

MARRIAGE IN THE TALMUD:
ITS CONCEPTS, LAWS AND CUSTOMS.

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PREFACE.

Marriage may be viewed from several aspects: social, economic, religious, ethical, political, legal and anthropological. In recent years, several books on Marriage in the Talmud have been published in which their authors deal with the legal aspect of this institution. A study of Talmudic literature, however, leaves no doubt that the religious aspect of marriage constituted the main consideration of the Rabbis in formulating their Marriage laws. Conditions prevailing in Palestine and in Babylon during the first century B.C.E. and the four following centuries, compelled the Rabbis to stress the paramount importance of marriage as a religious duty. The nature of these conditions and how they influenced the Rabbis in their concept of marriage are fully discussed in the first two chapters.

At the same time, the Rabbis felt that the social and economic aspects must not be overlooked. It may seem strange that for the purpose of marriage, Palestine should have been divided into three districts: Judea, Galilee and Transjordan. What is even more strange is the fact that a number of Babylonian scholars refused to marry into Palestinian families. This attitude of the Rabbis is fully explained in chapter three and various reasons are given to support their point of view.

To the best of my knowledge, no complete picture of the various customs and ceremonials connected with betrothal and marriage in Talmudic times, has so far been presented. I have tried to rectify this omission. In my final chapters, I have tried

to give not only a clear picture of the type of betrothal and wedding that took place in Palestine and Babylon during the Talmudic period, but I have also tried to analyse the various customs, ceremonials and rites in order to gain a clear understanding of their religious and social aspects.

I have limited myself to the subjects indicated above as I considered them interrelated and of primary importance to the understanding of marriage in the rabbinic ideology. I have, therefore, omitted to deal with the rabbinic concept of divorce and other aspects of the relationship between husband and wife, as these topics require detailed treatment and could not, in my opinion, be included in the same dissertation.

For my main sources, I have consulted the Babylonian and Jerusalem Talmud, the Tosefta and all available Midrashim. I have also referred to non-Jewish marriage institutions and customs when I considered that these might throw light on Jewish traditions. Thus, a study of Assyrian and Babylonian Laws, of Ugaritic social life, of Greek and Roman marriage laws and social life was necessary in order to appreciate the rabbinic attitude towards women and their social position within the community. Likewise, I found that the rabbinic concept of marriage cannot be fully understood without a study of the Early Church history. Finally, I have drawn on a number of anthropological publications in order to elucidate the origin and motivation of various Jewish rites and ceremonials.

C H A P T E R 1.

THE CONCEPT OF MARRIAGE.

" Marriage as an institution" writes Dr. Agus, "fundamentally affects the life of every individual and every family and, therefore, vitally affects the most significant aspects of group life or the life of a tribe or nation. The social, the political, and often the religious organization of a people, is basically conditioned by the marriage laws of that people. For this reason, a detailed knowledge of the marriage laws of a people gives us an insight into those dynamic social forces which mould and shape, evolve and direct the very life and destiny of that people."(1). According to Rabbinic tradition, marriage is to be regarded as a Divine institution, and all marriage laws are based on this fundamental principle. This concept of marriage the Rabbis derived from a number of scriptural verses. Thus, after the creation of man, when the verse states, "And God blessed them and God said to them, 'Be fruitful and multiply...' (Gen.1.28), the Talmudic Sages regarded this divine utterance as an injunction and thus implied the divine origin of the institution.(2).

Under no circumstances should a man live without a wife. In interpreting the verse, " In the morning sow thy seed and in the evening withhold not thine hand" (Ecc.11.6.), R. Joshua stated, "If a man was married in his youth (and his wife had died), he should marry again in his old age."(3). According to the school of R. Ishmael, "Until

1). Irving A. Agus, Marriage Laws in the Bible and the Talmud, J. & R. N.S. vol.34. 1943-1944. p.365.

2). Yeb. 65b; Gen.R. 8,12.

3). Yeb. 62b; Gen.R. 61,3. Ecc.R. 11,6.

man reaches the age of twenty, the Holy One, Blessed be He, sits and waits; when will the man take a wife? When, however, man has attained the age of twenty and has not yet married, the Holy One exclaims, 'Blasted be his bones!' (4). Another Rabbi, probably of the same school, had no hesitation in stating that a man who is not married by the time he reaches the age of twenty deserves to die. (5). In fact, both R. Levi and Abba Hanan attribute the death of the two sons of Aaron (Num. 10, 1-2) to the fact that they refused to marry. (6). According to R. Hammuna, when the Prophet Isaiah delivered the message of God to King Hezekiah, "Set thine house in order; for thou shalt die and not live" (II Kings, 20, 1). The king asked him the reason for this harsh decree. "Because you have refused to marry," came the reply of the Prophet. (7). R. Hisda did not hesitate to apply the text, "want of all things" (Deut. 28, 48.), to the man without a wife. (8). Both R. Eliezer and Ben Azzai maintain that an unmarried man is regarded by Scripture as one who sheds blood, for the verse states, "Whoso sheddeth man's

- 4). Kid. 29b. In later Rabbinic literature an opinion was expressed that the Ecclesiastical authorities be given the right to compel a man to marry after he had reached the age of twenty. (See Tur, Eben Haezer, 1.1).

Prof. Thomson states that in ancient Greece, those who remained unmarried beyond a certain period, the length of which is not recorded, were subject to various penalties and disabilities. (Thomson, G., Aeschylus and Athens, London, 1941. p.104).

