהם בשאר הקדמות
כי אם לפעמים האפילו גם כן על חייהם הדגים (החוסרים)**

that is to say, that the newcomers from Spain spread light on the cultural and spiritual life of the countries where they arrived but darkened their moral and religious standards of life. Our writers like R. Benjamin and R. David Cohen naturally would see only dark and bad influences and would not recognise the beneficial, intellectual or moral advantages brought by the Spanish exiles.

The baneful influence of these activities of the Spanish newcomers is clearly manifested by the life-story and troubles of R. David b. Judah Messer Leon whose defence

⁴³ Benjacob: **אוצר הספרים**, Vilna, 1880. p. 280, no. 126.
Berlin, 1899, p. VIII.

was taken up by R. David Cohen in his Responsa. Before turning to the latter, a short account illustrating the History of the Rabbinate in the period of R. David Messer Leon and his opponents, has to be appended here.

R. David Messer Leon was born about 1470, a son of the famous R. Judah b. R. Jehiel Messer Leon, who officiated for more than two decades in Naples and the provinces. At an early age, he was ordained Rabbi, first by the German and French Rabbis in Italy, finally by R. Judah Minz in Padua about 1488.

R. David was a very prolific author: some twenty different works on different subjects were written by him, only very few of which were published. On the one side, they give evidence of his great Biblical and Talmudic learning, his efficiency in the Codes, and on the other side of his great interest in science and philosophy. Both the latter are outside our present purpose. One, however, which is published under the title of *אמון ודב* requires fuller con-

sideration. The very fact that such an essay was necessary in those days is an eloquent witness for the necessity of upholding and confirming the respect for and honour of the Rabbinate. This attitude, incidentally, is shared by R. Benjamin, who faced the same hostilities as shown previously.

The trouble arose in Avlona where the Sefardi authorities committed a breach of the Sabbath Laws by permitting the

performance of the last rites for a dead person on the Sabbath Day. The man who figures prominently as allowing

such conduct was a certain R. Abraham קאנין, who is otherwise unknown. He may have been the spiritual or lay leader of the Community. In any case his decision was illegal and naturally provoked the opposition of the officiating Rabbi, R. David Messer Leon. The latter took the opportunity to denounce this action of the Sefardim in a public sermon in the Synagogue for which he earned abuse and was publicly put to shame. In order to defend himself, R. David was forced to put the ban on his opponent. The latter, however, refused to submit to such a procedure although the greater part of the Community shared the feelings and the views of their Spiritual Guide.⁴⁴

This caused disharmony and strife in the Community of Avlona and took greater and greater dimensions with every day till R. David Messer Leon had to resort to the only effective measure available in those days, viz. the proclamation of the ban on the Sefardi leaders. In addition to this, there developed a serious struggle among the various sections of the Spanish and Portuguese Jews in Avlona, who would not submit to the endeavours of the Spiritual Guides to remove the conflict. Even the most sacred day of the year, the Day of Atonement, did not appeal with its sanctity and impressive message to every Jew or to the man of quarrel and strife. Disharmony and altercations continued for a considerable time and led to

⁴⁴ 181.42a.

a great scandal by disturbing the peace of the Community. These regrettable events and disturbing influences induced R. David Messer Leon to compile his *דפוס תיכס*. This induced his friend R. David Cohen to take up the cudgels on his behalf. These documents in general leave no doubt that the dignity and status of the Rabbinate suffered considerably under such most unfortunate and regrettable incidents. Unfortunately, such conditions were not confined to one or two localities, like Avlon or Arta, but spread all over the Greek and Turkish Communities wherever the Spanish and Portuguese exiles settled and came into the conflict with one another as well as with the earlier inhabitants, Greek, Sicilian and Apulian Jews. The three literary documents by R. David Messer Leon, R. David Cohen and R. Benjamin b. Matathias supplement and complement one another in their information on our subject and contribute welcome, though gloomy material to the History of the Rabbinate in this period.

It must have been a frequent occurrence that rivalry and conflict arose between the newcomers and the previously settled Rabbis, due to their different cultural standards, their early upbringing, educational methods and religious customs. Such conditions were an additional factor, disturbing the inner peace and lowering the status and authority of the Rabbis. R. David Cohen therefore rules that no newcomer even if superior in knowledge to or equal in authority to the local spiritual guide may interfere with the spiritual

activity of his colleague by giving Halahic decisions or delivering homiletical discourses and sermons. ⁴⁵

אמרי'ס אן יבוא שיה אדול כמילא אין לו כהונה אן שדו
שם חפזי כבודו ש' ה'ב המכר הדר שם

In spite of the manifold difficulties, these men and probably others as well, did their best to strengthen the religious life, to spread the knowledge of Jewish Law, to avert harmful influences, and last but not least to hand over the heritage of the past to the generation of the future.

This will become more evident and clear from the following lines which endeavour to picture the functions of the Rabbi and convey an idea of their position in the religious Community. The first and foremost occupation of the Rabbi was the diligent study of the Law by setting aside certain hours of the day or night for this purpose. Whether he was a salaried incumbent of the office or a part time official, being engaged for the rest of the day in trade or commerce like R. Benjamin, the spiritual guide was supposed to be, essentially and fundamentally, a student of the Law. In a conflict between two Rabbis, R. Benjamin calls the one who was setting aside certain hours of the day for study of the Torah, the worthier one and one who deserves preferential treatment to his colleague.

Study alone however, was not the highest aim, pursued by the spiritual leaders of this age. Moreover, it was a mere

preparation for a more important duty, viz, the spreading of knowledge. There are some indications that the official title of the Rabbis in this age was *חכבין מורה* that is, the Scholar who spreads the Torah. This title is often used by R. David Messer Leon. We read ⁴⁶

ואחרי דברי לא ישא כבוד וכחכבין מורה לא יסור ימין ושמאל
 and again כל איש אשר יתורה את פיו ואגה מעט מורה
 בכל העיר

Another title *חבני רב* is used by R. Benjamin in a description of a young scholar.

ואפי זה ראוי שיעדע החבר רב דיש לו דין מורה מלח
 חנה הזיון לכל דבר שבקדושה

This young scholar received his Rabbinic ordination from important authorities:

דנסמן חרבנים תיב"ה ונקיש רשעא ונקרא חבר רב

The very same scholar informs us that he used to teach and expound the four Turim of R. Jacob Asher after prayers. R.

David Messer Leon writes on the first page of his work *כבודת חכים*

ובראורי כי כגושבו שם והיו אלהים מאד דרשני ולמודי

הייתי חמיד הכיכרי שם ונור חשאר בתי כנסיות והתחלתי ללמד
 בכל יום אחרי התפלה פסק ר' יעקב (בעל השו"ע) בבקיאנות אדון

ובפסוק לפלא עד שתם היו שמחים חמו מאד בהצוה ו
 בו לא שמעו לחוד שם פסק בחורו בכל מקומות ספרד וזמן

חמים וחמים

Incidentally we are informed that these lectures enjoyed great popularity and were highly praised by the audience, assuming that such excellent lectures were never heard among Sefardim.

There are several other indications in our contemporary documents pointing to the fact that higher teaching was one of the main occupations of the Rabbi. Interesting is the case of a certain R. Isaac כ"ק, who left a legacy to the Synagogue, the interest of which was to be spent either for the oil to be used in the Synagogue or for the upkeep of the students in the Yeshivah or Rabbinic Academy. The widow kept the arrangements under her own right which was objected to by the local Rabbi, who as the Leader and Head of the Academy, thought that he was entitled to administer the funds.⁴⁷

והחכם חתומה ר' יצחק שיוצאם חתומה ידו, ובהיותו הוא פקיד
עליהם ועל ידו ישיבאו ויגלו בהם כדי לפרנס הציודים ביישוב
וגם לתת חתומה שכן כבוד הנסות

This local Rabbi apparently cared for both the spiritual as well as the material welfare of the members of his school

The third important function of the Rabbi was preaching.

R. David Messer Leon was elected to his high office in Avlona

after a regular trial sermon⁴⁸ אע"פ ונעשה לחקשים אמת חכם
ובא"י הנה מבואר וא"י שדרשה דרש כולל בפני כל
הקהלות שחז"ל עולם לראש ולקצין בין הצאנז

In larger communities preaching was a regular feature of the Divine Service every Sabbath. In Venice, there lived a certain

R. Meshullam Segal סג"ל about whom R. Benjamin writes:⁴⁹

מהר"י חסיד סג"ל דרש בסג"ל שג"ל לזכות ישראל
What great importance, contemporaries attached to Homiletics

⁴⁷ 188. 280a.

⁴⁸ Kevod Hahamin p. 6a.

⁴⁹ 134a.

and the art of delivering sermons can be guessed from the frequent references made by R. David Cohen to the unqualified Rabbis who filled Rabbinic posts and whose only qualification was their faculty to gain the confidence of the congregations by their eloquent speech-making and rhetorics as a result of their proficiency in secular knowledge מורה נבוכים.

The contemporary homiletical literature, published and unpublished, could convey a clear idea of the intrinsic value or otherwise of these preachers.

In one congregation,⁵⁰ the name of which is not furnished by R. Samuel Kalai, an endeavour was made by the local Rabbi, whose official title in the document is given as ב"ר שמואל to have the sole right to judge in all cases of fines and punishments without the assistance of other ב"ר שמואל in the same place. This prerogative was laid down in a Communal Ordinance for the duration of one year, after the lapse of which time a number of ב"ר שמואל tried to disregard it.

This question is closely connected with another important aspect of Communal life, which presents itself frequently in our period namely, the division among the various Communities which were grouped on the basis of their origin.

⁵⁰ Mishpetai Shemuel: 65.

In this case, the various communities were ready to unite. The obstacle to the proposed unity was the local Rabbi of the original Community who would not tolerate the activity of the other Rabbis, appointed by or officiating in the rest of the communities. The condition of unity was made dependent on the association of all the Rabbis, functioning in that place.⁵¹ Arising out of this communal organization, was the question of the salary to be paid to the Rabbi.⁵²

The contributions are called *גבלי* and *קופון*, the former may probably be identical with the Italian 'Gabella'.

The consequence of this re-arrangement would be that the higher institutions of learning, the Yeshivot, under the spiritual control of the different Rabbis or *מורי*

would have been deprived of their income, derived from the 'Gabella' and diverted to the institutions under the supervision or guidance of the local Rabbi of the original Community. Apparently some pressure was put by the leader of the original community on some of the younger communities to join in a coalition with the Sicilian Community against them.⁵³

We have a record of dissension between a member of the Community and the local Rabbi, occurring in Janina, where

⁵¹ Mishpetai Shemuel : 65.2.

⁵² " " 65.3.

⁵³ " " 65.

⁵⁴ " " 40.

a certain person, styled as **הח"י כובי בית המדרש** who abused the local Rabbi, Samuel Kalai, behaved in a disrespectful manner against the teacher of Torah.⁵⁵

**העלה כחמא ובטאו נאעו בראשו ופער פון נאדך
והוציא עצמו מן הכלל לבזות המורה ולומדיה כאשר
שמעתי חסי חגידו אמת**

This state of affairs necessitated an ordinance, which prescribed that the members of the Community were in duty bound to pay due reverence to their spiritual guide and pay punctually his salary **וכתב אחר היה בין הב' הקהלות**

**לא עתון התנם סגבדו ולפיוע לו שכרו האחר שם
ולקבל גזרתו ולא יטו יחקן ושמת**

In spite of this ordinance, we read in our source that the majority of the Community sided with the slanderer who informed against the Haham to the Civil Authorities

**ובזב הקהל עזרו לחוסר והתנם כעס עציהם ולא רצה
ללכת להתפאץ שם כחה ימים**

Another case of abusing a Rabbi, also in Janina, is reported by R. Samuel Kalai thus:⁵⁶

וחי פו וגדפו בפני כל הקהלות תעומדים שם

The Rabbi was abused because he did not follow immediately the invitation to attend a family function on account of his engagement in study with his students.

We have another indication of the chief occupation of the Rabbi being the conduct of lectures to students of an advanced grade. **התנם השלב המרבוץ תורה בק"ק יענה**

שבגוריו מלמד בישיבתו עם תלמידיו... ובא אליו שמש

**אחד מהקהל לקרוא לו שולך בבית חילה שהיה בקהל
והתנם תשוב לו שיש לו וינה מדבור אחד מלומדים**

Incidentally we learn that the Rabbi was supposed to attend such functions as circumcision, if they occurred in the congregation.

Interesting light is shed on the salary and method of appointment and the functions of the Rabbi in our century by a question,⁵⁷ asked of R. Samuel Kalai by another Samuel Kalai, a relative of his, who officiated as Rabbi or

חורבין

in Janina. He informs us of a Rabbi, who was

appointed at a salary for the duration of three years by

the members of a Community. His duties are described as

(a) to spread Torah ^{לחורבין} among members of the Community (b) to preach (c) to give decisions on ritual questions.

לחורבין תורה ביניהם וכדורש להם וכהורח להם אה
המורח וחקים וחשפטי אל ונדה לו סך קצוב בעד ג' שנים

Accordingly the functions of the Rabbi were teaching, preaching and the cure of souls.

Another wide field of pastoral activity was opened up to the Rabbi in ministering to his congregants in many walks of life as far as religious conduct or usage was involved. They persuaded people to abstain from prohibited things or avoid transgressing the Law. R. Benjamin was surprized that no steps were being taken by these ministers to prevent their congregants from playing cards.⁵⁸

ואף על גב דחזין דאין שם חם מנהר וחמה באר
ששוחקים כמו שחזהר וחמה על אמה איסור דהוא
מדבריו סופרים

This admonition may have taken place either in public or in private. Thus the Rabbi had still the ancient prerogative.

of remitting vows made by private individuals. Such a function made him the seal-bearer of the conscience of the individual.

A case is recorded in which a card-player made a vow not to indulge further in this habit. Yet he could not withstand his desire and asked for a remission of his vow.⁵⁹

ראובן נדר שלא לשחק בקוביא וענה חתום חנניה
ואומר דאיתא יכול לעמוד וביא לפניו התם שיגור לו

The question arose whether a spiritual guide was empowered to remove a vow which would open the door to further transgressions. The Rabbi was consulted on various questions in all branches of Jewish ritual and dietary Law. In ordinary questions, if fully equipped for his task and worthy of his office he was able to give decisions by consulting the Codes. This was likely and possible in an age when most of the important Halahic codes appeared in print and became accessible to the Rabbis.

Remarkable are in this respect, the words of R. David Messer Leon, saying⁶⁰

וזה לדעת הדברים בחקירות
ובחשיבות בדברי חכמים הגדולים שהיו השוים והיוסוד
לא להסתפק לבד מדברי הפוסקים שחפץ שיעשו בדפוס בחיוב
לעיניהם הם חפוצים לעין כל הנאמרים

R. David as a fully qualified Rabbi was not satisfied with consulting the Codes as may have been the case with less learned and educated men, but is anxious to trace every

⁵⁹ 281.391b.

⁶⁰ Kevod Hahamim. 29a.

Law or decision to its Talmudic source and origin. The phrase שאלו בדפוס בחסון לעיניהם הם הפורסמים
לעין כל רואים
 may perhaps contain slight on the Rabbis, who were satisfied with consulting the Codes without tracing the case to its Talmudic source. We saw earlier in this chapter that R. David Cohen characterises his unqualified Rabbis by this very fact.