During the reign of Augustus, legislation was passed in the form of a direct tax or of certain disabilities, penalising those who remained unmarried. (Merivale, C., History of the Romans under the Empire, London, 1896. p.89.)

- 5). Ecc.R. 3,4. According to R. Huna, "He who is twenty years of age and is not married, spends all his days in sin." (Kid. 29b.) According to the Mishna, the right age for marriage is 18. (Aboth, 5, 24.).

blood, by man shall his blood be shed"(Gen.9,6.), and this is immediately followed by the text, "And you, be ye fruitful and multiply."(v.7).(9). "There are seven types of people" state the Rabbis, " who are condemned by Heaven, and the first type is the Jew who has no wife."(10).

Several Rabbis, moreover, maintained that marriage is not only a divine institution but that God Himself is instrumental in arranging all marriages. Thus, R.Phinehas in the name of R.Abbahu stated: " We find in the Torah, in the Prophets and in the Holy Writings, evidence that a man's wife is chosen for him by the Holy One, blessed be He. Whence do we deduce it from the Torah ? From the verse, " Then Laban and Bethuel answered and said, the thing proceedeth from the Lord."(Gen.24,50). In the Prophets it is found in connection with Samson(where it is related how Samson wished to marry a Philistine woman) "But his father and mother knew not that this was of the Lord."(Jud.14,4.). In the Holy Writings it can be deduced from the verse, "House and riches are the inheritance of fathers, but a prudent wife is from the Lord."(Prov.19,14). (11).

6). Lev.R.20,9.

7). Ber.10a; Yal.Shim. 11 Kings,142,20.

8). Yeb. 62b; Gen.R. 17,2.

9). Yeb. 63b. When Ben Azzai, who was a bachelor, made this statement, his colleagues remarked to him, " Some preach well and act well, others act well but do not preach well; you, however, preach well but do not act well." To this, Ben Azzai replied, " But what can I do, seeing that my soul is in love with the Torah," implying that marriage with its responsibilities would detract him from the study of the Torah.

10). Pes.113b.

"Every day," R. Judah stated in the name of Samuel, "a Heavenly voice is heard proclaiming, 'The daughter of so-and-so is to marry so-and-so.'"(12).

A classic story, bearing on this belief, is repeated on several occasions in the Midrash. A Roman lady asked R. Jose b. Halaftha, "In how many days did the Holy One, blessed be He, create His Universe?" "In six days," the Rabbi replied. "And since then, what has He been doing?" she asked. "The Holy One, blessed be He, is sitting in Heaven and arranges marriages," he replied. "Is this His occupation? Even I could do it" the lady replied. "I possess many male and female slaves and in a very short time, I could pair them together." "If it is a simple matter in your eyes," said the Rabbi, "it is difficult for the Holy One, blessed be He, as the dividing of the Red Sea." R. Jose b. Halaftha then departed. The lady went home, took a thousand male slaves and a thousand female slaves placed them in rows and in a single night arranged marriages for them all. The following morning, they appeared before her, one with

11). Gen. R. 68,3. In M.K. 18b, the same statement is made by Rab in the name of R. Reuben b. Asterobeli.

The idea that marriages are arranged in heaven, is not unfamiliar to the Homeric heroes, and husband and wife are said to have been destined for each other by fate, or in other words by a higher dispensation. (Od. xx, 74. xxi, 162)

Among the Chinese, the following belief is common:- "The Old Man of the Moon unites male and female with a silver invisible thread and they cannot afterwards be separated, but are destined to become husband and wife. (J. Q. R. v. ii. p. 172).

References to this belief are found in most of the European literatures. In English literature, the following references are found:-

God, the best maker of all marriages,
Combine your hearts in one

(Shakespeare, Henry V, Act. V, Scene 2).

a cracked forehead, another with an eye knocked out, one with a broken arm and another with a broken leg. "What is the matter with you?" she enquired of them. One replied, "I do not want this woman" one woman said, "I do not want this man," and so forth. The Roman lady immediately called for R. Jose b. Halaftha and said to him, "Rabbi, your Torah is true and there is no god like your God. Everything you have told me is true." "Did I not tell you" replied the Rabbi, "that if it seems a simple matter in your eyes, it is as difficult for the Holy One, blessed be He, as the dividing of the Red Sea, as it is written, "God setteth the solitary in families, He bringeth out those which are bound in chains." (Ps. 68, 7.). (13).

The ancient Saying is no heresy,
Hanging and wiving is by destiny.

(Merchant of Venice, Act II, scene 9).

"Wedding's destiny; and hanging likewise." (Heywood, 1547)

"True it is that Marriages be done in heaven." (W. Painter, 1567).

"Matches are made in heaven." (Robert Burton, Anatomy of Melancholy, part III, sect. II, 1621).

The following proverbs are found in French literature:-

" Les Mariages se sont au ciel, et se consomment sur la terre"
(Marriages are made in heaven and consummated on earth)

"Les mariages sont ecrits dans le ciel."
(Marriages are made in heaven)

Among the Italians, the following proverb is common:-

" Nozze e magistrato de cielo e destinato."
(Weddings and magistracy are arranged by heaven).

12). M.K. 18b.

13). Gen.R. 68, 4. Lev.R. 8, 1; Num.R. 3, 4; Mid.Sam. 5; Tanh. Ki Tissa.

Since this discussion took place with a Roman lady, it is possible that it was not intended for Jewish consumption. As will be stated later (p. 35), the Roman ladies despised

The Rabbis expressed the belief that the Almighty brings the two predestined people together even if they are separated by great distances. "The Holy One, blessed be He, sits and joins them even against their will and places a chain round the neck of one and brings him to his mate from the end of the world."(14). Similarly, "The Holy One, blessed be He, sits and judges them and brings one from one place and the other from another place and puts them both into one house"(15). The force of this predestination in marriage was considered so strong that no obstacle in bringing the parties together was possible.

This view is best illustrated from the following story:-
 "King Solomon had a very beautiful ~~stery~~ daughter, who was the fairest maiden in the whole land of Israel. Her father consulted the stars as to the person destined to marry his daughter, when lo ! he saw that his future son-in-law would be the poorest man of the nation. He, therefore, built a high tower by the sea and surrounded it on all sides with inaccessible walls. Then Salomon took his daughter and placed her in the tower, under the charge of seventy guardians from the Elders of Israel. There was no door made to the tower, so that no one could enter it from the outside;

marriage as a result of the treatment they received at the hands of their husbands. In the course of a discussion on marriage, the Rabbi probably tried to convince the lady that it was a divine institution and that no marriage can be a happy one unless it receives divine sanction.

14). Tan.Ki Tissa.

15). Num.R.3,6.

but he supplied her with plenty of provisions. Then the king said, 'I shall watch how God will work the matter.' In the course of time the poor man who was destined to be her mate, was walking on his way by night, his garments ragged and torn, hungry and thirsty, when he saw the carcass of an ox lying in the field. The youth crept inside the carcass to shelter himself from the cold, and whilst he slept, there came a great bird, lifted up the carcass and carried it to the top of the tower and set it down before the very door of the maiden, so that the youth remained on the roof(16). In the morning the maiden came out to take her daily walk on the roof, when she saw the young man. "Who art thou, and who brought you here?" she asked him. "I am a Jew from Acco, and a bird brought me here," the youth replied. She took him and brought him into her room. When he was washed, clothed and anointed, he looked so beautiful that there was no one like him in the whole land of Israel. The maiden loved him with all her heart and soul. One day, the maiden said to him, "Would you consent to marry me?" "Certainly," he replied. Using some drops of his blood as ink, he wrote a marriage document and said to her, "God is my witness to-day and the angels Michael and Gabriel likewise, that I am marrying you." In the course of time she was with child, and when the Elders noticed her condition, they asked her who the responsible person was, but she refused to divulge his identity. They, therefore, summoned King Solomon, who enquired of her the cause of her condition. She told him that the Holy One, blessed be He, had brought her a most beautiful and

16). Compare the device of Sinbad in his second voyage, where he binds himself to one of the feet of the rukh (the condor or the bearded vulture); and in another adventure, he attaches

learned youth, who had married her. She then called for the youth, who showed the king the marriage document he had given the maiden. The king asked ~~and~~ him as to his father, mother, place of residence and family, and from the youth's reply, the king recognised him as the same person he had seen in the stars, destined to marry his daughter. Then King Solomon rejoiced with exceeding joy and exclaimed: "Blessed be the Omnipotent, who giveth a man to a woman." (17). "All marriages," states R. Phineas in the name of R. Abbahu, "are arranged by the Holy One, blessed be He. Sometimes we find that the bridegroom goes to look for his bride (as in the case of Jacob) and sometimes the bride is brought to her groom" (as in the case of Rebekah) (18).

Several Rabbis, moreover, expressed their conviction that not only are marriages arranged in heaven, but that predestination takes place even before the birth of the parties concerned. Thus, R. Judah in the name of Rab maintained that forty days before the child is born, a Heavenly voice proclaims, "this person shall marry so-and-so's daughter, this daughter shall marry so-and-so's son." (19). That this decision is made while the child is still in an embryonic stage, we see from the statement made by R. Hiyya b. Abba, in the name of R. Levi. In interpreting the verse,

himself to the carcass of a slaughtered animal, and is borne aloft by a vulture.

17). Mid. Tanh. Buber's Edition, Introduction, p. 136.

18). Gen. R. 68.4.

19). Sota, 2a; M.K. 18b; Sanh. 22a. According to the Rabbis, predestination applies to the first marriage only. On remarrying a man would receive a wife according to his deeds.

"Surely men of low degree are vanity and men of high degree are a lie: in balances they will go up, they are altogether lighter than vanity" (Ps. 62, 10.). R. Hiyya in the name of R. Levi said, "What do people usually say? This man will marry this woman" - surely men of low degree are vanity. "This woman will marry that man," - men of high degree are a lie, they are altogether lighter than vanity. For, while they are still a breath (in the first embryonic stage), they are predestined for marital union. (20).

20). Lev. R. 29, 8.

This belief in predestination, however, raised an interesting problem. Did there exist any possibility of changing predestination? Could the divine decree be altered in any way? From Rabbinic interpretation it would appear that this was possible by means of Prayer. According to a Rabbinic interpretation, the tenderness of Leah's eyes (Gen. 29, 17.) were due to her constant crying when she was informed that she, the eldest daughter of Laban, was destined to marry Esau, the eldest son of Isaac; whereas her younger sister Rachel would marry Jacob, the younger son of Isaac. She, therefore, cried, fasted and prayed to God to alter the divine decree. (B.B. 123a; Gen. R. 70, 16.). The fact that she ultimately married Jacob, proves conclusively that her prayers were answered and predestination altered.