If a fully qualified Rabbi discharged his duties conscientiously he turned to men with greater learning or wider experience for guidance in more complicated cases. Here again R. David Cohen blames unworthy men for their reluctance to seek council and turn for guidance in proper quarters, viz. from really qualified and well-experienced authorities. A few instances of decisions asked for and given by Rabbis cannot be detailed here, first of all because they cover so many aspects of life, marriage and divorce, trade and commerce, ritual and legal problems, prayers and dietary laws, the relation between man and man, and the latter's relationship to the members of the family, all of which aspects have been described in the various chapters of this essay and would lead to unnecessary repetition. There is no dark corner of Life, however hidden or open, intimate or strange, in which these questions do not bring some light. The Responsa literature is full of ordinary and extraordinary problems of these sorts and testify to the close influence of the Rabbi in the life of the individual as well as of its members. Closely

connected with this activity as guide of the human conscience or curator of the human soul - a very high task indeed- was his function to act as Judge between litigants, to establish the highest ideal of Peace and Justice in the larger or smaller circle to whom he ministered.

Such an activity was of course dependent on the size of the Community, whether of a small or larger congregation. The Rabbi by his learning and authority, by his personal character and integrity, and by the esteem in which his high office was held by the congregation, was determined to act as Peace-maker among his flock.⁶¹ This was the more imperative because strife in the Community would lead to untold dangers from and to the defamation of the good name of the Community in the opinion of the outside generally hostile world. All these functions do not conclude the Rabbi's activity in his Community. He watched over the spiritual and moral welfare of his flock. He was the guardian of the Law, the Written and the Oral and the arbiter of customs and usages. R. Benjamin depicts such a spiritual guide in the following words:⁶²

צו כבש מרבנן דהייא בזור חייק מרבנן
 עומד בפנין נגד עובי עבירה ומדין מדין יעה
 מדין טובה

This young scholar prevented people from transgressing the Law and by teaching them to leave the way of evil and turn

⁶¹ cf. idea of 'Peace' שלום which is emphasised in the Responsa of R. Benjamin.

⁶² 243.331b.

them to the right path, must have been a type and pattern of many Rabbis in his time. It was his duty to introduce new ordinances, to strengthen the Law, to uphold the right spirit of Religious Life. R. Benjamin writes⁶³ ומענה על כל
בר אורין להחזיק המנהג והגדרים כדי לאונן הדור
Yet on the other hand if customs spread and found a foothold in the Community which were detrimental to the moral standard of the individuals or the good name of the Community, it was his duty to remove them by all the power in his might and the force at his disposal.⁶⁴

יש כח בכל חכם להכריחם לבטל ההוא מהגז היע
Further it was his duty to lend his support to the Communal Leaders in their endeavour to keep Law and Order in the Community and to endorse the ban issued by them against unruly elements. Rabbis of various localities joined together to announce or to publish the names of recalcitrants who were excommunicated in order that such elements might be deterred from pursuing their evil deeds or induced to return to the right path.⁶⁵

וראוי לכל חווה צדק בצאת מצוית האכופים
שגדוהו להודיע שיש אכנים בישראל ולפרסם
בכל חיקום

It may be assumed that an internal link existed between the various communities, who were not combined by an external

⁶³ 430.303.

⁶⁴ 484a.361.

⁶⁵ 287.405b.

organisation, but the local Rabbis acted as connecting agents between them. Their position in their own Community must have given great weight to such proclamations in the Synagogue. Sometimes these pronouncements may have affected members of other Communities.

This leads to the description of the position of Rabbi in the Community. The reverence enjoyed by the Rabbi was in some places of such importance that the congregation waited with the beginning of the Service till his arrival. Most interesting in this connection is the fact that the title *הקדוש* which surely cannot refer to anyone else but the Rabbi, was bestowed upon him. Notwithstanding the fact that R. Benjamin opposes this custom, it must have been well-established in many European communities.

והוא שער נראה לי הדין בגמין לומר דהויא
 דהשם חתום אלו בלי (חתימתו) אלא עד שיענה
 דאין לשם בן כיון שיש בלי עשרה בן אדם
 בשביל כבוד וטוהר העבודה

All religious institutions were naturally under his supervision and thus it was in his power to remove a slaughterer whose conduct was not unimpeachable or in agreement with his professional duties.

Whether the Rabbi in this period could or should enjoy all the ancient rights and long established privileges enjoyed by the Haham *החמ"ד* in bygone ages as laid down by the legislation of the Talmud, was an often disputed and variously decided question. The very fact that R. Benjamin in his

Responsa as well as R. David Messer Leon in his כבוד הנכבד

devoted lengthy discussions to this problem and endeavoured to uphold the status of the contemporary Rabbis, putting ~~them~~ on the same level as the הנכבד of

antiquity, is a clear indication of the acuteness and actuality of the problem. Considering the events which served as

a background to these discussions, it cannot be surprising

that our authors should do their utmost to confirm the

status of the Rabbinate in spite of the many drawbacks

caused by ignorant and unworthy persons who filled this

office. It is therefore not surprising that R. Benjamin

writes: ולא יבואו כהנים שז' ה"ח ושישמוץ אל דברי
הרב הסמוך לעיון דאגריה דח"ח ה"ח

For such an admonition became necessary in face of the doubt cast on the proper authority of the Rabbi.

This becomes also evident from a further incident

mentioned by R. Benjamin. In a certain place, there lived

two Rabbis, one of them was invested with full authorisation

for his office, whilst the other scholar had no such permission or authority.⁶⁶ The permission was given הנהגות, who

may be the social Communal Leaders or ecclesiastical author-

ities. Both judged the case not according to the letter

of the Law but according to their common sense. This gave

rise to the enquiry as to whose 'individual opinion' has

the preference

היכא דמיכא בעיזי אמת ב' תלמידיו חכמים ואחד
יש לו שני תלמידים לדון ולשני אין לו שני
תלמידים לחן ודן התור דנקט רשנא דין אחד
(according to their estimation)
דש ודא דדינא

כאנחרי לפי מה שראה לעיני הדיון שדעת תלמי
חכמה לזה ולא לזה... ואנחרי שיהיה לו שני לדון דין
נחמי בתלמוד ענין בשודא דדינא באופן אחר (ושאכלא
לו כח לתלמוד ענין עז התור ענין דדן בשודא דדינא
אין לו)

It is remarkable that two Jewish scholars in Germany,
that is R. Jacob Weil (1400-1456) and ^{למחבר} Bruna b. Hayim (15th
century) discussed similar problems arising out of personal
rivalries between scholars in Prague, Augsburg, Ulm and
Nuremburg,⁶⁷ namely, whether the Rabbis of their age have the
status of the Hahamim ^{תלמידיו} ^{חכמים} of the Talmudic period or
not. The events shaping themselves in this form in Ger-
many and in the late Byzantine Empire paved the way to a
re-organisation of the Rabbinate which lasted till the
nineteenth century when Jewry passed through a new trans-
formation changing the whole religious and spiritual phase
of Jewry.

⁶⁷ H. Graetz. Geschichte der Juden, Leipzig, 1913, Vol. 8. pp. 212-213.

ECONOMIC LIFE.

The economic life of individuals as well as of communities was governed by two main factors, (1) external and (2) internal. The political conditions on the one side and the religious life on the other were the forces on which the economic prosperity and material welfare of the Jews depended. Political liberty, the Rule of Law and Order, benevolence on the part of the rulers, a strict juridicial system advance the possibilities of trade and commerce; restrictions and anarchy, injustice and arbitrary application of the Law if applied to one section of the Community or to the whole Community, are obstacles in the way of a healthy economic development. The Jewish Community in this time consisted of rich and poor people. The latter had no other chance to keep themselves alive than either to live on charity or to beg from house to house. The cause of poverty is traced in one case to mental deficiency or lunacy by which a certain person, who was married and a father of children, lost his livelihood or work. He must have been once in good circumstances for his wife claims her dowry and her marriage

על ד ראובן שהיה נשוי לחרים והוליד חתנה בנים | pottion.

ובגטת ומזלו אורם ונשמה והאשה תבצת לפני ב' ד

לגבות גדוניה וכתובה שהכניסה לו חבית נשא

והוא ירפא חן הצדקה או יחזור על הפתחים

It throws strange light on the family life of our period that the wife is attempting to take her own portion and leave the unfortunate man to keep himself alive by charity. This is another indication showing how deep the moral standard of family life sank in our period. For our present purpose, we learn that physical misfortune was the source of poverty.

Another reason for impoverisation, was the burden of taxes and duties. R. David Cohen informs us that in Arta there were very many poor people and the wealthier members of the Community had to share or contribute to the payment of their taxes and duties, which were heavy on them.²

וכ"ש שפונותינו שרבו יש בינינו עניים רבים וחמים וארמאות
ואם לא ישוב אל אחזרל ואז משפחה וימים עצובו ח'ו
חזק' להם וג'

The rich were asked to alleviate the burden of taxes and duties assessed on the less well to-do section of the Community. It seems that such a request was sometimes granted but also in other cases refused by them.³

על אשר חמאן ה' אשר לגר השלם שחוטט עציו חס
קצבה לשנה חימלך שבא פקיד חמלך לגבנה חכב אחד ואח
מהצבור זה שקצב עציו חימלך וה' אשר שוען לנהל שיעצו
אותם שהם וגר עשרים חמל וסוען שאין ראוי לפרוע
הוא כמו שפורעים כל אחד ואחד חים כוון דהם
בעלי חמון

²11.31b.
³294.417b.

The state of poverty and need from a practical question put before R. Benjamin in which a poor man, who could not afford to buy phylacteries and Mezuzot asked to which of these two commandments he should give preference? ⁴

אל אשר שאגת נחמי מ' שגין ידו משות פקיות תפסין וקטורה
אינה חתין קודם חקיות

That we are facing here a practical and not a theoretical case is indicated by the words in our Responsum. ⁵

ונקל הוא יאצל זכחד ואחד חישראל לקים חכמה זו
בחייוש דמים והשכר הוא גדול

Therefore we may rightly assume that these things like phylacteries, Mezuzot and fringes could be acquired very cheaply and in spite of this there were needy persons who could not afford to acquire possession of all of them simultaneously.

As to the wealthier classes, two considerations arise out of the material preserved in our sources. The first question will be to enquire into the means and manners how the rich accumulated their wealth and secondly as to their extent of their prosperity. The different ways and means of making a livelihood and in many cases to amass a fortune were manifold. We find Jews engaged in trade and commerce, money-lending and labour, which furnished them with greater or lesser chances to gain some fortune. We turn now to these four aspects of economic life.

⁴193.

⁵195.290a.

⁶193.288a.

Trade was carried on either in special shops established for this purpose or by pedlars going from village to village and town to town: sometimes in partnership with others and often singly: sometimes wholesale and often and more frequently by retailers, and finally by export and import. In Salonika for example, R. David Cohen tells us that most of the Jews kept shops and carried on their business by trade in those localities:

שרע היהודים אשר בשולחנין החזיקים חנות
 ציקר חנותם החנות הוא וזאת זה עולים החזיקות לחמשה
 או לעשרה אלפים לבנים ויורה זה חפוצים

It is noteworthy that our Responsum stipulates the minimum value of such shops by the amount of five to ten thousand

לבנים. This possession of localities for trade was highly esteemed and gave rise to rivalry or even envy among tradesmen. These shops were hired from Jews as well as from non-Jews. Owing to the scarcity of houses, the need for such localities was very great and business rivalry led to many unpleasant incidents on that account. One of the worst cases is that of a certain widow in Lepanto, who out of a grudge and evil inclination actually ousted a number of shopkeepers by overbidding to the Gentile landlords, from their shops where they carried on their business. They hired their localities for a hundred לבנים per annum and the widow paid the landowners a hundred and fifty each per annum

thereby depriving the shop-keepers in possession of their livelihood. Naturally such action aroused ill-feeling among the parties affected and condemnation by the guardians of the Jewish Law.⁶

By the way, we may assert that the widow must have been a lady of means if not a person of nobility. Owing to such occurrences as this Jews hired such localities for a number of years in order to safeguard themselves against intrusion even in places where no shortage of business premises existed.

נ"ל ד' לומר כיון שיתחזיקו אותם הבצלי בגיהם אותם חמיות

כ"כ שנים נכס בהם דתבטלן היו ין כהפוך... חשמל דהאי

אגב השעה חיקרי ויש להחליט כיון דחכמי חסידות חסידות בחקוק

There are various references to the various trades carried on by Jews in our period.

Responsum No. 353 offers some particulars concerning the method with which the wine business was carried on. A

whole band of merchants went from Arta to the fair of חוקקולורי (probably Moskochori in Greece) and brought wine in Janina

from a Jew which was carried by a Gentile to the place of its proper destination. שו"ת חקקולורי היה הולכים

ביריד חושקולורי והיו עוברים ין לידות חקקולורי י"ג וש"ס ח"י

אחד עם סוסו מחדש לגבול כחם ין במדן הניגדות

It seems that Janina was one of the centres from which

Jews provided their brethren in other parts of the country

⁸400.514a.

⁹515b.

¹⁰353.574b.

with ritual wine.

Further we learn that Jews engaged in the fine metal trade. An instance is recorded of one selling a golden ring which however contained a quantity of silver and therefore was of an inferior quality.

ראובן חבר טבעת כסף
בחנקת זהב ובחנק הטבעת נמצא כסף והיה וודע בו ראובן
ולא הודיעו לשמעון אמנם חכמו לו בדרך מעט כאילו הודיעו
שהיה כן מעט כסף וכשרצה שמעון ליהנות הטבעת כרצונו
שגב איהו וטעם שהיה בחכמו כסף

Yet the price asked and paid was less than the amount usually paid for a golden ring of the same size."

In another case a Jew bought lead from a Gentile to cover the roof of his house. Afterwards he changed his mind and sold this lead to another Jew, who found therein a quantity of silver. The question arose ^{בזה} who was entitled

to the silver. מעשה בראובן שקנה בדול מן הגוי
הוא לכסות אתגו ונמכר ונמצא כסף בחנקת בדול ונמצא
שהיה נקד חבטים והכעו ראובן בדול

Thirdly we find Jews engaged in wholesale cloth business.

Two partners, Samuel and Hayim possessed such a business and one of the partners entrusted goods to a retailer on credit for a certain period, but the retailer escaped without paying his debt.

" 397.510a.

a 397.512a.

b 387.504b.

על הקדוש שנפסל בין שני שוגבין ר' שמואל ור' חיים
 שהיו שוגבין בסתורה מבגדים ובבואה שמואל השוגב
 סוחר אחד וקנה לו אמות מאות הבגדים שהיו בשוגב
 לשניהם ולא נגן להם המעות אלא הגו ביניהם שיו
 אותם המעות לזמן חדש אחד והיה גם ישוגב האחר שם
 (בין החדש שהיה ביניהם ברת הקוא סחר . . . 13.

Besides these there are a number of cases of merchants
 whose merchandise is not specified or the nature of their
 trade not stated. Thus the merchants who accompanied the
 Army are styled as סוחרים without giving further
 details about the character of their business occupation.¹⁴

We saw already that Jews from Arta went to the markets
 or fairs of חשקלאר. Further Jews engaged in
 export and import trade from Arta to Venice,¹⁵ where certain
 merchandise could be sold for a higher price.

ואחד מהם דובר להוליך עמו אומה בסתורה בונזיא
 מהוא חקום הוקר
 In another instance one of the partners exported, on the sea
 route, merchandise (probably from Arta to Venice) where he
 was captured by pirates and redeemed for a hundred ducats by
 his fellow-travellers who were Gentiles.

Further we see that Jews joined the Caravans led by
 Gentiles most probably for commercial purposes.¹⁶

שחרג שהיה הולכת בדריך

3387.504b.

419.55a.

3378.500a.

403.518b.

The majority of the personnel of the Caravans were Jews, who were accompanied by their womenfolk.