It is reported that Rabba once heard a man offering prayers to marry a certain woman. Rabba said to the man, "Do not pray for this. If she is destined for you, she will not be taken away from you, and if you are not destined for her, you are denying divine providence." After some time, Rabbi heard the same man expressing the hope that either he or that woman may die. So, Rabba said to him, "Did I not tell you to refrain from offering prayers for her?" (M.K. 18b.). The text is not clear as to what took place. According to some interpreters, the man ultimately married the woman, thus proving that prayers are effective, but she turned out to be very wicked. The man, therefore, offered prayers that either he or she should die as he could no longer live with her. According to others, the woman married somebody else. As he could not live without her, his prayers were that either he or she should die.

Based on this story, R. Niessim makes the following observation. "Although it has been decreed that a certain man is to marry a certain woman, it is possible for another man to offer prayers for the same woman, and God would probably accept his prayers. In the end, however, the original decree would be fulfilled,

In order to stress their concept of marriage as a divine institution, the Rabbis employed the term קדושה (21) for marriage, meaning "sanctification," and Dr. Freedman rightly points out that this very name bears testimony to the solemn and sacred character of marriage as conceived by Judaism. (22).

In addition to stressing the importance of marriage as divine institution, the rabbis, by the interpretation of a number of scriptural verses, elaborated on the advantages of the married state and the disadvantages of the unmarried state. Thus, the statement is made that an unmarried man lives without joy, without blessing and without good, and according to another Rabbinic statement, without the Torah, without protection and without peace. (23). Only through the state of matrimony can true manhood be acquired. "A man, who has no wife" states R. Eliezer, "is NO MAN. (24). This he derives from the verse, "Male and female created He them and called their name man" (Gen. 5, 2.), which clearly indicates that only a married man is worthy of the designation MAN. Commenting on the verse, "Whoso findeth a wife findeth a good thing and obtaineth favour of the Lord" (Prov. 18, 22), R. Hama b. Hanina stated, "As soon as a man marries a wife, his sins are forgiven." (25).

either by the death of her husband, or her husband would divorce her, so that her predestined man would finally marry her."

Although the law was laid down that one must not marry, or even betroth a woman on a Sabbath or Festival (M.K. 5b), as the Sabbath or Festival would lose its significance in the marriage or betrothal festivities, Samuel permitted a betrothal to take place on שבת ויום טוב , since any postponement of a betrothal may result in the alteration of predestination and thus deprive a man from his predestined wife. "For, if another man offers prayers for her, his prayers may be answered." (M.K. 18b). The rabbis finally agreed that only in the case of a second marriage could predestination be altered

It would, therefore, be of interest to know, what conditions prevailing in Palestine and in Babylon during the first century, B.C.E. and the four following centuries, compelled the Rabbis to stress the paramount importance of marriage as a religious duty, and to interpret Biblical verses in order to elaborate on the advantages of the married state.

During the first century, B.C.E., we find Jewry in Palestine divided into three rival factions:- The Sadducees (26), The Pharisees (27) and the Essenes (28). Although these factions united

by prayer, but in the case of a first marriage, no change could be effected.

- 21). For other terms of marriage employed by the Rabbis, see S.Krauss, Talmudische Archologie, vol.ii. p.34. Leipzig, 1912.
- 22). Introduction to Tractate Kiddushin, Soncino Talmud, London, 1936, p.xi.
- See also A.Cohen, Everyman's Talmud, London, 1937. p.174.
- 23). Yeb.62b; Gen.R.17,2.
- 24). In Korea, the male human being who is unmarried, is never called a man, whatever his age. (R.de Romeral, Marriage; Past, Present and Future, London, 1930. p.121.).

Unmarried persons are looked upon as unnatural beings or objects of contempt and ridicule. (L.Bauer, Volksleben in Lande der Bibel. Leipzig, 1903. p.82).

25) Yeb. 63a-b.

- 26) The word means "descendants of Zadok" and is derived from the name of Zadok, the High Priest in the time of King Solomon. The party was composed of the aristocracy, the brave soldiers, the generals and the statesmen, who had acquired wealth and authority at home, or who returned from foreign embassies; all having gained, from closer intercourse with the outer world and other lands, freer thought and more worldly views.
- (H.Graetz, History of the Jews, vol.ii. p.21.) See also R.

in accepting the legislation in the Bible as a basis for their mode of life, they differed in the interpretation of this legislation.(29). With regard to marriage, there appears to have existed no difference of outlook between the Pharisees and Sadducees. Both parties practised

Travers Herford, Judaism in the New Testament Period. London, 1928. pp. 47ff.

A. Dupont-Sommer, The Dead Sea Scrolls. Oxford, 1952. p.87.

A. Powell Davies, The Meaning of the Dead Sea Scrolls. London, 1957. pp.68,69.

27). The word means the "separated ones", or better perhaps, "the distinguished ones". They were recruited especially from amongst the scribes, the lawyers, official interpreters of the Law. They were doctors or casuists, charged with determining jurisprudence and consequently, guardians of the whole juridical tradition; their prestige as scholars and acknowledged commentators on the divine Torah, was very great amongst the people. (A. Dupont-Sommer, op.cit.p.38.)

See also R. Travers Herford, The Pharisees, London, 1924. pp.18 ff.

Dr. Zeitlin suggests that the Sadducees and the Pharisees had their origin when the Jews returned from the Babylonian captivity. When the Jews were permitted to return from Babylon by the proclamation of Cyrus, two parties grew up, one under the leadership of the High Priest Joshua, a descendant of Zadok, the first high priest under Solomon, and the other under Zerubbabel, a descendant of the Davidic dynasty. Their view as to the re-organisation of the new Jewish community of Judaea differed. Joshua wanted to establish the new community as a theocracy, wherein the religious and secular affairs would be under the high priest, as was prescribed in the Pentateuch. Zerubbabel opposed to the new community as being a theocracy, recommended that the head of the community be a civil leader, one who was of the family of David, as the prophets had maintained. He held that the affairs of the Temple should be managed by the high priest only. The Pharisees went even farther contending that religion should be brought in consonance with life and that the law should be made elastic. Being opposed to theocracy, they were called "Perushim" separatists, persons who separated themselves from the Jewish people and broke with the Pentateuch. Since they maintained that the Jewish leadership should be vested in a scion of the Davidic family, they were charged with being opposed to the Torah and hence were considered heretics.

(S. Zeitlin, The Essenes and Messianic Expectations, J.C.R. vol. 45. Oct.1954. pp.83-4.).

28). The very name of the Essenes has given rise to all sorts of

marriage and no difference of opinion on the subject is recorded. This, however, was not the case with the Essenes. "It must indeed be observed" writes Prof. Dupont Sommer, "that the Essenes were for the most part sworn to celibacy." (30). Speaking of this sect, Philo

discussions. The most common explanation is that which derives the name from the Aramaic word "hese", meaning 'pious', 'holy'. The members of the sect called themselves simply the 'pious' or the 'saints.' (A. Dupont-Sommer, op.cit. pp.86-7.)

According to Dr. Davies, the word Essene is derived from the Greek ὁσιόω, 'to make holy' (A. Powell Davies, The Meaning of The Dead Sea Scrolls, London, 1957. p.82n.).

For an account of the three sects, see Josephus, Ant. xiii. 5,9; xviii.1,3; B.J. ii.8,2. Graetz, History of the Jews, vol.ii. pp.16 ff.

Philo, in his "De Vita Contemplativa", describes the mode of life of another sect, who lived during this period near Alexandria in Egypt. This sect was known as "THERAPEUTAE", from the Greek θεραπεύω "worshippers of God". The members of this sect seem to have branched off from the Essene brotherhood. Like the Essenes, they all wore white raiment and practised celibacy. The Therapeutae, however, differed from the Essenes in that they each lived in a separate cell, in which they spent their time in mystic devotion and ascetic practices and particularly in the study of the Torah. While remaining in retirement, they indulged in neither meat nor drink nor any other enjoyment of the flesh. Some ate only twice a week, others fasted from Sabbath to Sabbath. The Therapeutae included women members. These, though advanced in years, were regarded as pure virgins on account of their lives of abstinence and chastity and they seem to have been helpful in nursing and educating waifs and non-Jewish children that took refuge in their communities. For these female members, a partition was made in the assembly hall, separating them from the men by a wall three to four cubits in height, so that they might listen to the discourses on the Law, without infringing the rules of modesty becoming to women. At meals, the women sit at separate tables remote from the men.

(Cf. I. Heineman, Die Sektenfrommigkeit der Therapeuten, M.G.W.J., vol.1. 1934. pp.104 ff.).

I. Abrahams, By-Paths in Hebraic Bookland, Philadelphia, 1920, pp. 20 ff.).

According to Hardman, the Therapeutae deserve to be reckoned

gives an explanation why they did not marry. "For no Essene takes a wife, because a wife is a selfish creature, exceedingly jealous and an adept at beguiling the morals of her husband and reducing him by her continued impostures. For, by the fawning talk which she practises and the other ways in which she plays her part like an actress on the stage, she first ensnares the sight and hearing, and when these subjects as it were have been duped, she cajoles the sovereign mind. And if children come, filled with

as the forerunners of the Christian monastic communities. (C. Hardman, *The Ideals of Asceticism*, London, 1924, p. 35.)

- 29). For the differences between the two sects, see *Studies in Jewish Theology*, The Arthur Marmorstein Memorial Volume, Oxford, 1950, pp. 146-149.

Cf. A. Poell Davies, *The Meaning of the Dead Sea Scrolls*, London, 1957, pp. 77-78.

- 30). A. Dupont-Sommer, *op.cit.*, p. 89.

It should, however, be noted that not all the Essenes abstained from marriage. "Moreover, there is another order of Essenes, who agree with the rest as to their way of living, and customs, and laws, but differ from them in the point of marriage, as thinking that by not marrying they cut off the principal part of human life, which is the prospect of succession; nay rather, that if all men should be of the same opinion, the whole race of mankind would fail. However, they try their spouses for three years; and if they find that they have their natural purgations thrice, as trials that they are likely to be fruitful, they then actually marry them." (Josephus, *Jews*, II, viii, 13.)

Cf. S. Zeitlin, *The Essenes and Messianic Expectations*, J.Q.R., vol. 45, 1954, p. 100.