An interesting feature of trade and commerce among the Jews is the tendency to form a company or partnership. Many of the cases concerning trade and business mentioned in our sources are of transactions carried out by partners. This tendency may be and was in fact due in many instances to the financial support granted by the wealthier party and and the business genius and acumen of the other financially weaker party. However laudable such a combination may have been from the social or economic point of view yet as our records show they contain the germs of strife and quarrel as well. This is plainly illustrated by the case described in our Responsa.¹⁷ The case occurred in the market place of Arta where one of the partners had a chance to acquire some merchandise, the nature of which is not described, for a reasonable price. Yet he had no ready cash at his disposal and approached a fellow Jew who could dispose of the money to become his partner. This happened and the merchandise was brought and afterwards the owner of the money took hold of the merchandise, brought it home to his place and claimed the sole right of possession.¹⁸

ראובן ושמעון היו בשוק של ארטה וזא ליד שמעון
סוחרים בזז (זא צודמא לז) חקות נאמר לראובן תהיה
סוחר נא בשוק סוחר וזא מה שראוי יהיה לאחרא

17442.

18442.

וראובן ששמן וקנאה וכשהביאה אל ביתו אמר
לשמועון לעצמי קנייה

The argument of the man who advanced the money was that he bought the goods for himself and never promised or spoke about entering into partnership with his friend and sharing the profit equally with him. Since the offer was accepted in silence and it is doubtful whether a silent agreement was binding or not, no judge could give a definite verdict.

A somewhat different case in which the legal problems of liability arises occurs in Responsum No. 384. Here two Jews, Levi and Joseph went into partnership. One of the partners extended his business activity by exporting merchandise on the sea route, probably from Arta to Venice. This was done under the partnership agreement between them, whilst part of the merchandise remained in the hands of the second partner. Now on the way to Venice the travelling partner was captured by sea-pirates and was redeemed by Gentile fellow-travellers for a hundred ducats. The question arises whether the partner who stayed at home is under the obligation to share the expenses of the redemption of the other partner.

The text reads: **כל ויוסף שגב פל והלך לכו בחתו ונזיג**
לסתורה בעד השוגרפת ושלה חלק מהסתורה ליוסף שוגרפ
היה חבוב עמו ובדרך בית קפצו עליו לסטים וגבשוהו וס
אזלו האוים שהיו בתביתו במאה זהובים וכשבא בביתו שיען יוסף
שוגרפ חצי הפדיון דכשם שאא שוגרפון לריוח כך אנו
שוגרפם להפסיד.

Another type of partnership is given in Responsum No. 380.²⁰ Here two men named Joseph and Ephraim started a partnership on the following conditions, that Joseph advances a hundred ducats for business purposes (a) that they divide the profits equally and (b) that in a case where Ephraim alights at a find, that shall also be divided between them. Now Ephraim found ten ducats,

ועל המדה בין יוסף ואפרים שהיו שותפים שנתן יוסף מאה דוכא
להסתתר בקן צ"מ שכל רוח שיריח סמנעם זהובים שיתאזקו ושכל אחד
להסתתר בקן צ"מ שכל רוח שיריח סמנעם זהובים שיתאזקו ושכל אחד
הזהובים על יוסף בעל הזהובים וקיד המה ביניהם שאם ימצא אפרים
חביאה שיתאזקוהו וכך זה בפני צדים אגב לא קנו זה חזיה בקטן
חירה ומצא השורה עשרה זהובים בדכך ושוען יוסף השורה שיוקן
תכין כפי המצא ואפרים השורה אינו סכמיש אגב שוען דמון של
תנין ביניהם סצי חיהד ופטומי חילי היה ביניהם

Just as the liabilities of the partners led to legal friction so did the rights of the partners. Thus in the case of a common debtor to the partners, if one of them made a compromise with the man who owed money to the company, it was doubtful whether one of the partners had the right to settle the debt without the knowledge or consent of the other.²²

The partnerships were agreed upon sometimes for single transactions and in other cases extended for the duration of many years. Thus in the case of Responsum 396²³, the partners

²⁰ 500b.

²¹ 380. 500b.

²² 399.

²³ 510a.

made an agreement for five years stipulating not to dis-
solve the same before the expiry of that period. In the
meantime one of the partners intended or was forced to change
his domicile. R. Benjamin is inclined to permit the
dissolution of the partnership since the original agreement
was made under erroneous assumptions.²⁴

כאמ"ן ושמעון נשגב"ל בסתירה והוא בימים בשבועה שלא יפיר
חיעתו עד ה' שנים ובמלך הנזק רצ"ה אחד מהם לעקור דירתו
העיר והאיך מעכב על ידו ד"ה הוא דא"ה ימ"ל לעכב בשבוע
השבועה ד"ה תהא על מה שנשבע

An interesting question arose among members of a
company who were combined in some industrial undertaking,
the exact nature of which is not indicated in our document.
One of the partners bought some merchandise which as later
transpired was stolen from the house or store of a nobleman,
called in our Responsum ש"ר. The merchandise was divided
between the individual members of the partnership, probably
as raw material for their industrial work. Since such an
action would legally involve capital punishment and endanger
the life of the buyer, it was queried whether the other partners
had to provide money to appease the nobleman from the common
funds or whether they might insist that the accused partner
should settle the affair from his own means.

על דבר שותפין שהיו בעצו אומנות אה"ה ובימים קנה אחד
סתורה ונחלקה ביניהם ובימים קנה מקרה וערערו על אומנה
סתורה שגמולה היא חבית שר אחד ובשבוע שאל להסתכן
ההוא שותף אחר לתבועו שיתא לידו חלק הימנו להם לפנים

דער שאל א וואסער בער כאטש און אידן ס'זאל נישט האבן
 אים אמתו און שוין פאר דער מחלוקה אחר כך וואסער ד"ר
 וסו שווער יזכה וסו שווער יחולק

Trade in partnership is the basis of the case described in Responsum No. 377. This source provides an insight into the working of partnerships. Two companions started a partnership by buying merchandise from a wholesaler for the amount of a hundred ducats. On this enterprise they made a profit of twenty per. cent. Here also the company was established for a certain period. One of the partners wanted to withdraw from the company before the termination of the time limit and divide the profit between himself and his companion, to which arrangement the other partner did not give his consent but insisted on carrying on the partnership till the expiration of the time limit fixed in the original agreement.

ראובן ושמעון לקחו כ"ב סתור 26
 סלוי בסך מאה וחובים לזמן קבוע
 (after five years)
 ותרונתו מאת סתור באמצע הזמן עשרים וחובים
 וצדין יש להם זמן להסתיר בחקות שלקחו מאת הסתור

Besides trade and commerce Jews were engaged in financial transactions. It is not always definitely stated whether they were professional bankers or whether they only occasionally engaged themselves in such occupations. The economic structure under which the Jews lived and worked may have been the cause for such occasional or permanent means of earning a living or in the best case of amassing a fortune by

money-lending. Jews borrowed money from Gentiles as well as from their own co-religionists and on the other hand, they lent money to Gentiles as well as to fellow-Jews. Such transactions between Jews touched the religious conscience of the Jew more than the religious character in disputes arising out of trade and commerce. Although in the latter, the Biblical and Rabbinic injunction of honesty in dealing with one's fellow-men were minutely legalised, nevertheless the Law forbidding the giving and taking of interest for loans of any sort or nature, was more liable or more likely to meet with offence on the part of creditors and debtors.

Trade and commerce could therefore be legally looked upon as a source of income or earning, not so the benefits derived out of banking or moneylending. Here special precautions and strong safeguards had to be taken against illicit gains. Yet even without transgressing the laws of interest, repayment of loans had to be more or less painful arguments. Thus in one case a creditor claims repayment of a loan from a debtor who unreservedly acknowledges the debt but refuses to pay on the grounds that he withheld the money for the defraying of an older debt which the creditor owed to the debtor. ²⁷

ראובן טוען משמעון חתומה אימר ודאי
אני חייב לך אגל אני תופשו בעבור ישי שמה
חייב לו שמה דלאו כל כחיה לחימה הכי

In another case the creditor claims a thousand
from his debtor who however denies his obligation in spite
of the fact that two witnesses, each independently of the
other, testify that such a loan was actually contracted.²⁸

ראובן טוען שמעון שהלוה לו אלף זבנים ושמעון מנהיש דהב' ד
אחרו לו או הגא עדים או ישבע כך שבית הדין

Loans were given and contracted for business transactions
with the view that the creditor should share the profit made
by the debtor. Thus a creditor advanced a hundred ducats
to the debtor in order to buy merchandise and sell it in
Venice. Out of the profit, the creditor was expected to
receive thirty ducats. The goods were sent to Venice but
the high expectations of the merchant did not materialise
and the merchant made no profit whatsoever out of this
transaction. Yet the creditor was not satisfied with
repayment of the original loan and insisted on his addi-
tional thirty ducats due to him for his share in the business
disguised as a real interest on the loan.²⁹

לד ראובן שהלוה לו שמעון מנה ושיגן לו בשטר מעותיו ושכשם
זהבים וטען שמעון לראובן סתירה שישלמה בוונציה על אחריות
ראובן ומארגו הסתירה יקח תקרן והיוות דמיטא במקום מנה
מנה ושכשם וכשהולכין הסתירה לא נחט שם כי אם במקום
ועתה מבקש חסנו ג' השכשמים

Interesting light can be thrown on the Economic Life of
the Jews in this period on the one hand and the trust put

²⁸ 272.385b.

²⁹ 372.494a.

by one Jew in the honesty of another, from the fact that the old Talmudic institution of **שטר אמתה** was still in vogue after so many centuries. The nature of this document will become clear from the description of the case as formulated by our author. He writes: ³⁰

לד שטר שיוצא מתת ידי ר' אשר שחייב לו ר' נפסטי חמה זל
כניאה משטר חתום שבנדו (ר' נפסטי מען שאת שצווי ל
זכרדים להתום בו אבל שטר אמתה הוא בידו שעדן לא
חטו חמה זהובים אלא כשאצטרך אקבלם ור' אשר חכמישו
אכה אלא שנתנם לו בינו לבין עימנו בבנו

A produces a document which was signed by witnesses that N owes him one hundred ducats and acknowledges the validity of the document, yet he argues that he never received the money and that the document was formulated for some future occasion when such a loan might be contracted. It is evident that such a document of Trust could not have been unusual in those days.

Another dispute of a similar nature arose in the case of a loan of a thousand **כבנים** where the debtor acknowledges his obligation but argues that he repaid the money in the presence of witnesses, who however do not remember this fact. ³¹

ראובן תובע שמעון אלה כבנים חשבג
הנהו בינינו שהלונו בלא עדים ושמעון חשב לא אתה שהלונו
אבל אני פרעתיך בפני יוסף ונחמין ויוסף ונחמין אתם זוכרים
דפיעון ונסתפק

Besides the cases which led to differences between creditors and debtors described above which convey a fair idea of this branch of economic life, there are other points worth while. observing for many aspects of economic life. Thus we are told of a creditor and debtor. The credit was given without documentary evidence or in the presence of witnesses. When the loan was claimed in the presence of disinterested parties, it was denied by the debtor, yet acknowledged in private between them. The debtor was ready to satisfy the creditor in repaying him in kind, viz. in giving him garments. The value of the latter, however, would by no means cover the exact amount of the loan and the creditor would thus incur some financial loss. In order to safeguard himself against such an eventuality, he reserved his rights of further claims for the rest of his money by the declaration of such a nature made before witnesses before receiving the garments in payment for his debt.³²

ע"ד ראובן שהיה טוען חששעון חוב ידוע בניהם בלא שטר ובל
 עדים וכשהיה טובעו אצל אנשים היה סבחישו וסבחיטו ביט ל
 היה אומר לו שיקח כל בגדים ובאותם הבגדים יש בהם אומא
 וראובן כדי שלא יפסיד אג שאלו גרישו ליקח כל בגדים אס
 שיש בהם הפסד גדול וקודם זה הכך אמרן וחסר חודעה
 שני אנשים שהכירו אג אומא וכתבו ואמרו לו שטר חודעה
 כך הכך ראובן וקבל הבגדים חששעון והכריחו ליטבע לו
 שלא יבקש לו עוד .

The witnesses before whom the declaration was made knew that

the creditor acted under duress. Yet the debtor safeguarded himself against such a possibility by imposing an oath on the creditor that he would abstain from further claims on this loan.

In another instance³³ the messenger or agent of the creditor cashed fifty ducats out of a loan of a hundred from the debtor. Here the creditor put forward the claim that his messenger was sent to cash twenty ducats and no more and he actually brought no more than that sum.³⁴

שמעון היה חייב לראובן סנה ובר לו בשכונת ראובן וברק
חשמלון חששים וזו בלא עדים וראובן אומר לא שלחתי לך
מסך אלא ליקח עשרים וזו דעשרים הביא לו וברק וזו

In all these cases hitherto enumerated, individual moneylenders who lent their money in some form or other have been described. There is, however, one case reported in which the Communal authorities lent money left to them as a legacy to merchants and the interest accumulated out of the loan, was spent for the salary of a teacher. Here again trade and moneylending were combined.³⁵

אלד ראובן שצוה לפי חומה לבנו שיהיה לפרנס הקהל סנה
זהנים שיהיה לסותח העיר להסתח בקן ומאמר הנוח שבו
מלמד היונקות וכן עשו בניו ונהגו לנדפוסו הקהל כפי
צוה אבותם

These instances of moneylending were on the whole of such a nature that the Law of taking interest was not transgressed either by the fact that the lender became a partner

in the use of the money lent or by lending without direct interest. Yet as we see from other cases described in the chapter dealing with the religious life of the community, there was a clear tendency to circumvent in a higher or lesser degree the Biblical prohibition of taking and giving interest. We saw that money fictions were applied to in order to satisfy the religious conscience and at the same time to derive some profit from moneylending. No such scruples, however existed in lending to or borrowing from Gentiles. Our Responsa contain numerous cases in which Jews lent money to Gentiles as well as borrowed money from them. A few instances will illustrate this case.³⁶ In one case a Jew borrowed money on interest from a Gentile. At the time of repayment he was met by another Jew, who took the money from him and wanted to transfer the loan to himself,³⁷

דאנען לוי מנה סהאוי ברית וברא להם וסצאו
 שראנען לוי מנה סהאוי ברית וברא להם וסצאו
 לשמעון נאמר לו הנה לו ואני אעלה לך הריבית שאתה נא

In a second instance which is probably a theoretical one, a Jew is supposed to have lent money to a Gentile or to a fellow-Jew. The debtor escapes to another place. The Gentile or the Jew meets a fellow-townsman of the debtor and force him to pay the debt. The question arises whether the

³⁶ 357.481b.

³⁷ 309.506a.

debtor is obliged to satisfy his fellow-townsmen's claim or not. The case is not quite clear from the text of the question, but from the answer, where the custom prevailing among the Jews of the Turkish Empire is quoted, and which

reads: *ומעשים בכל עם חכמים ודמיון המלך הישחמך אל נהיה שיוצאים מקוים לשגה בעיר אחת ובשכונות שהם בתוכם כולם בפנקס המלך בעיני המלך ואיזה הכל מהם ואחר כך איגים סמנו בכל מקום שהיה*

It seems that the debt was not contracted as a loan but was due as a payment of taxes of which the Gentile or the Jew acted as collectors.³⁸

ראובן היה חייב לאוי חנה או לשמעון וברית ראובן מקומו והלך לעיר אחת והלך תמוה לוי או תמוה שמעון לבקשו בשביל תמוה ולא מצאו ומצא לוי בן עיי ראובן ותפס אותו בעד תמוה ראובן והוצרך תמוה לוי להגשיר עם תמוה לוי או אם תמוה שמעון חת דומה .

More frequent however may have been the cases in which Gentiles borrowed money from Jews. In one typical instance the loan was carried on for such a long period that the accumulated interest became so great that the Gentile refused to continue his payments. The case was aggravated from a religious point of view by the fact that a Jew acted as

guarantor or surety.³⁹ על ראשן שגערעב לחבירו לשמעון

לאוי אחד חנה והיבנה ולזמן שעבר שגן האוי היבנה לשמעון וי
כי ארכו הימים עלה היבנה סך חובה עד שבאוי מסאן לגת
רביה ושמעון מבקש חובו הקרן והיבנה

In many cases loans by Gentiles from Jews were contracted
on pledges. Thus in Responsum No. 355, such a transaction

led to difficult complications⁴⁰

ראובן ילד לשמעון מאה פרחים שחייב לו בעדים ועל משכונת
אחנה אוגה המשכונת הם שכל האוי שאתם שמעון מאהו ללוג על
שמעון חשב לו שאפילו שהודיעו בפני עדים שקבלת יחסך
פרחם אינו חייב כך אלא שחנים כי שחנים קבלת בעד

We see from here that the Jewish creditor handed over the
pledge of his Gentile debtor to his own creditor.