With the discovery of the Dead Sea Scrolls, the question has been raised whether the Qumran Sect can be identified with the Essenes. The basic doctrines of the Essenes and many of their institutions are strikingly similar to those of the Qumran Sect. There is basically the same system of probation and initiation, the same order of 'degrees of

the spirit of arrogance and bold speaking, she gives utterance with more audacious hardihood to things which before she hinted covertly and under disguise, and casting off all shame, she compels him to commit actions which are all hostile to the life of fellow-ship."(31). Josephus, in describing this sect, states, "These Essenes reject pleasure as evil but esteem continence and the conquest of our passions to be virtue. They neglect wedlock." (32), and Pliny refers to them as a race by themselves, more

purity'; the same communal ownership of property, the same communal meals, the same system of 'overseers', the same provision against blasphemy and the like, and the same rule about speaking in public sessions, not to mention several lesser points of similarity. In the opinion of Edmund Wilson, a convergence of evidence seems not merely to suggest but almost beyond question to establish that Qumran was one of the habitations, if not actually the headquarters, of what has previously been known as the Essene sect.

(Edmund Wilson, The Scrolls from the Dead Sea, London, 1955, p.36)

Dr.Gaster points out that in the Commentary on Habakkuk, in interpreting the prophet's words(2,17) 'The violence of Lebanon shall overwhelm thee', our author observes, 'Lebanon stands for the Communal Council'. Dr.Gaster, therefore, suggests that the name Lebanon really means 'white' (Heb.laban); and what the author had in mind was that the Communal Council was white-robed. His statement would then chime perfectly with Josephus' assertion (War,II,viii,3) that the Essenes dressed in white. In other words, his comment might provide evidence that the Brotherhood were indeed Essenes.

(Theodor H.Gaster, The Scriptures of the Dead Sea Sect, London,1957. p.222.)

In the opinion of Dr.Powell Davies, it is impossible to read the Manual of Discipline without being immediately struck by the marked similarities between the provisions of this document and those of the Essenes as described by Josephus. If the Qumran community were not a settlement of the Essenes themselves, it was at least Essenic.

(A.Powell Davies, The Meaning of the Dead Sea Scrolls, London, 1957. p.85.).

remarkable than any other race in the wide world. They have no women, they abjure sexual love....."(33).

Since the Essenes originally formed part of the Pharisee faction(34), it is possible that their influence was beginning to be felt among the Pharisees, to which sect the Rabbis belonged. In Aboth d'R.Nathan, eight types of Pharisees are mentioned, the last type being a Pharisee who abstains from marriage, and this type is called an Essene.(35). In a later Rabbinic statement, however, only seven types of Pharisees are mentioned; the type that abstains from marriage not being included.(36). It is, therefore, possible

On the other hand, many scholars advise caution against too ready an identification of the Qumran Sect with the Essenes. They point to the many differences between the two Sects(See Millar Burrows, The Dead Sea Scrolls, London, 1956, pp279-298).

According to Prof.Burrows, it is best not to speak of the Qumran sect as Essenes, but rather to say that the Essenes and the Covenanters represented the same general type. There is, however, no doubt that the sect of the Qumran was more closely related to the Essenes than to any other group known to us. (Millar Burrows, op.cit., pp.297-8.).

With regard to marriage, it is obvious that the Qumran sect did not practice celibacy. That women and children had some place in the Community, is shown by the heading of the Manual of Discipline for the Future Congregation of Israel(the so-called Messianic Banquet), which reads:- "When they come they will gather together all the arrivals, women and children together," and in discussing the training of children, the Manual reads that a lad may not take a woman to wife until he is twenty years of age and has reached the age of discretion. (D.Barthelemy and J.T.Milik, Discoveries in the Judaean Desert, 1: Qumran, Cave 1, Oxford 1955. p.109) See also J.M.Allegro, The Dead Sea Scrolls, London, 1957. pp. 102-3.

Similarly, in the Damascus Document we read, " And if they marry and beget children" (vii,8), and some of its rules seem to have been formulated with a view to family life. (Theodor H.Gaster, op.cit., p.79.)

that whereas originally the Essenes formed part of the Pharisee sect, they were finally excluded from the party because of their perversive teachings with regard to marriage. The fact that the Essenes were greatly respected by the general Jewish population and called forth the admiration even of the Greeks and the Romans, (37), made it imperative for the Rabbis to counteract the influence wielded by this sect. The Essenes had to be excluded from their ranks. They could not tolerate a sect that threatened to undermine the whole structure of Jewish life. Celibacy, one of the most important doctrines of the Essenes, must be eradicated from Judaism. The Pharisees must accept the principle that marriage is of divine origin, a sacred institution, the will of God. Judaism has nothing in common with the excessive asceticism that would cultivate the spirit by neglecting the body. It is God's desire that man should seek the way of life

More material evidence of the presence of women in Qumran has been the discovery of female skeletons in the cemetery. (J.M. Allegro, op.cit., p.103.)

See also A. Powell Davies, op.cit., p.18.

- 31). Hypthetica, 11, 14-17.
- 32). Wars, 11.8, 2.
- 33). Pliny the Elder, Historia Naturalis, v, 17.
- 34). Graetz, History of the Jews, vol. 11. p. 24.
- 35). Aboth d' R. Nathan, 36, 4.
- 36). Sota, 22b.
- 37). Josephus, Ant. xv. 10, 4. Graetz, 11. p/ 24.

" So enviable then is the life of these Essenes, that not

through happiness, even through physical happiness. "In the hereafter," the Rabbis boldly affirm, "every man will be called to account for the earthly pleasures he has rejected." (38).