In a second case, a Gentile acts as a deputy of a Jew
and borrows money on interest on behalf of the Jew who handed
him over his pledge.⁴¹ על ראובן שאמר לאוי אחד כך וכה לי חקת משרא

לשמך ומה שגת קרן ויבנה עלי יהיה וכל האוי ומשכן היחס
אצל החנה ושכאך ולא האיד לו שבעבר ראובן לקחתם ולבסוף גודע
הדבר שגשבו ראובן לקחתם אי דינא הוא לקבל

It is clear that the purpose of this transaction was to
circumvent the Law of Interest.

In a third case, we learn of a Jew lending money (a
hundred ducats) to a Gentile on a pledge which was worth
double the amount. The Gentile entrusted the pledge to
another Jew, who defrayed the creditor's claim. Mean-
while the Gentile debtor died and his children or heirs

³⁹ 374.486b.

⁴⁰ 355.478a.

⁴⁰ Zunz: Zur Geschichte und Literatur, Berlin, 1845, p. 563.

⁴¹ 362.487a.

had no knowledge of the transaction. The first Jewish was now willing to redeem the pledge but the second creditor argued that since his original claim was already satisfied, he had no share in the business.⁴²

על ד ראובן שהיה בידו משכון מאוי אחד במנה ואותו חסד
 שנה כפלים מתחב והאוי אחר לראובן לך אצל מי שילוח לך
 חובך והלך ראובן אצל שמעון עמך לו המשכון אשר האוי וקבל
 חסדו חובו ובין זה מה האוי והיו חסדים שאלו לא ידעו מהמשכון
 ובין שראובן ראובן שחט האוי הלך אצל שמעון לפדות המשכון וש
 בידו המשכון ושמעון טוען כנאדיו דבר אמת מלך עומד
 המשכון וקבלת חובך והמשכון נאמ לו אשר האוי הדין עם

The lending of money on pledges was not limited to loans contracted by Gentiles but was usual among Jewish creditors and borrowers as well. In one case referred to previously the pledge was stolen by robbers from the house of the creditor and the owner, that is the borrower claimed his article.⁴³

Further we see that a non-Jew pledged a silver cup inlaid with gold weighing seven ounces, on a loan with a Jew who lent it for use to another Jew from whom it was stolen.⁴⁴

על הריב שנפל בין ראובן ושמעון ששאל ראובן שמעון גביע
 מכסף שהיה מצופה בזה כדך שעושים הצרפים כיפוי וה
 מחושבנה אותה גביע מאוי אחד ליד שמעון ושמעון הוציא
 שהיא מצופה בזה אבל היא מכסף ומשקלה זו אונקיות
 וקרה מקרה ומאבדה ושמעון שאל חראובן סך גדול כאשר
 שאלו חסדו האוי דטוען האוי דשזהב היתה

The Gentile argues that the cup was not of silver but of gold and therefore claims a higher sum of money than the Jewish borrower is willing to pay.

Our material allows the conclusion that moneylending was one of the sources of income in this time. It was permitted to lend money on interest to Gentiles,⁴⁵

דשיר תמידת רבית דתני ואפילו יתיר חכדי פירמא
and even to a Jew money was advanced for profit if the appearance of taking interest could be avoided in one way or another, as for instance, by entering into partnership with the debtor or by the tacit understanding that the creditor shares the risks and benefits of the transaction with the debtor.

There were other sources of income by which the Jews earned their livelihood. Thus we find a shipowner named Joseph Nahum in Corfu who employed a Jewish bursar, David b. Samuel. This business was a hazardous one for according to a document dated 27th Tebeth 1530, pirates from the Island of Rhodes captured the Secretary and probably damaged the property of the shipowner.⁴⁶

בעלי ה' דניאל בן ה' שמואל
היה באגה אתה של ה' יוסף נחום מאשר ודוע לכל
קתלנו שסמנו אגה סופר באגה היה לכתוב מה
שחכמים במדך חתמה חתום והשם שחכמים הנכונים
והנמצאים בסתורג שחכמים באגה חתום חתום
חקרה שהיו שני דואיגת מאשי חתום שהיו חתום
לשלוש ופאעו באגה חתום ולקחו ל' דניאל בעלי
לעבד בדואגית

From his description, we see that Joseph Nahum owned a cargo-

boatand derived his fortune fromthe freight paid for the transport of merchandise.

Further we find a Jew called R. Hanamel as a mill-owner. In an evidence given by his widow, הַיְדוּת וְהַיְדוּת the occupation of her late husband is recorded thus:

שֶׁמֶן שֶׁעָבַר נִדְסָה בְּנֵי הַחֲמִים וְאֵל שֶׁם בְּעָלָה
בְּהִיוּתוֹ בְּחֵים וְאֵל שֶׁם

The text seems to presuppose that either the mill was owned by the husband of the witness or at least he used it for his own purposes. Another branch of industry of which we find mention in our Responsa is that of weaving.

A certain R. Samuel b. Solomon was engaged in this work. From the record preserved, we learn that he pursued his work in his home. Further we gather that he was fully employed in his occupation and thirdly that he was given work by Turkish fellow-citizens.

אֵיךְ יוֹם אֶחָד הָיָה יוֹשֵׁב בְּפֶתַח בֵּיתוֹ וְאֵל שֶׁם אֶחָד
וְאֵל שֶׁם אֶחָד הָיָה רֹעֶה לְאִיּוֹת לֵי כֵךְ וְכֵךְ מִבְּגַד
פֶּשֶׁתָן שֶׁהָיָה נִמְוָה לְאִיּוֹת לֵי אֶחָד שֶׁם אֶחָד כְּעַתָּה אֵין
פֶּנְאוֹ כִּי יוֹשֵׁב בְּיָדוֹ עֲבֹדָה רַבָּה וְאֵל שֶׁם כֵךְ אִיּוֹת לֵי
לֵי כֵן . . .

Further we find a Jew as a cattle-owner and a fellow-Jew employed by him as a shepherd.⁴⁷

עַל רֹעֵה צֹאן שֶׁהָיָה לְשִׁמְעוֹן שֶׁכֵּן לְשִׁמְעוֹן צֹאן

In order to earn a living Jews were forced to seek their livelihood far from their domicile. R. Benjamin says in one

of his characteristic utterances,⁴⁸

כמו שאנו מוצאים בעולמנו הרבים בעד מחנה

This means to convey the idea that Jews had to live scattered all over the country in order to earn their living. Thus

we find pedlars going around villages or towns selling spices

49
הנכסין מחנונין בעירונת שהיו קופני בשמים

Further we come across a bookseller by the name of Jacob

50
אמר לו שאנו יעקב איראן, who was accustomed to travel in Italy and earned his

living by selling books

אשר היה דוכן לעשות סחורה בספרים והיה גם שם אי

אשר היה דוכן בגליל חנה לעסוק בסחורה הספרים.

We find Jews travelling from place to place, either in order to sell their goods or to find a more suitable place

to earn their livelihood. Thus we hear of a husband, leaving

his wife behind to go abroad.⁵² ושמעון זה הלך לחם

לסחורה and of a Jew travelling with his

wife in order to find a new domicile.⁵³ כוונתו נסע מחנוני

עם אשתו ללכת במקום אחר ובדיד קמו לסטים עכאם
והיה לו בעל ולקחו כל אשר להם ולאשתו לא היה לה

We also hear of a husband and wife, travelling from one

district to another to earn their livelihood.⁵⁴ ואתה זה נסע

האיש החנוני חנון והלכו במחנה אתה בעד מחנה

Further we find a married woman travelling from place

to place in the company of strange men probably for business

purposes
עלד אשה ראוהו שהלכה מקוה לערע

בתורה שם והודדים

48 201. 296a.

52 444. 570b.

55 135. 223a.

49 393.

53 19. 57a.

50 22

58 63a.

54 138. 229a.

In spite of these constant dangers of various types Jews had to resort to earn their living by travelling from place to place which indeed can be regarded as an important source of their income and living. Furthermore they frequented markets which gave them a chance to buy and sell their goods. Thus Jews were busy by land and sea to export and import goods on which they could make some profit as we saw already in previous cases. Here we mention the following cases to be found in our sources and the names of the markets visited by Jews.

A typical and interesting case is described in No. 441,

which reads:

56
 ראובן נמן לשמעון הסוחר חפץ לחסרה
 שיביא לו פריטים מאה ומה שיחבר וזה חיוולו לשמעון
 הסוחר ואם לא ימכרה שחזרה לו אורח חפץ לבער
 ראובן ולא ירבע מסו הוציאה חסבה והחזרה והלך
 שמעון בריד אחד ולא מצא לחסרה ובחזרה אצלו
 ולקחו לו מה שהיה מביא עמו אורח חפץ . . .

Accordingly a wholesaler entrusted a certain article or goods worth a hundred ducats for sale on the condition that he should pay him that sum after he sold that article and the profit should belong to the agent. Now the agent went to a certain market or fair but could not sell the article, which was stolen from him on the return journey with the other goods that he brought from the market. We see the dangers of the journey and the means of livelihood open to both the merchant and the agent.

From another Responsum, we learn that the merchants of
 Arta went to the market of ⁵⁷ מושקווארי.
 שירת חקת' ארטא היו הולכים ביד מושקווארי
 R. Samuel Kalai visited markets and in one of these visits
 a scholarly letter of a certain R. Shentov was handed over
 to him which contained a question about a passage in Laimonides

work ⁵⁸ תנה במימי חמאס ביד חובתה מלי אחרת

In order to protect themselves from the danger of the
 highway, they journeyed in caravans, probably under the
 protection of Gentiles. ⁵⁹ This is clear from the case reported
 in Responsum No. 403, where the majority of the caravan

consisted of Jews who travelled in the company of Gentiles. ⁶⁰

שירת היתה הולכת בדרך רובם ישראלים וביניהם נשים
 חבני עסנו ובאו אליהם לסיים חוים נאמרו.

In another case a Jewish merchant travelled in the pro-
 vince of Venice in the company of Gentiles and was captured
 by robbers. The Gentile fellow-travellers advanced the
 money for his redemption from captivity which throws light
 on the good relationship which existed between these travellers. ⁶¹

The wide travels undertaken by the Jews in this period
 can be guessed from the case of Moses ⁶² whom we find
 in such distant places as Salonica, Egypt and Tricola.

בשירתא ראוינו בשכונתו ובמצרים

⁵⁷ 353.474b.

⁵⁹ 353.

⁶¹ 384.503a.

⁵⁸ MUMETA I MEMUEL N. 42.

⁶⁰ 518b.

⁶² 2.26a.

Frequent travels between the Greek Island and Egypt are borne out by the choice of R. David Messer Leon, who had the option of a Rabbinic office either in Egypt or in Avlona. In both places, he was elected to fill the vacant seat of a Spiritual Leader. The opening words of his work read ⁶³

הנה נשאל נשאל דוד מעיר היוג' שלושקו חיבוק מורה
לבוא עד יאטלונא בתנאי שבנין פריהם בשנה יצא
הקדמות אשרם ולהטות את נדפן בחיים דוד קאריס
בדואמיות

The extend of journeys for earning a profit in this time may be guaged from No. 364⁶⁴ of our Responsa where we see that Jews from Venice and Rekanati journeyed to Avlona, Arta and Salonica. In this case a certain Jew borrowed a sum of money (100 פרחים) and was able to make a profit of twenty per. cent. in other places. Here again the economic connection between Venice and the Greek islands through Jews, becomes apparent. On the other hand we noticed earlier in our Chapter that produce brought from Arta to Venice brought higher prices in Italy which fact finds its explanation in the financial position of the two countries. It may be that money could be more easily procured in Venice and certain products were cheaper in the Greek islands or on the Greek mainland. Further we see them travelling from Pesara to Apulia in order to sell goods in that district.⁶⁵

יצא האויס
ראגן שנסע חקומו ברח' חמוז לשנה פלה לפין והד' לסחורה
בס פולין

Finally we record Jews having lost their merchandise on sea routes which pre-supposes that they exported or imported

על מידת ראובן
שחייב מיצחא לשמעון וקריה מקרה והפסידותאן ביום כל מה שחייב

goods from or to oversea countries⁶⁶
Since we noticed previously that Jews were engaged in shipping
we may take for granted that some of them combined shipping
with trade and commerce.

This export and import trade was partly hampered by the
different values of the coinage used in various places. Thus
we get a clear insight in the difference of money values
existing between Corfu and Arta from No. 370 of our Responsa.

על ראובן שחייב משמעון בקורפו פרחים
זהב עשרה והוציא אותם לסחורה בלבנים ס'ב שם והוא עמו
בכל יפוי כח שיתנם לו בכל מקום שימצאו ופלו ושנה לו זה
בכתב וכשבא לפורעם לו בארשא סען שיתן לו כל זהובים
ולא כל מטבע כי בארשא אטם נוצאים כי אם בלבנים
כל ושמעון סען שארה הוציא אותם שם לסחורה
בלבנים ס'ב והוא עמד שיתן לו כל לבנים
בארשא כאשר הוציא אותם בקורפו . . .

לבנים
According to this case there was a difference of six
in ten golden פרחים between Corfu and Arta. In Corfu
ten golden פרחים realised sixty-two לבנים whilst in
Arta only fifty-six could be obtained. By the way we learn
that the borrower changed the ten golden פרחים in Corfu
for sixty-two לבנים and bought goods for them which he
carried to Arta. This records another instance of the
import of goods from one place to another.

Apart from trade and commerce, banking and financial transactions, industry and travel, Jews derived some income from property. Jews were owners of houses as can be seen from the following case.⁶⁸ A husband mortgaged a house owned by him for the marriage contract of his wife. After a time he needed money and he sold the house which raised the question whether his wife could invalidate such a sale.

ע' דראובן שנשא אשה ונתן לה בית אחד ש' יהיה משוחרר
 כל כמותה והיה ראובן נפרד למען וסגר ההוא בית
 לשמעון ושאלה אם יכולה האשה לחזור באותו סגר

For our purposes we derive the information that Jews owned property and that the husband was the owner of many houses, since the text speaks of ונתן לה בית אחד which implied that he set aside one of many houses belonging to him.

This is evidenced also from another case in which one Jew was about to buy a house from a fellow-Jew who before buying the house stipulated that his wife had to give her consent to the purchase, that is, that in case he were in need of money and forced to sell the house, she would raise

no objections: ר' אבן רצ'ה לקנות בית שמעון וקודם
 הקנייה שאל תאמרו לה' עמו שאם באו לי ורצ'ה חסדו
 ובזמן שיצטרך שאל תאכלי תאשה לעכבו בשביל שכל
 הית' קעות דבעי הם חש וצבדים לאשה...

A third case showing that Jews owned houses or property can be derived from the description of a dispute between a Jew who was in actual possession of a house for a certain number of years, when the right of possession was queried

by the children of a fellow-Jew who died some time before

the lawsuit was put before the Court.⁷⁰

על ראובן שיש לו בית מחזור בידו כל שנים ובניו של יהוד
מענים כנגדו איך הוא של אבותם וטענו טענותיהם ואצל
הם העיר והבואו עדים היאך הוא של אבותם עדיו
חורם ומעולם לא חסר בית זה לאבנאיו [כל חמאן] של זה
ראובן המחזיק הבית וראובן שיען של אבאד הוא - והוא
מחזיק אצלו כל שנים.