But, what of the Essenes? were they not regarded as holy men (39), people imbued with a true spirit of God, practising Judaism in accordance with Divine Law? If in their extreme piety they found that marriage constituted an insurmountable obstacle to their communion with God; in their service to the Almighty, how could they explain their attitude towards marriage considering the fact that the Patriarchs, the Prophets and all the great leaders in the Bible were married men? If the Bible does not stress the advantages of the married man; if the Written Law does not explicitly state that marriage is duty-bound upon every member of the House of Israel, it certainly does not praise the unmarried man, nor does it offer any encouragement to the celibate. It is, therefore, obvious that the Essenes could not base their attitude towards marriage on Biblical data. There must have been other considerations which prompted the Essenes to renounce marriage. What were these considerations which influenced these pious men to adopt a way of life, so contrary to natural instinct and Biblical practice, and to renounce an institution that had existed in Israel since the beginnings of History?

only private persons but also the great kings are filled with admiration and amazement at the men and make their venerable character still more venerable by approbation and honour"

(Hasings, J., Encyclopedia of Religion and Ethics, vol. v. p. 397.).

The Religious Consideration.

According to Landtman, the idea that sexual intercourse is unclean and defiling, is found among primitive peoples in all parts of the world. This idea is especially true in the case of a man qualifying for the priesthood.(40). Similarly, Dr. Lecky writes, " The feeling of all men and the language of all nations, the sentiment which although weakened is never wholly effaced, that this appetite, even in its most legitimate gratification, is a thing to be veiled and hidden; all that is known under the name of decency and indecency, concur in proving that we have an innate, intuitive, instinctive perception that there is something degrading in the sensual part of our nature, something to which a feeling of shame is naturally attached; something which jars with our conception of perfect purity, something we could not with any propriety ascribe to an all holy being."(41). But, such feeling and sentiment is entirely lacking in the Books of the Bible. Even the High Priest was expected to be a married man.(lev.21,13-14). It is, therefore, obvious that the Essenes must have been influenced by non-Jewish doctrines prevailing in the Orient at that period.(42).

38). Jer. Kid. iv. end.

39). Graetz, History, 11. p.29.

40). G.Landtman, The Origin of Priesthood, Ekenaes, 1905, p.31.

41). Lecky, W.E.H. The History of European Morals from Augustus to Charlemagne, vol.1. p.104.

42). "Their election of their own priests, their avoidance of

Since Palestine, at the first century B.C.E., was a Roman province and closely in contact with Roman and Greek culture, it is possible that the Essenes were greatly influenced in their attitude towards marriage by either Greek or Roman thought and philosophy. According to Hardman, it was in Greece in the sixth century, B.C.E., that witnessed the rise of a more pronounced asceticism...those who practised the cult of Orpheus, banded themselves together in ascetic brotherhood, who in their endeavour to effect the purification of the imprisoned soul, avoided all food of animal origin and generally regulated their dress and conduct with a view to the avoidance of uncleanness, while the Pythagoreans formed coenobite communities, practised continence and abstinence. The influence of this novel type of Religion, with its definitely ascetic bias, spread from Greece throughout the Mediterranean world.(43). Attributing the rise of asceticism to Greek philosophy and ideal, Reuter and Runner state that going back to about 400 B.C.E., we find a salacious asceticism of the philosophers, and " among the victims of this sexual inversion, Socrates, Plato and Aristotle were conspicuous."(44).

marriage, their practice of adopting children, are among the plainest indications that we have to do with influences which were originally non-Jewish."
(Hasting's E.R.E. vol.ii. p.272.).

43). C.Hardman, The Ideals of Asceticism, London, 1924, p.31.

44). E.B.Reuter and J.R.Runner, The Family, New York, 1931.
p. 31.

Cf. John Langdon -Davis, A Short History of Women, London, 1932, pp. 148 ff.

45). O.Hardman, op.cit., p.33.

It was, however, in Egypt that asceticism finally took deep root and spread its influence far and wide. "The worship of the composite and artificially devised Serapis and his consort Isis, spread through all the great commercial centres of the Empire during the last three centuries, B.C. Ascetics of both sexes were forbidden the use of wine... and were required to remain celibate."(45). Whether the Essenes were influenced by Greek philosophy and ideals, or Egyptian asceticism and fanaticism, is a matter of conjecture. The fact, however, remains that the Essenes were a Jewish sect, adopting their way of life in accordance with Biblical doctrines and legislation. If the spirit of asceticism is contrary to the principles of the #written Law, some explanation is necessary to reconcile their mode of life with Biblical idealism.

The aim and ideal of every Essene was to achieve the highest state of sanctification, in accordance with the divine command to the Children of Israel, "Ye shall be holy, for I the Lord your God am holy"(Lev.19,2.); "Sanctify yourselves, therefore, and be ye holy, for I am the Lord your God"(Lev.20,7.);"And ye shall be unto Me a Kingdom of priests and an holy nation" (Ex. 19,7.). Consequently, any contact with defiling matter, would prevent the Essene from achieving this state of holiness. "Those, who are specially set apart to perform religious rites", states Hardman, "are required to practise celibacy... because the married state is held to be less pure than the single and, therefore, less helpful for those, whose duty it is to maintain

close touch with the gods."(46). And here the Essenes could point to the verse in the Bible where it states, "The woman also, with whom a man shall lie carnally, they shall both bathe themselves in water and be unclean until the even"(Lev.15,18.). (47).