This case gives a clear insight into the fact that Jews were in possession of houses for many generations. This is important as evidence for the stability of the Jewish population in some of the districts of which our sources speak.

A similar dispute about the right of possession between a certain R. Jehuda חנוני.⁷¹ Since the details of the case are not given in the Responsum, it is impossible to state the exact nature of the claim and counterclaim of the parties mentioned in the case. It is, however, sure that either of the parties claimed the possession of the house in dispute.

Some Jews derived income out of their property by hiring

them to others⁷² ראובן יש לו בית סמוך לבנו שמעון
ורוצה ראובן להשכיר אותו לבנו שמעון באונה
שכונה ושמעון בעל הספר שואל מראובן שלא ישכיר
אותו לבנו כי אם לו יתא קודם בשכירתו משום דינא
דבר סברה.

Another instance of a Jew hiring out his property to others

⁷⁰ 411.533a.

⁷¹ 301.425b.

⁷² 292.414a.

can be derived from No. 388 of our Responsa, where we

read: על ראובן שהשכיר בית למאמץ בשנה אחת ובתוך
תשנה וצא חתונה ורצה להחזיר ראובן להשכירו לבנימין
תשכור השנה

One other method of trading was that of selling goods

by the help of an agent. In one case the trader did not stipulate with the agent about the profit which may be derived from the sale of merchandise. The agent made some profit above the actual value of the goods and the owner claimed the whole profit (that is one hundred and fifty ducats).

ראובן נתן חפץ למאמץ לחתונה ואחר כן מסור חפץ זה במאמץ
מכר ולא אחר לו חתונה והיה שאל ראובן למאמץ ומכר אותו
במאה וחמשים (ראובן חפץ למאמץ כל מה שביקש חתונה
שלו ושמעון שוה...)

In another case an agent was appointed to buy certain goods for a fellow-Jew. The agent delayed the transaction for such a time that another intermediary was commissioned for the same transaction. Meanwhile the first agent bought and brought the goods, yet the commission was cancelled on account of the delay and owing to the activity of the second agent.

ראובן אחר לשכור צא וקנה לו חפץ פלומינץ
כך נכד ושלחו למעצב בער ולא הלך ביניהם וכשראה
ראובן בן חנה שאל אחר לעצמה שלחמה וכשרשמע השכיר
הראשון בן נחמד ונתחזק והלך וקנה אותו החפץ באותו
שעה לו ראובן והביאו וצוה ראובן המסלח סעון שפסח
חגיו שאל אחר בשביל שגועצלת בשלחמוך ופוק
שלחמוך חמץ

In both cases the intervention of the agents was

necessary owing to the fact that the articles or goods in question had to be brought or acquired in distant places, which fact throws clear light on another aspect of the economic conditions of the time, viz. the import trade.

This material makes it quite clear that the Jews in these provinces lived under favourable economic conditions and enjoyed a high standard of living. They earned their income in various ways. Trade and commerce flourished. Jews must have played a prominent part in the economic life of the period and in the provinces under review. They possessed wealth which was used for industry and labour. They increased their money by lending it for interest, by acquiring property and hiring it to others. Professional men were paid for their services and labour was duly compensated. How far their accumulated wealth reached can be estimated from the various sums of money mentioned on the previous pages. Whether the sums of a hundred ducats, מאה דוכאט and מאה פאדלער given in individual disputes and records can be taken at their face value or not, may be questioned. Yet in the majority of cases they most probably represent the actual figures of the money possessed or disputed by the parties concerned. As an indication of wealth can be cited the inventory left by R. Abraham Obadiah אברהם עובדיה , who on his retirement handed over sixty florins, the equivalent of three thousand מאה דוכאט besides other property, bequeathing it all to Manaah the Tanner. Apart from that he owned gold and silver and money

in Venetian coinage which he handed over to a certain Jacob Mordecai⁷⁴ as a bequest for his Synagogue, for the benefit of the poor, to be distributed after his death.

In another last will,⁷⁵ we hear of a widow who bequeathed twenty golden ducats to her nephew before her death. Further we hear of a father who promised fifty **סרתיים** to a doctor for the healing of his son. This sum appears to have been an unusually high fee in such circumstances.⁷⁶

R. Elijah the Doctor after he was robbed of all his money was still in possession of a considerable number of I.O.U s . from Gentiles who gave him such obligations for his fees.

A prominent authority in this period gave six hundred **סרתיים** to his son-in-law at the marriage of his daughter.⁷⁷

That there were rich Jews is evident from the case of a certain Sha'ul b. Shealtiel who was killed by robbers. Before his death he pleaded that his rich father might pay a larger sum of money if they spared his life.

על אשר הבחור ה' שאול בן שאלתאל שהיה על יד גוים
כססים והפשוט למכנות והוציאום להחיות ובשראה אחד
חילאים דגם הכססים היהודים אשר חן שם סביבולם השני
ל'ת אגבי הראוי בחור אחד שמו שאול בן שאלתאל
שהיה מתחנך מצבי שכל להוראו והוא יושב מצד אביו
שיבוא לו מחון **רב**

A sum of twenty **סרתיים** is mentioned as a claim of a brother-

in-law for the release of his deceased brother's wife who is supposed to have inherited considerable wealth from her husband.

למה לבגס היב מר, אשרים פריחים שהינם
לחצוק לה

R. Benjamin, our author, himself had a loss of one hundred and forty ducats and we find him complaining of this financial loss.

Jews possessed gold and silver and jewels or pearls.

In Responsum No. 439, we read

ראובן החסר ליד שמעון
אריג קטן ובמנוסף וזהב וסרמלית

Further girdles of silver were also clear indications of wealth owned by Jews in our period.

In contrast to these relatively moderate sums we come across a very wealthy widow who spent huge sums of money for the marriage of her daughter. The case is as follows: A widow was left with two children, one a boy who was one year old and a girl of eight years of age. After the lapse of two years, she found a fiance for her daughter giving him one hundred thousand as a dowry, which amount he lost in a very short time. To put him in a good position again, she advanced him another four thousand in addition to valuables, gold and silver, to be used as a pledge for a loan of another four thousand. The latter sums were likewise lost and the unfortunate man died soon afterwards. His wife returned to her mother with her child and stayed

with her for ten years. After that time the widow spent five thousand *מ'נכ* for the dowry of her grand-daughter and sixty thousand *מ'נכ* on the second marriage of her daughter. In addition to this she transferred a house which she owned to her son-in-law. ⁸¹

Altogether the widow spent over ^{*seventy*} ~~seventeen~~ hundred thousand *מ'נכ* besides the valuables which she pledged, a clear indication of the great wealth that was left in her hands.

In another case that was submitted before R. Samuel Kalai,⁸² we hear of a widow claiming one hundred and one thousand *מ'נכ* for her marriage contract. The property available for the payment of this sum was estimated or valued for seventy five thousand *מ'נכ*.

The contrast between the comparatively modest sums given in our collection and the exorbitant higher sums quoted from the Responsa of R. Samuel Kalai can be explained in two different ways. Either that the economic status of the Jews improved considerably after 1550 or some inflation may be responsible for the huge figures given in these cases.

However that may be, all these instances can be brought forward to illustrate the state of economic welfare reached by the Jews in these provinces in the last decade of the fifteenth century, with the background of the ways and means by which they gained it. On the whole they convey the information

of the flourishing economic state of the Community. On this depended in the main the social life of the Jews to which we turn now in our final chapter.

SOCIAL CONDITIONS.

It is of course not clear from the short description given In this chapter we propose to depict the various aspects of social conditions as offered by the Responsa of R. Benjamin. Our material is of a kaleidoscopic nature and therefore often shows more than one aspect of the same subject. This is certainly due to the mixture of elements of which the communities were composed. The main subjects to be considered here are: (a) the conduct of the rich and poor in their social relationships, (b) the occupation of the Jews (c) the position of women in society, (d) family life (e) marriage and divorce and (f) finally, social activities generally.

The old distinction in social life between the rich and poor, the wealthy and the needy was very marked in our period just as it was in the ages preceding and following it.

Although Jewish Law made provision to remove the barrier between these sections of the Community by manifold institutions like charity organizations, yet the equalisation could not be carried to its last consequences. Hence arose such cases as wealthy persons refusing to contribute to charity for the provision of the poor. Thus we read:

על דין ראען עשיר שמסר לבסוף צדקה בב'ה
כאשר נהגין פוסקין בני שאר העיר בעד הענים
בב'ה בעצור . . .

Yet not only for economic advantages were social prerogatives claimed but also in religious performances the rich or given by R. Benjamin whether the refusal of the rich person influential members of the Community exerted their influence was absolute or whether he was reluctant to announce his contribution in public. Probably he reserved his right independently of the Community and discharged his duty individually.

Yet the quarrel which arose in Lepanto between the rich members and the less wealthy section of the Community, represented by R. Yedidiah the Doctor, shows clearly that the twelve wealthy members of the Community of Lepanto wanted to force their own will, dictated by their self-interest, to the detriment of their less fortunate fellow-citizens, on the Community.

It may be interesting to record here the words of R. Moses Almosnino אלמושנין on this subject. He says:²

העשו עיניכם בכל הקבלות הקדושות כי בלי הערכה נודק
על כל יחיד ויחיד לפי יכולתו והנסוגות ידעתי נאמנה
זולת זה איש מה העמו חיים בלעו ולא יוכלו עמוד בש
אבשינור והוא עון פלילי

R. Moses Almosnino³ appeals in his sermon to the Jews of Salonika to be just in their assessments of taxes, so that the burden should be equally borne by all members of the Community according to their financial ability and sources of income. These ordinances should prevent the rich from doing harm to the poorer classes.

² 298.424a.

³ Sinai: Vol. 4. 5701 p. 256.

Yet not only for economic advantages were social prerogatives claimed but also in religious performances the rich or influential members of the Community exerted their influence in their own favour. This was also categorically condemned by R. Benjamin as a wrong or ignoble attitude on the part of religious persons.

ואין להמתין וס' בעבור שום מצוה
כגון גלילת ס' וכו' א"כ . . . וכל המעצב שלא ברשות
החמ"מ אלמנה ואמות אין קונון אמן אחר ברכותיו

Such actions on the part of influential members who claimed priority rights in the Synagogues, that is acting as public readers or the much honoured custom of -- to roll up the Holy Scrolls and show them to the Community and many other functions led to internal strife and disunity.

In the previous chapter, we met Jews engaged in various branches of Trade and Commerce, banking and artisanship. Here only a few shall be pointed out, which together with the previous ones, will convey some idea of the social structure of the Community as far as their occupation is concerned.

Next to Rabbis and Hahamim the most influential members of the Community were those who acted as medical advisers. Our sources record the name of several of them : There is (1)

R. Yedidiah, in Lepanto who is styled by R. Benjamin:

יפה פרי מואר קרא ה' שמו דויד צל רום המעצב לה' עם
יעמוד בחוסר בצדקו ובתומו דאז חגיגה במעשרהו ובנאום
יושב על כסא עם זקני עם חמה נדיבי עם משבו
ועמו עיניו יתנו חכמה ודעת אש משכיל ונפש ודעת
כל קבץ די רוח ומירא השגחת ביה עשה שפיר וס'

אליהו, קצור כשנוי תאריך מעלה לך דומיה מהנה ככל
שוב ידו נשואה וחסיד ושכח אחוזי קרובי ידיד ה' ה' ה'
ידידיה גל' . . .

There is further a R. Elijah the Doctor, whose whole
fortune was robbed: yet some letters of credit due to him
from Christian patients remained untouched.

Further there is R. Moses פולשטין who is styled
אביר הרופאים who inquired about the father of a sick
child promising a certain sum for medical treatment which
was ultimately refused after the child got well: 7

על אשר שאל ידידו הר' משה פולשטין אביר הרופאים
זין יאמין שהיה לו בן יחיד ונפל למשכב וקרא לרופא אחד
כרפאו ונדדו לו תשעים פרחים עם נרפא ונרפא הנער
מחולין והרופא הנזכר מבקש מראובן התשעים פרחים וראובן
למנו ואומר שיגן לו שבר הראובן לו וצא מה שגדל לו

It may be assumed that the כת פא חובתק in this case
who was promised fifty ducats for medical treatment was no-
body else but the addressee R. Moses. We have also a refer-
ence in our collection to R. Menahem the Doctor in Tricola.

R. David Cohen mentions incidentally a R. Isaac ביטון
the Doctor and finally, R. David Messer Leon mentions a doctor
Don Solomon כריסיונטי of Lisbon in Avlona, who endeavoured
to restore peace between the Portuguese and the Sicilian
section of the Community in that place. R. David Messer
Leon describes this Doctor as follows: 8

איש אשר רח אלקים בו אביר הרופאים חקת קדוש
פזרטיגיש אשר בלישבוט דון שחיה כריסיונטי השר
המפורסר נדיב גדיבות יעץ כולל בספ החכמה

והנלה מיוחס גדול ובעל מעלה אותם המורה
 ולמדה חוקר הקיותיה עץ נחיים מחמיקים בה

These eulogies bestowed on the Doctors show clearly that they were distinguished men in their profession and highly esteemed for their piety, learning and charity in the Community. From a document dated in Venice 29th Adar II, 1531, we learn of a Jewish bookseller named Jacob Girgu גירגו who travelled from place to place providing individual and communities with Hebrew books.⁹

From another document dated in Corfu, 27th Tebeth, 1530, we learn of the existence of a certain Danielb. Samuel who acted as a secretary and bursar on a boat belonging to a certain Joseph Nahum.¹⁰

שםנה אומר סופר באניה התיא
לכתוב מה שמכנסים במוך האניה והשכר שנותנים הנכנס
היוצאים בסחירות שמביאים באניה התיא

Further we hear of pedlars travelling from place to place selling spices and perfume. It seems that some of these pedlars belonged to the class of learned people and were entitled according to Talmudic rule to sell their wares irrespective of their right of domicile.¹¹

רוכבין המחזרין בעיירות שהם מוכרי בשמים אין בני
העירות יוכלין לעכבן שהיה תיקנה עורא הוא שיהיו מחזרין
בעיירות ואם תיגד רוכב ת"ח קובע מקום בכך מקום

Among other occupations there are recorded Jews engaged in tannery: we have a reference for example to a certain Manaah the tanner. From the following reference, recorded in our collection, we learn that some Jews earned their

livelihood as shepherds.¹²

ולא יאמרו כי יועה עיגן שהיה לשחוקן שכיר לשמור צאנא

If we combine these details about the occupation of the Jews with the information on the same subject analysed in the previous chapter on the economic life in this period we may assume that most branches of industry and commerce were cultivated by Jews. The social status of the individual was influenced by their work and trade.

The most marked criterion of society is the position of the women in family life as well as in the larger community.

There are instances of women being engaged in many walks of life. We find them in industry, for example dying silk,

ולא אודות הנשים שמלאכתן לעבוע חשי ויזהרן עבועות מאומא
Furthermore they took their part in trade and commerce. A

certain widow in Lepanto ousted the Jewish shopkeepers in that place by bidding higher rents for their localities.

Thus we read:¹³

ע' דאל חשי אחת שהיתה בקרק' לפנשו שהלכה אצל הבעל'

בתים שהיו להם חנוות מושכרות לבעלי בתים מאנשי אומה
ואותם הישראלים החזיקום שנים רבות בסך מאה לבנים בשנה
כאשר הוא נקדח בין הישראלים להיות להם חנוה חתנים אשר
דרים בתוכם ואומה אחת מרוב כעס וזדון שהיה לה עתה
העלתה שכירת החנוות במאה וחמשים לבנים בשנה ואותם
הישראלים שתנו דרים בהם הוצרכו לקבל חתנים
הגוים באותו הסך כדי שלא יפסידו חתונתם כי גם
תבין חנוה

There must have been trade rivalry between the widow and the Jewish shopkeepers. In addition the widow must have been a person of wealth to be able to raise the rent by fifty per cent. We have a reference in R. Moses Almosnino's works to the effect that similar conditions prevailed in Salonika till such rivalry was finally made illegal.¹⁴

בענין 'החנקות' של הגבאים שלא להעלות את שכר הדירה כמנהג הבעלים הנכרים
There is a case of another widow who was entrusted by her husband, R. Isaac to administer a legacy left by him for the benefit of the Synagogue or for the upkeep of the Rabbinic school in that place.¹⁵ In spite of the misgivings felt by the local Rabbi that a woman should administer such funds, R. Benjamin decides that the woman is capable of administration of the legacy. There is another instance¹⁶ of a widow who possessed wealth and who disposed of it according to her own will.

In a further ^{case} we find that women played a part--in this instance not a very glorious part-- by their imitation of the evil deeds of the stronger sex by acting as informers. Such an action was the more ignoble for they tried to cover themselves under the protection of their husbands and claimed immunity for their misdeeds. They shielded themselves further under the protection granted to women under the ban or excommunication.¹⁷

¹⁴ Sinia. Article by Isaac Malko, Vol. 4. 5701, p255 f.
¹⁵ 188.280a. ¹⁶ 421. ¹⁷ 386.504b.

FAMILY LIFE.

The social position of women and their character play a great part in the brighter or gloomier side of family life. Quarrels between husband and wife seemed to be frequent in this period.

A husband in Arta who lived in strife with his wife made up his mind to leave the country for a distant place and agreed to give her a conditional divorce.

מעשה אירע בק"ן ארשא על ראובן שרצה ללכת לב"ה
ואת היה שאלו ב"ש לבין אשה וקירובי האשה שאלו חסנו
כי גן גט אשה על גמא

In a second case the mischief was caused by the husband's mother who aggravated her daughter-in-law to such an extent that she appealed to the Court for divorce.²

על אשה שטוענת לפני ב"ד איך חמותה חתונה ר"ב
וקטטה בין בעלה ובונה וחסדגת להכונה וטוענת שאין לה
לדור עם חמותה

In this case apparently the husband at the instigation of his mother smote his wife. Such cases though not very frequent in Jewish life seemed to be not unusual in our period and in S. Europe.³ In another Responsum, R. Menahem Katz asked R. Benjamin what was to be done in the case of a husband who habitually inflicted physical punishment on his wife, whether he could be forced to divorce her in case he did not obey the admonitions given to him by the Rabbis.⁴

על האיש שגדל את אשתו ודמעה על לחיה
ועצתה מה גידל

¹105.173a.

²137.228b.

³Gudemann: Kultur und Erziehungswesen, Vienna, Part I, p.263.

⁴88.152b.

Under such conditions, it is not surprising that dis-unity and lack of harmony prevailed in Jewish families. Thus we hear of a case when a wife alleged in the presence of her husband with whom she lived in strife that he divorced her. This was denied by two witnesses and after a while she alleged that her husband died. The question arose as to whether she could be trusted and believed as it would be the case in the ordinary way or not.⁵

על החל שהיה שואה, ליעקב ופזל קטטה ביניהם עד אשר החזירה פניה לפני בעלה ואמרה לו שאשתו בפי האובדן ושחוקן ושאלו ה'ד' אומר העדים ואחריו שלא היו דברים מעולם ואחר זה נסע האיש עם אשתו מחוץ לחוץ והלכו בחוץ בעד מחיגם ובאה החיה החל לפניו לעינים הקדחון ואמר שחל בעלה

Apart from actual quarrels there is another case recorded in which the husband suspects his wife of immorality which throws sad light on the conditions of family life in this time.⁶

A similar dark picture of family life is offered by the case recorded in No. 101 of our Responsa in which a certain Jacob bribed a certain Joseph with money to divorce his wife whom he later on married.⁷

ל'ד יעקב שפיה ליוסף בחסון שיוגן אש באשתו כדי שישאנה הוא וגם קודם זה היה שאלה חוץ חסעמים שכבר גירשה בעלה והכל יודעים שגשביץ פיוגן חסון יעקב וי' די'גים שחמחין לו לושאנה לבתחילה החו' יעקב

Another family tragedy recorded in No. 139 of our Responsa, was caused by an evil deed of a Gentile who raped

a Jewish woman and thus might have endangered the family happiness of the married couple. But R. Benjamin, believing the truth of the woman's statement that she was violated under force did not insist on the dissolution of the marriage by divorce. Yet it may be taken for granted that such an event disturbed the happiness of the family &

על אשה איש שאמר לה בעצמה שבא עליה ה' אלהיך
ואנסה

At this stage of our investigation, it will be right to enquire after the reason for this decline of one of the greatest virtues of Jewish Life, the purity and harmony of the family. There can be no doubt that family life was the strongest fortress in all ages of distress and persecution and this was mainly responsible for the survival of Jewish Life. That those virtues had fallen so low and as a consequence degraded the sanctity of Family Life, is apparent from the incidents just mentioned illustrating the social position of women and the home life of the Jew. There may have been exceptions, but there were numerous other instances, which were not brought to the notice of R. Benjamin and his colleagues or remained without record. Our task will be to discuss the causes of this low standard of Life. To do so we have to turn first to our material which reveals the state of morality in our period. We notice to begin with that the responsible spiritual and lay leaders tried to improve the morals of their flock. The ordinances of several communities

bear testimony to such endeavour. Here, too, belongs the ordinance that the Fiance should not visit or associate with his bride during the time of betrothal. We find such rules laid down by the authorities in Candia, Corfu, and Arta at various synods and assemblies dating back to the thirteenth century and renewed from time to time, even beyond our period as has been shown in a previous chapter. These ordinances, were however not adhered to and their transgression led to grave consequences. R. Benjamin records regrettable events which happened in Arta -- where three unmarried women gave birth to children, without being married according to Religious or Civil Laws for which they were punished by the Civil Authorities.

וקרה חקרה בין תקנות הנ"ל שבאו ההגיוש

שנמצאו שלש נשים מעוברות מארנסותיון בעודן ארנסים בל תופה ובלא ו' ברכות ובלי טבילה ואודע הדבר אצל המד ש הערכאות והמליכו חזק חזק אצל שופט העיר ועש אור

There are other cases of Jews living with women without being married according to Jewish rites but who had entered into a marriage covenant by Civil Registrars (קפני) or by religious dignitaries of other denominations. Such cases are discussed by R. Benjamin.

In the first place there is the case of a Jew who married a Jewess, daughter of a priest, according to Turkish Law besides having married a Jewess according to Jewish rites from whom he had no children. The Leaders of the Community did not prevail

against the man and could not force him to release his second wife. R. Benjamin, with the assistance of the Elders of the Community, succeeded in achieving this.

This led to the question whether the released woman might remarry without divorce or not.¹⁰

ועונדה שחיה כן חיה איש אחד באובן שכן החזון
אשה אחת בת כהן שחיה שרה שכל בדה ועשה לה קפוני
דזין העיר כדון תושמעאליס אחי הארץ דהוא בחובה כפוי
להחזיקה אורה בביתו שנה בלא חופה וקדושין והיה לו ג
אשה ובנים כדה חשה וישואל ואין כשום אחד מהקהל יד
להובילו על זה בשביל אלתו עד שבאת אנה החדוש
הבית והוכתו בני לבו ולח הועיל לו עד שקבע
העיר ותכחיה להכרתו והוצאתה מתחת יד .

We learn incidentally two interesting facts from this record. The social position of the offender was such that a rebuke by influential individuals had no effect on him. R. Benjamin had to gather the elders and scholars of the city in order to force him to do the right thing. This teaches, in an unmistakable manner that the Rabbi felt it his duty to remove all the wrong-doing from the Community even in face of opposition.

Another case is that of a Jewish woman, who left her husband and became baptised and afterwards married a Gentile in the Church. After a time she changed her mind and returned to Judaism when her Jewish husband divorced her according to

על אשת איש שנשתיחדה ונשא את כלליו
Jewish Law.

אחד ככל משפטם על ידי התגשון ואחר זה חזרה על ענין
ואל אלהיה ואישה בעלה ושואל בגש כשר וחשוב חשקה
אם התואר איש נשא את בחינתו וחזר לדת האמת (המצה) לו
יגובה כדת חשה וישראל

The expression *אשר נשתיחדה* would suggest that the second husband was originally a baptised Jew.

A third instance of marriage before the Civil Authorities without Jewish rites, is reported in the following

words:¹²

באיש אחד שחתונה אשה בכא חופה וקדושין אלא בשר
שופט הארץ ומאחר ששכח חזרה בוראו בודאן שער ק"י
ותאן לנדון עם לא יוציאנה מתחת ידו או שישאנה
דיו פה וקדושין ועם עתידו

In such cases, two ways were open to the couple, either separation or proper religious marriage.

R. David Cohen preserves the record of a certain Marramo woman (חנה) from (perhaps Istrandja

in Macedonia) who was married by a priest to a Jew.¹³

ואם אומא האמא ליקחנה לו לאשה ולחום חומאן ק"י
והשבועות והקיומים צמאום על ידי הלכה הוא כומר נוס
כחכם וכחשפטם תלמי שום חן קידושין שהאשה נקנית ב

These extraordinary performances recorded in our sources must be considered the first cause of the many factors which contributed to the deterioration of the sanctity of home life. A second reason was the prevalence of bigamy and concubine marriages, frequently mentioned in our Responsa. Again the mixed composition of the Jews in

¹¹ 131.

¹² 112.187b.

¹³ 20.49b.

south eastern communities was responsible for dual marriages among them. On the one hand, we see that parents or relatives guarded their daughters or sisters against double marriages by stipulating in the marriage contract that the bridegroom bound himself not to marry a second wife in the lifetime of his bride. *חיי שמואלין לכתוב בכתובה ע"מ*

שלא ישא אשה אחרת ע"מ א"י הוי

and also *14*

על ראובן ששא אשה אלמנה עשויה והגדיל עליה שלא ישא אשה אחרת ושבע זה על זה ועשו בניהם שטר

On the other hand we find many cases of bigamy mentioned in our sources, which make it clear that the Ordinance of R. Gershom, the Light of the Exile, forbidding dual marriages, was not accepted as authoritative by the Jews in these provinces and times. Apart from the fact that the Jews in Spain, Sicily, and Lombardy saw no harm in keeping concubines as pointed out by R. Benjamin in the following words: *ושא ר' אורי ושמעון*

כאלה, there are many unmistakable instances of Bigamy recorded in our Responsa.

A certain case in Arta caused great trouble to R. Benjamin who was accused of having given a wrong decision in this instance. A man married a certain woman who is styled *נ2*

נ2' 10, that is a lady of good family, with the permission of the Civil Authorities, but not according to the *règle* of Moses and of Israel. The man had been previously married, had a

and children, and refused to marry a second wife according to the Jewish Rites. R. Benjamin summoned him to his Court and wanted to try to persuade him to marry her according to Jewish Rites, which this man refused on the ground that he had married with the permission of the Civil Authorities.

The Community of Arta sent circular letters to the neighbouring Communities denouncing this man, and thereupon the woman was released and she married another husband.¹⁵

לאת האשה היתה בה שני נשים ונתפחה עם איש אחד
בביתו ברשות אדני הארץ בלא חופה וקדושין וגשג' דאין
כן בגמ' ישמעל... קראנו עם שאר התורה והנהגות
הפחות שישאנה כדת א'ע'פ' שיש לו אשה אחת וזה היה
בשג' שהיה לו רשע אחד הארץ והסכמה והגבול אצל הקר
הקדושות שאין להם עמו שום אחד וכשראה כך הצד
אדני הארץ והפר אומ' הרשות שהיה לו והוציא מבי

Accordingly, R. Benjamin and his colleagues raised no objection to a dual marriage which in their opinion would have been in proper order. Yet they could not tolerate married life without religious rites. This is an additional proof that bigamy was considered legal in this part of Europe according to Jewish Law.

There are further instances of dual marriages being permitted, especially in the cases of Levirate marriages. There is evidence to show that the latter was still practised in

¹⁵ 356a. 249.

S. Europe in the early decades of the sixteenth century. Now, wherever this custom survived, it could ~~not~~ be upheld without clashing with the Ordinance of R. Gershom, the Light of the Exile. Two or three cases are preserved in our Responsa, which illustrate this point. A brother-in-law, who was already married, wanted to marry his deceased brother's wife and R. Benjamin was asked as to which was the more appropriate, marriage or release.

בם תמסרם להלוך היכחם
 וה'גמ' א'י' חפצה לו ולהינא בם יש לו אשה וג' ושאלה

The very fact that the brother-in-law was eager and willing to marry his deceased brother's wife is proof enough that such marriages under ordinary circumstances occurred. In this case the obstacle came from the widow, who refused to marry her brother-in-law. The decision against the Levirate marriage is not based on a prohibition but on the ground that in this time such marriages were not celebrated for the sake of the divine commandment but in order to satisfy some worldly or unworthy motive. Here again the dual marriage was not looked upon as an insurmountable hindrance.

This state of affairs is even clearer in the second case of the same type given in the Responsa of R. Benjamin. Here a prominent wealthy Apulian Jew died, leaving a widow without a child, whose brother-in-law was a married man and a father of children and this latter man refused to release her for he coveted her money and property belonging to his deceased brother. The woman knew this and was unwilling to agree to

marry him. The parties submitted the case to arbitration but the brother-in-law, unwilling to accept twenty ducats, escaped and the widow remained helpless. In this case as well, the married state of the brother-in-law would have been no obstacle in the way of performing the Levirate marriage.⁷

הנה ערה, זה ימים נפטר במחנה פוליצה נכבד אחד וגנה א
זיקתה ליבם והוא יבם שוי אשר ויש לו בנים ומיין לחזק
ענינו במסין במבנה וחמין אחין שין ליד היבמה וטוען כי
ליבם מורה והוא נועק מיה כי אין דעה וטענה בזה כלל
לחזק לו ובין אלו הדברים היוג נדחה חזק פטר חסא עד ש
היבם לעמוד בדן לפני איש אחד העולה בקרן שבועה ב
עדים . . .

Besides these two reasons (a) marriage contracted without religious rites and (b) frequent cases of bigamy, which are nowhere influential or beneficial in strengthening the sanctity of family life, there existed a third cause which was detrimental to the harmony and unity of the family. The numerous instances of laxity in morals and frivolity were by no means beneficial to the pure atmosphere of the Jewish home. Whether these low morals in family life were due to the example of the Gentile surroundings, the Turks or Greeks, or whether they travelled with the refugees from the Pyrenean peninsula or whether they were caused by the reasons previously enumerated cannot here be settled. Suffice to say that such conditions were not helpful to create a healthy and vigorous Jewish

family life.

At a very early stage in the history of the various synagogues in Arta, the leaders promulgated an ordinance prohibiting dancing among the sexes which for many centuries was strictly kept and observed till newcomers disturbed this ruling. We read ¹⁸ :

עוד יעה שנית העידו כפנינו איך
חלק חפייצו מבני עמנו בהורגן חלקן בחולות אנשים ונשים וחד
It does not seem that the promulgated ordinance against dancing was very successful in spite of the fact that the authority of the rabbinate of Constantinople was appealed to and the confirmation of the prohibition was duly despatched from Constantinople to Arta. The variety of cases of immorality reported in the Responsa of R. Benjamin do not make it likely that such people would have refrained from dancing. There is an actual case of a child born in illicit relationship¹⁹

ע' ד' א' א' שולדת בן ובעלה עמה במידות והגדל ההוא ב
שנה ואביו היה חזקן בחזקת בנו ואם בשעה חזקו צות לו
נכסיו ואמר חזקתו הוציאו קול עז ההוא בן דמאיש אחר ה
ואשה מודה לדבריהם . . .

In another case we read of a man who forced his will on a relative of his who was unprotected and who died of her grief and shame.²⁰

ע' אודות מאיש ראובן אשר קם עכ ג' ג'
רעהו והרובו בהיגה יחידה נוטב לבשה בבינה ובא
לאונסה בחבוק ובעשוק ואמר קאונה ובושרה נפלי במשה

In a third case, a husband has to divorce his wife on account of her adultery.

עכ אשה שזינתה תחת בעלה
ובגל ל רוצה להוציאה מחתון בגט . . .
4303. 428b. 19136. 226a. 20132. 219b.

In a fourth case, one of the quarrelling parties calls

the wife of the other party a harlot.

ובמקד דבריהם יקרא ראובן לאוהב דינה אשר שמעון זונה

A fifth Responsum deals with a breach of promise case:

על אשר שנבעלה לראובן וטוענה דלשם קידושין בא עליה
וטוענה לפני חר שיטתיה כי כן הבטיחה ונא אינו מודה לה

In a sixth case a woman is suspected of having illicit

relations with her brother-in-law.

כתבו עלי שאסרתי אלתנה חלתיקדש לאיש אשר נחשד
אחיו חטעם נטענה אחיו ונפאגיה חמת יד בעלה

All these cases of immoral conduct, alleged or real, are clear indications of an unhealthy state of affairs in the Community and must have been causes of many individual tragedies leading to a deterioration of the Home and Community.

Let us now consider under these peculiar conditions how marriages were contracted among the Jews of this period.

From a document dated in Larissa (לרשן) Wednesday, Ellul

4, 1582, we learn that a certain Judah b. Daniel Levy (לוי)

engaged the daughter of Judah b. Joseph Meshullam whilst they

were busy in the market of (ביריד אלשונא) אלשונא by

handing him over a couple of figs in the presence of two

witnesses. The father treated the whole transaction as a

joke, yet the grave consequences for his two unmarried daughters

could not be dismissed in such a frivolous manner.

ביריד אלשונא כשהיה בשוק היה שם יהודי אחד
שמו יהודה בן דניאל לוי ועבר חטם יהודה בן יוסף
חשונא ואמר לו יהודה בן דניאל הנ"ל כימדה בן יוסף

חשולם קח ב' גאונים ו כשלקחם יהודה בר יוסף הנ"ל
 לידו אחי לו והיו בעד קדושי בתך ולא פוש לאינו בת
 חפני שיש ליהודה הנ"ל שני בנות חיוגר גדולה ז' שנים
 ואחיה משה בר יהודה הנ"ל ליוגרה בר יוסף הנ"ל השפך
 הידך הגאונים נחמי לו יהודה הנ"ל חת אנו חושש חתנו
 ואכל הגאונים דרך שתוק ותמול וקלל ליהודה נחמן
 הגאונים ²⁵

Since the case gave rise to serious discussions about the
 validity of such engagements, we may assume that such marriages
 were not usual. Moreover the concluding words of R. Benjamin
 which he addressed to R. Menahem the doctor, and R. Samuel
 b. Mayor, leaders of the Community in Tricola, suggest that
 some arrangements and ordinances became imperative in order
 to halt such frivolous and dangerous conduct. His words

are והיה נועדים בהם בקהלם ולתם ראוי לאדור
 פציה כזאת ולא היה כזאת ביש ראש ...

Such an arrangement was the more called for since among the
 Jews of Greece the old Talmudic Law which attached great
 importance to the betrothal (קידושין) was still in vogue.
 Accordingly the engagement was looked upon as a part of the
 marriage ceremony and could not be dissolved without divorce
 or other legal means of separation.

The bridegroom according to the old-established custom
 sent gifts (סבכונות) to the bride after the engagement in
 the presence of witnesses. ²⁶ עז הבחור אשר שלח סבכונות

בעדים ובסגמ אחר השידוכין והמקום אגרא דתקדשו והדר
 מסבכו והיו שם עדים כשקבלתן המשודרת והיא אינה
 מתשת ...

It was also customary for the bride or her father to send such gifts called *נכונות* to the bridegroom. Such a case is discussed by R. Elijah Mizrahi in his Responsa. The question is raised whether the fiancé is obliged to return the same in case the marriage does not take place for some reason or other, for example, the death of the bride.²⁷

We hear of an engagement in which the bridegroom signed a document and promised under an oath a certain amount of money to be paid before the actual marriage took place. ²⁸

ראובן שידך בלא לשמעון, והקדשה קדושין גמורים ועשו שטר
דקני קניא ונדה למה חנה לארסותו בחסד קודם חופה וכל
עשו. בשבועה ועלה חסדן שמעון למה אומא חנה לארסות
בחסד נאשר חנה בקנין וחמסה זה חופה לארסות.

Under such conditions, it often occurred that the engaged couple could not dissolve their engagement without actual ritual divorce and such cases may have been frequent. This was due to many circumstances which prevailed in those days and in the provinces where they lived. Thus R. Benjamin excuses the marriages of minors, that is of child marriages on the ground of generally precarious economic and uncertain political conditions. These are his words :

והנהגה היא לא לקדש בנתיים אפי' כשהן קטנות י"ל
שבסוף יום ניום המלכות חתומי עליה ואם יש ספק ביד אדם
היום למה לבטל נדוניא שחא לאחרי חן לא יהיה ספק
י"ד נמשך עינות לעולם...

²⁷ cf. *ש"ס* Vol. IV. 5701.
²⁸ 98.163b.
²⁹ 41.98b.

An actual case³⁰ of child marriage is recorded, where a boy married a girl through the agency of the girl's father. According to some evidence both the boy and girl were under age and according to others only the girl was a minor.

על נער אחד שקדש קטנה על ידי אביו וצדדים מעידים
היוהו קטן כשקדש ואחר כך באו צדדים אחרים והעידו
היוהו גדול.

The case described before in which a man tried to marry a girl of seven by handing over figs to the father is a clear instance of child marriage. Another reason for this unsatisfactory state of affairs was the frequent marriage by proxy. This custom was well in vogue in our period. We hear of a case³¹ of a man sending a messenger with a ring on such an errand. The agent was prevented from carrying out his mission and the question arose as to whether he might appoint another messenger to act on his behalf and carry out his duties.

על איש שחששה שזוהי לקדש לו אישה בעיר אחרת וחסר לו
לקדשה בו אייץ לזוהי אונס בחץ אם יוכל הוא לחננה שזוהי
לקדשה כשם שיוכל לסננה שזוהי גס שזוהי אחר.

Another actual case³² of marriage by proxy is recorded in our Responsa. Here a certain R. Raphael sent a messenger to another place in order to acquire as his wife a certain בן
שויב , a lady of good family. The agent brought with him documentary evidence to prove his mission and the ceremony was performed by proxy in the presence of the Elders of the

³⁰ 36.85a.
32-3.99b.

³¹ 34.78a.

Community. Yet the agent by a slip of his tongue said in the formula *לה' רפאל* instead of *לה' רפאל*. This error gave rise to doubts as to whether the bride required a divorce

from the agent or not. בקהל אחד איך שבא שאלו

אחד שאלו מנבד אחד שמו רפאל לקדש לו אשה בג טו
 ושם היש אה ביד השלוח ובאו טובי הקהל שם כשרבה לך
 לשם ר' רפאל המלך ובזר עדים לקדשה בשם הרפאל ובשם
 השלוח לומר הרי את מקודשת לה' רפאל טעה ואמר הרי את
 מקודשת לי ואמר לו טובי הקהל איך אומר לי ואמר שם
 וזה ואמר הרי את מקודשת לרפאל ונשבץ השלוח שאל
 גמבון ה' לומר לו אלא לקדשה לרפאל השלוח ובטעות
 הדיבור מפיו כש אמר כן . . .

The appellations *לה' רפאל* leave no doubt that such marriages by proxy were usual in higher society.

This was probably the case because the choice of the higher classes was more limited in a narrow circle or to a smaller Community and therefore they had to resort to marry their equals in more or less distant places. It seems that some inexperienced Rabbinic practitioners, not having been fully acquainted with this kind of marriage, thought that a marriage by proxy had to be supplemented by a second קידושין repeated on the occasion of the actual marriage. על בניחין ששכל שכל לקדש לו אשה בעיר אחד וכשבא הוא להנניסה לחופה רצה הלכיד אחד להצוינו לקדש פעם שנית . . .

There are other indications pointing to the fact that the first marriage (קידושין) was considered binding and could not be dissolved without divorce. We read of a case of a Jewish soldier who left his bride and afterwards fell in battle. This case gave rise to a query as to whether the bride might remarry on the evidence of one witness who testified to the death of her fiancé.³⁴

Yet such marriages in which a certain longer or shorter time elapsed between the Kiddushin and the actual marriage may have been exceptional or limited to certain parts of the countries to which our Responsa refer, for R. Benjamin informs us that the Kiddushin and actual marriage, in the majority of marriages, took place on the very same day.

ואעפשוו בדורנו הכלל זרוב מקדשין (כונסין) מיד³⁵
Probably economic and social reasons were responsible for the minority of marriages in which the old Talmudic practice prevailed. Thus in a case, when a bridegroom gave a ring to his bride and thus married her legally, yet before consummating the marriage he divorced her and asked her for the return of the ring, which naturally was refused.

האובן קדש אשה ולא הנסיח לחופה ונפל חפץ ביניהם³⁶
ואירש בהם וטוען שיחזירו לו השבעת שקדשה כיון שעדיין
לא הנסיח לחופה נראה דקדושין אין חזקת כסף
Here in this case as well as in the case of the previously mentioned Joseph b. Meir who died in the war, disharmony caused the separation of the bridal couple.

A third instance of this type is recorded in our Res-

ראובן שידך בתו בשבעין נפסק לו חתן וקדשה הוא שבעין
כנסה ובין האחים וקדושין חת האב ואבא האבא כנסה
כלו וטווח, הינם קבלי, חתמין, שנים, לו, חתמין, חתמין, חתמין
כלו וטווח, הינם קבלי חתמין שנים לו חתמין שבעין כנסה ויש
היבמה וראען טווח כנסה שיהאון בה או יבם אומה מבכ
ימן לו חתמין

A certain bridegroom betrothed the daughter of Reuben under the promise of a certain amount of money. The bridegroom died between the betrothal and the actual marriage. The brother of the deceased bridegroom was willing to marry his sister-in-law on the condition that he received the promised amount of money. The father of the girl, however, refused to pay the money, but he insisted on either the Levirate marriage or the release of his daughter from the brother-in-law. This teaches clearly that the first marriage or betrothal was considered as legal.

A fourth instance³⁷ was that of a certain R. Solomon b. Meshullam who betrothed in a similar manner the daughter of R. Elijah the doctor. The latter promised his son-in-law two hundred golden ducats and other valuables to the amount of a hundred ducats, which had to be defrayed at the time of the wedding as was customary among the communities. R. Elijah was robbed of his property and was unable to fulfil his promise. Owing to this fact the bridegroom refused to marry his

his bride and claimed the promised money from the property still left in the hands of the doctor and from R. Elijah's I.O.U.s from Gentile debtors. This R. Elijah refused to hand over. The girl claimed either marriage or divorce.

על דהרי אצ"א הרופא שפסק מקור כהנא ה'שאלה ב' חשולם י"ל שיתן לו בנות הרופא מאתם זהובים ומה חכמים וחלבושים כגשר נהגים בין הקהל וקדש האשה כדא והא ביניהם שמייה זמן גמיהם להכניסו בחופה עד שנה אחד ובין הזמן קרה מקרה ושאלו לה' אצ"א כל מה שהיה לו וההיך חופה ורבי שאלה תהא פבקש חתנו חי שנדה כהנא לבת ואפילו דמין לו נכסים מ"מ הוא יקח כ"כ ששה חובות שיש אצ"א חתומים וה' אצ"א חסרב ופושט לו את חתול והעניה הבתורה טוענת לפני ב"ד את הארנס או ונהסנה לחופה ופטרנה בגט . . .

These instances of longer or shorter intervals between Kiddushin and actual marriages, all point to differences concerning the promised dowry or to disharmony between the parties. We are therefore allowed to assume that in ordinary cases where such differences did not arise, the present practice was the usual one as indicated by our author.

The actual celebration of the wedding shows a similar divergence of custom, which can be explained by the difference of economic standards. Thus in general, weddings were celebrated on Fridays in order to save expenses viz. by combining the feast with the ordinary Sabbath meal.³⁸ Yet the rich indulged in very sumptuous banquets spending large sums of money for that purpose as described in the previous chapter

on the economic conditions in this period as adduced from our sources. Thus on one occasion, more than sixty lambs were slaughtered for such a feast. ³⁹ על דש אירע בחופה.

אחד ששמוסו כבשים הרבה ואמנם בנייהם כבש אחד
 פרה והיו שם ומה הם אחים כבשים כשרים.

The festivities lasted for seven days as prescribed in earlier sources and the customary seven benedictions were repeated daily. ⁴⁰

People were particular about celebrating the wedding in the place of the bride and not in the home of the bridegroom. ⁴¹ The question arose from the following case. The bride and bridegroom lived at the time of the engagement in the same town. Before the consummation of the marriage, the bridegroom left for another place and desired that the wedding should be celebrated in his new place of domicile. The father of the bride was unwilling to grant this request on the ground that this was against the custom that the bride should leave her parents' home before the wedding. ⁴²

על האובן ששידך בה לשמעון ושניהם דדים בעי אחד
 הנשואין עקר דתרא שמעון והלך כדע בעי אתר וכשהגיע זמן
 כתב האובן תמו לאתא שמעון שיבוא לוטאנה כפו תמתי
 שהיה בנייהם ושמעון כותב לאתמו שירצונו שיבואנה באותו העיר
 בה הנה ונה מסען... נראה לעד דאין לו לשמעון כפופו
 להוציאה לעשות החופה שם שהוא כי אין דרך בנה ושם
 להוציאה מקפולדין בעודו בתולה קודם הנשואין דהא
 דעלמא מקפולדין בנה ומקפדה ודאית הנה

³⁹ 323.
⁴² 44a.

⁴⁰ 181. 276a.

⁴¹ 219. 414a.

In this case our source does not reveal the actual reason for the bridegroom's refusal or unwillingness to celebrate the wedding in the home of his bride. It may be he was induced to do so for economic reasons or on account of some other inconvenience.

A different situation lies behind the case described in a Responsum,⁴³ which was utilised by us for illustrating the political conditions under which the Jews lived in the beginning of the sixteenth century. A husband undertook the obligation at the time of his marriage not to change the place of his domicile without the consent of his father-in-law. Owing to the illness of his father who lived in another province, he had to leave his wife in order to visit his sick parent. He originally intended to return to his wife, but for two reasons he was prevented from doing so and asked that his wife should follow him. The two reasons given were the following : (a) the lord of the Province or City refused him permission to leave his dominion on account of the loss of taxes incurred by his departure. This refusal was combined with a threat which endangered the life of the husband, and (b) the husband claimed that it was his duty to fulfil the fifth commandment. There is no indication that separation was desired on account of disunity and the argument brought forward may have been quite genuine. We learn here an interesting episode in the life of contemporary Jews caused by political and social conditions.

At the wedding the bridegroom presented a ring to the bride which was not to be inlaid with a stone or diamond.⁴⁴

In one instance the bridegroom being probably a poor man could not afford to buy a ring and borrowed it from a friend.⁴⁵

The question was raised as to whether such a performance was valid or not. Here again we see the contrast between the rich and the poor, affecting social life.

Further details about the wedding procedure can be gauged from the fact that music outside the house was an accompaniment of the festivities, on which occasion the bride could leave her house only accompanied by five women.

We came across in the course of our description of married life, the not rare cases of dissolution of marriages by divorce after betrothal. Divorce proceedings were also frequent after actual marriage, which seems to be quite natural considering the frequent cases of disharmony in family life encountered in our sources. Here only one special kind of divorce may be pointed out, viz. וְכִּי יִנָּשֵׂא Conditional Divorce. The older Talmudic rule to make ~~divorce dependent on~~ the divorce dependent on the fulfilment of a condition or conditions, was in this time discarded. Yet in order to save the widow from the troubles arising out of the duty of the Levirate marriage, a priest (כֹּהֵן) who was dangerously ill, made the divorce conditional on his death. The condition was not given in writing but was given orally. Since a כֹּהֵן

was not allowed to marry a divorced woman and he recovered from his illness, it was questioned whether the divorce was effective or not: in the former case he could not live any more with his wife and this would lead to great hardship.⁴⁶

על כהן ש'ם שצוה ונשבו ג' לאשה בשביל שלא תפול לפני א
היגם ואחר כך על תנאי על פה בשביל שלא תורחלו לכהן ג' ג'
באש ואחר כך אם לא חמי לא יתא הש ואם חמי יתא הש וא
לא חמי לא יתא הש ועמד תמו א כהן חתוליו ושאולת אם יוכל
כהן להתנייה לקריסה מטעם שכרוב ותן לה אישה והיישוען לאש
עליו מוצאה חרשה מאישה לא יקחו ואו לא אסרוהן לה לו ד
דלוג נעשה תמנא לא הוה הש ולא נפסלם לכהונה ואפול
קדושין לא נצריך לה פעם אחת.

Yet our Responsa gives us a clear instance of a Conditional Divorce. The case is of a rather complicated character and throws light on many sides of married as well as of social life.⁴⁷ It supplements our information on engagements, Levirate marriage, and social life. A certain woman, the daughter of a priest, was married to a certain person called ח'י' who died on his journey and was buried there. After one month and a half, she became engaged to a person called ב'ר' and they drew up an engagement contract before the woman was released from her brother-in-law. The release was given three months after the death of her husband ח'י'. Thereon she was actually married by the aforementioned ב'ר'. After the marriage the husband made up his mind

to leave his domicile for Palestine but his wife refused to follow him. Baruch insisted on his plan and gave his wife a Conditional Letter of Divorce to the effect that if he did not return after a certain time then the divorce should be valid. The time fixed in the Letter of Divorce elapsed and the woman married for a third time.

ועל ד כשהאיעו ה' חדשים חתונה הבנ' השתדלו עם היבן ופטרה בתליצה כשירה... ואחר כך רצה החוא ברוך שוקר ללכת לארץ הצבי כי היה בן חמשים שנה ומיה לא רצה ללכת אחריו וכתב לה אם על תמאני והלך לו וכיון שהאיעו חמשי שתאבול בגש נישאתה כאיש אחר...

Generally there existed solidarity among the different sections of the Jews. Thus in Arta, the original Jews lived in harmony and were charitable to one another.⁴⁸

וקתל חושבים היו שם מידם קדמה חושבים כשירותם בתצרתם כפי מהלך קק קורפו הם כל סמאם ולכלם איש לרעהו יעזרו ידבקו ולא נפרדו 49

Under the constant threat of persecution and even fear of death hanging over their heads, it was understandable that Jews helped each other in financial difficulties, if interference on the part of the political authorities would involve them in trouble. Thus in one case we read:

ובשגיל שלא להסבין החוא שותף אחר לחביריו שומנו כיזו חלק חראו להם לפנים אומן השנה שאל וליכנו בערכאות ויבוא לידי סכנה נפש ח' 50

In another instance we hear of a man who lost his wealth or livelihood and who was helped by a more fortunate member of the family out of his difficulty.

לא רואגן שהיה חייב מנה לשמעון וקר ה מקרה והפסיד

ראובן ב"ר כ"ח שחמ"א וויסך קרובו של ראובן
חמ"א עליו ומוציא לא מעות להסתחר בתם כדי להחיות

חטונה ב"ר

Against these more favourable instances of harmony and solidarity among the Jews, have to be recorded unfriendly cases of communal strife and individual quarrels. The former were due to the strange composition of the Communities, which gave rise to dissent and altercations between the component parts of the Communities. Thus the quarrel between the Portuguese and Castilians in Avlona or the reluctance on the part of the Apulian Jews to submit to old established ordinances, sanctified by customs and traditions in Arta are instances of this dissension. In this latter place we know the newcomers rebelled against the prohibition of dancing between the sexes and the visitation by the bridegroom of the house of his bride before the consummation of the marriage. The case in Lepanto about the אזוהיט may be ascribed to the different interests of the ruling classes and the less wealthy members of the Community and may thus be considered as a class war between the various sections of the Community.

The opposition to the Spiritual and Lay Leaders as depicted by the help of our sources in another chapter of this essay, was also due to social reasons, the divergence in the standards of life between the rich and the poor, between the influential sections of the Community and the socially inferior, and finally to the gulf between the learned and the ignorant, the more observant and the laxer section of the population. Religious

antagonism, intellectual inferiority, economic contrasts in the Community and the selfishness of individuals were the most prominent sources of quarrels and disharmony in the different settlements of the Jews in this period.

Social life was darkened by disharmony among individuals which again may be attributed to various causes. Their origin will become manifest when we are acquainted with the details as recorded in our Responsa.

A certain Solomon the Quarrelsome **סלומון** called fellow-members of the Jewish Community Apostates (**חשונות**). He seemed to have been an influential and a violent man so that the Rabbis of his province did not dare to proceed against him in public. The Rabbinate of Bologna headed by R. Abraham Katz **כ"ץ** submitted the case to the Rabbinate in Arta, who decreed the ban on this quarrelsome person. From the material at our disposal in the Responsum, one may judge that such an accusation of apostasy was considered as highly offensive and disturbing to the peace of mind of learned and unlearned alike.

ח'מ כל חכם וחכם קבל העדות בציניעא חפני א'יוסו
ואיוסו ונמצא עדות בהר איך קרא לכולם הקהל חשונות

For obvious reasons our documents would not reveal the full weight of the quarrelsome person's vituperations but the appellation of the term **חשונות** to the Communities of Bologna was considered aggravating in the highest sense and

and measure.

It was not usual that dissensions arising between friends and enemies should result in accusations of a serious nature being levelled against one another. Thus in a quarrel between two persons, the one slandered the origin of the other, asserting that his grandfather, who was a priest ^{כהן} married contrary to the Law, a divorced woman. Consequently blame was attached to his ancestry:

ע' דראובן שהיה מתקוטט עם שמעון וברוך⁵¹
דבריו אמר ששמעון האביו כשהיה חסר בבלא איך הוא שמעון
יש קצין שמק פסול מחלצת שאביו אביו שהיה כהן נשא אשה
ליושה מאישה והוליד חנה אמה המשפחה של הוא שמעון נא
שמעון לפי זה אסור להתחתן עם משפחת כהנים...

In another altercation between two partners, the wife of one of them who interfered was called a harlot ^{זונה}. The accuser had to admit that his accusation was without foundation and he was ready to apologise.

ראובן היה מתקוטט עם⁵²
שמעון על עסק ממון שהיה ביניהם לשונות ויצו כלומר
נדינה יאשה שמעון היתה מריבה עם ראובן על חפץ
שבתח ממון השונות ולא היה מודה באותו חפץ ובמח
דבריהם קרא ראובן לאמה דנה אשה שמעון זונה...

It is obvious that in dissolutions of partnerships⁵³ or in claims of unpaid loans⁵⁴ or at the return of deposited articles differences of opinion or of interest should arise between the parties concerned which led to a disturbance of friendly

relationship or ~~int~~ the peace between individuals which in some way or other darkened social life. They cannot, however, be considered as exceptions, for such disturbances were of every day occurrence at all times and in all places.

~~regal~~ This picture offers a more or less gloomy light on the society, the family, domestic relationships among the members of the Community and the Communities themselves. This may help us, perhaps, to answer the question which arises forcibly in the mind of the historian. What was the cause that these once flourishing Communities disappeared from the History of the Jews? In spite of their economic prosperity and active religious life, they perished and disappeared. It is true that political disadvantages may have contributed a lion's share to their tragic decline and fall, but persecutions and expulsions alone cannot be made responsible for such historical events. There must be a deeper cause for the destruction of such communities as Arta, Avlona, Lepanto, Tricola, Larissa, Corfu, Petras, Janina and so on, which have ceased to exist. Our material would suggest that unhappy and disordered family life caused the downfall of these Jewish settlements.

~~thel~~ It is a lesson taught by History generally and by Jewish History particularly that the disintegration of social and family life ultimately leads to destruction.

APPENDIX. I.

The suggestion made in the first part of this essay requires further elaboration. First of all, we have to search for and examine all the information available for the genealogy of R. Johanan b. Matisyahu, the last Chief Rabbi of France before the expulsion of the Jews from that country in 1394, and secondly to corroborate or to connect the link of our author with that family. This attempt is based firstly on the perpetual recurrence of the same names from generation to generation, and secondly on chronological grounds.

Before attempting to draw up a genealogical table of this family between 1300-1600, the chronological data of this family have to be examined. The first ancestor of this family known to us was Matathias I or Le Grand, who flourished about 1290. He hailed either from Troyes in France or from Trier (Treves) in Germany, but most probably from Troyes and the family attached the name of the place of their origin to the names of successive generations.

He (R. Matisyahu I) was according to a note preserved in R. Israel Isserlein's notes on 'Isaac of Duern' מ"ד ה"ק
a pupil or younger contemporary of R. Perez b. Elijah of

Corbeil (d. in 1298, probably 1295). His son was Johanan I. Johanan I was known as the father of Joseph, who officiated as Rabbi in Marseilles in 1343². The son of Joseph was Matathias II, who was Chief Rabbi of Paris from 1360-85. He in turn had a son, Johanan II who succeeded his father as Chief Rabbi first of Paris and then of the whole of France (1385-1394) till the expulsion of the Jews from France. His name occurs frequently in contemporary Halahic writings. To the material given by H. Gross in Gallia Judaica (l.c.p. 532-534, and 212) can be added now manuscripts of the Adler Collection (No. 317, v. Catalogue of the Hebrew MSS. in the Collection of Elkan Nathan Adler, Cambridge, 1921, p.28 and Index p. 211.)

Further MSS. Sassoon No. 1032 (סדר החדש) v. Catalogue
 נחמ' ד'ר , Oxford, 1932, Vol. 2. p. 759, where the name of
 Johanan b. Matisyahu occurs twice, namely on p.14 and p. 40.

p.14 נאום ווארן בן משה' חממה ז"ל ז"ר
 p.40 שמעתי דאונט ופוקא, ד'ר ז"ל ז"ר וכו' נאם ווארן
 בן משה' חממה ז"ל ז"ר

Thirdly a Halahic writer of the fifteenth century quotes Responsa and remarks by Johanan II and his son Joseph.³ These data are derived from MSS. Adler, No. 2717. According to Gross in Gallia Judaica (l.c.p.534), Johanan II died in

² Lattes:

³ A. Marmorstein:

שערי ציון -end.

נחמ' ד'ר in Vol 2, 1439, p.223.

Italy in 1429.⁴

Since however MSS Sassoons preserves the date 1439, for the order and rules of Divorce and Johanan is mentioned among the contemporaries by the writer, it is doubtful whether the date given by Rieti should not read 1439 instead of 1429. However that may be, we know that Johanan II was the father of Joseph II, Matisyahu and Caleb. Joseph II is probably identical with Joseph b. Johanan who officiated as Rabbi in Dijon in 1391.⁵ He emigrated with his father to Northern Italy, and left traces of his scholarly activity which are recorded by the Italian Halahic writer mentioned before.⁶

The second son of Johanan II was Matisyahu, the father of our author. Since he bore the name of his grandfather (Matisyahu II, 1360-85), he was born after the death of his grandfather, that is, after 1385. This would be an additional proof for the earlier date of the birth of R. Benjamin than generally given by bibliographers and chronologists. R. Johanan II had a third son, R. Caleb, who was the teacher of R. Benjamin (v. list of names given in the first part of this work).

R. Joseph II had three sons who liberally supported our

⁴ Rieti: שו"ת שו"ת p. 104.

⁵ Gross: p. 242

⁶ שו"ת שו"ת p. 223.

author in the publishing of his work. They lived in Venice and their names were Johanan, Menahem and Moses.

We have no further information about the family of R. Caleb. R. Benjamin had one son and one daughter. The son was called Matisyahu, that is the fourth bearer of this name who died before about 1436. Since it is nowhere mentioned that he died in early youth or manhood, we may assume that he reached the age of about 45. This enables us to establish the date of the death of Matisyahu III at about 1490. The daughter of R. Benjamin was married to R. Samuel Kalai, probably the nephew of our author whose Responsa were published under the title of 'Mishpetai Shemuel', Venice, 1599. The information given in the Encyclopedia Judaica, Vol. 9. p. 793-94, that Samuel Kalai edited the Responsa of his father-in-law finds no support in our collection. R. Samuel Kalai had four sons, whose names are mentioned in their father's 'Mishpetai Shemuel' and in their grandfather's Responsa as pointed out previously. They are Jacob, Moses, Johanan and Matisyahu, the two latter names show clearly how the names of the ancestors were perpetuated in the family of our author. Thus we see that this family produced scholars and Rabbis from 1290 till the end of the sixteenth century.

APPENDIX. II.

Attention has been drawn in the course of our investigation to the part played by the Jews in Greece in the last few centuries before their gradual disappearance in the twentieth century. Here a few additional notes may be appended which will throw light on the one hand on the character of this section of European Jewry and on the other hand may show the decline of their importance as a spiritual force in Jewry. Our material is mainly based on the bibliographical description of printed books and MSS collected and described by David Frankel in his pamphlet *ספרים וכתובים*, Wien 11 (s.a.).

We gather first of all that the Jews kept up some organised communal life up to the year 1900. It seems that Corfu, Janina, Arta and Petras were the most flourishing -- apart from Saloniki -- of the surviving Jewish settlements of the Greek Jews. The many other Jewish Communities like Tricola, Lepanto, Larissa and so forth disappeared or left very scanty traces of their religious or communal activities. To judge from the bibliographical material at our disposal we derive interesting information about the character of the Corfiote Jews. First of all that they preserved their ancient liturgical rites which differ from the other existing rites used by the Jews of various countries and different

climates. Secondly that they used the Greek language in their liturgy even during the Turkish Rule over the Balkans. Thus the Greek language was used by them for liturgical compositions, translations of Biblical and post-biblical writings and for vocabularies of both languages, that is, Hebrew and Greek. To facilitate the use of the Greek language, they transcribed the Greek words in the Hebrew letters. They kept special days in commemoration of local events, that is, Purim of Corfu (9th Adar) and Purim of Sicily (17th Shevat). During the whole period from 1550-1900, a number of ordinances and statutes were issued which reflect the inner life of the Communities and manifest the same spirit for good and evil of the successors which was depicted in the second part of this work.

Communal strife continued between the older settlers and the new-comers who were of Italian origin. There was a slight change however. Owing to political conditions, Italian influence became more prominent than hitherto, especially in some parts of the Peninsula. With the decrease of Rabbinic scholarship, the number of prominent Rabbis became poorer and poorer so that no scholar whose fame exceeded the narrow limits of these Communities can be recorded.

Only one branch of Jewish literature found workers, namely, liturgical and poetical writers whose products survived in printed books and manuscripts. These hymns and occasional

poems reflect the tenacity of the Greek Jews and their character in their religious feeling and zeal, although their compositions are far removed from the classical poetry of the earlier ages and other countries. All the same it must be admitted that the authors of these poetical products, however poor they may appear perpetuated the religious and spiritual legacy of their forefathers.

In spite of these religious and spiritual endeavours during these centuries, Judaism declined and finally disappeared. This may be due, apart from political conditions which became worse and worse as manifested by the blood-libel of Corfu at the end of the last century (1891), to an account of the times described in our chapter dealing with the social conditions prevailing in these Communities as reflected by the Responsa of R. Benjamin.

Family Geneaology of R. Benjamin.