If the Mosaic Law regards conjugal intercourse as polluting and enjoins ritual bathing after it, surely a state of sanctity cannot be obtained through marriage ? (48). When the Children of Israel had to be prepared to receive the Law at Sinai, they were instructed to sanctify themselves in the highest degree and under no circumstances were they to approach their wives.(Ex.19,15.). Similarly, those who had the charge of the Shewbread, polluted the sacred loaves by going to their wives. (1 Sam. 21,5.). Even, one of the Rabbis of the Pharisee school did not hesitate to state that after the giving of the Law, Moses separated himself entirely from his wife. This action on the part of Moses, was due to his reasoning:- "If the Israelites with whom the Divine Presence spoke only on one occasion, and He

46). O.Hardman, op.cit., p.83.

47). Josephus mentions the law that after the man and his wife have lain together in the regular way, they shall bathe themselves, for there is defilement contracted thereby, both in soul and body, as if they had gone into another country; for indeed the soul, by being united to the body, is subject to miseries, and is not freed therefrom but by death; on which account the law requires the purification to be entirely performed.
(Contra Apion, ii. 25.).

appointed them a time thereof, yet the Bible states, "come not near woman," I, with whom the Divine Presence speaks at all times and does not appoint for me a definite time, how much more so?" and the Rabbi concluded his statement by maintaining that the Almighty approved the action of Moses.(49).

Not only Moses, but according to the Rabbis, Adam separated from his wife for a period of one hundred and thirty days(50); Noah separated from his wife during the period of the Flood (51), and in Egypt a number of pious men, including the father of Moses, had no intercourse with their wives for a period of time.(52). The Rabbis have also laid down the law that on Yom Kippur and the ninth of Ab, a man may not have any intercourse with his wife(53), and the High Priest was separated from his wife, seven days before the Day of Atonement.(54).

The Essenes could, therefore, produce evidence from the Holy Scriptures to prove their case, and such conclusive ^{not} ~~conclusive~~ evidence could be refuted. Sexual intercourse was

Speaking of the Babylonians, Herodotus writes that as often as a Babylonian has had intercourse with his wife, he sits down before a censer of burning incense, and the woman sits opposite him. At dawn of day they wash, for till they are washed, they will not touch any of their common vessels. (Herodotus, 1.8.).

48). See C.D.Ginsburg, The Essenes, their History and Doctrines, London, 1955, p.39.

49). Shab.87a; Sifre Numbers.99.

Philo also refers to this action on the part of Moses because "He had to be ready at all times to receive direct revelation." (Vit. Mosis, ii. 68.0).

defiling. A woman, during her period of menstruation is, by Biblical enactment, declared unclean, and no contact with her permissible. (Lev. 18, 19.). Similarly, a woman in childbirth is declared unclean, and in addition to her seven days of impurity, she is declared unclean for thirty-three days in the case of the birth of a male child, and sixty-six days in the case of a female child when, "she shall touch no hallowed thing nor come into the Sanctuary." (Lev. 12, 2-5.). And the Essenes could turn to the Pharisees and accuse them of leading a life, contrary to their own principles and ideals.

It has been suggested that the name Pharisee implies "separateness" (55), and in the Aruk (56), the name is defined; "A Pharisee is one who separates himself from all uncleanness." On the verse, "For I am ~~he~~ the Lord thy God, hallow yourselves, therefore, and be holy" (Lev. 11, 44), the Rabbis state, "As I am holy, so be ye also holy; as I am separate, (parush), so be ye also separate" (perushim). (57). Similarly, on the verse, "Ye shall be holy, for I the Lord your God am holy" (Lev. 19, 2), the Rabbis

50). Eruv. 18b.

51). Gen.R. 34.7.

52). Sota, 12a.

53). Yoma, 8.1. Taanit, 30a; M.K. 15b.

54). Yoma, 6a.

55). See supra p.12. note 27.

56) A lexicon to the Talmud by Nathan b. Jehiel of Rome. (d. 1106).

57). Sifre, Shemini, 12.

state, "Be ye separate, (Perushim)" (58), and Prof. Moore maintains that the Pharisees were so called, because they religiously avoided everything the Law branded as unclean. (59).

If the Pharisees, led by the Rabbis, claimed to aspire to a state of holiness and sanctity by avoiding contact with any matter defiling and unclean, how could they justify their attitude towards marriage, when this necessitated contact with a person, whom the Torah has declared defiling and unclean at certain periods, and when the very act of copulation has been decreed as defiling?

Such arguments the Rabbis could not refute. There were, however, other considerations that influenced the Rabbis in maintaining their attitude towards marriage. "If there have been nations", writes Prof. Lecky, "Who attached a certain stigma to virginity, this has not been because they esteemed sensuality intrinsically holier than chastity; but because a scanty war-like people, whose position in the world depends chiefly on the numbers of its warriors, will naturally make it its main object to encourage population. This was especially the case with the ancient Jews, who always regarded extreme populousness

58). Sifre, Kedoshim, end.

59). G.F. Moore, Judaism, Cambridge, Mass., 1944. vol. 1. p. 60.

60). The Bible, however, does not stress the importance of numbers as such. "The Lord did not set His love upon you, nor choose you because ye were more in number than any people; for ye were the fewest of all people."
(Deut. 7, 7.).

Cf. Deut. 20, 1-10; Jud. 7, 1-8; 1 Sam. 14, 6.

as indissolubly connected with national prosperity,(60), whose religion was essentially patriotic, and among whom the possibility of becoming an ancestor of the Messiah(61), had imparted a peculiar dignity to childbirth."(62). The Rabbis could point to the promise of God to Abraham, "I will multiply thy seed as the stars of heaven and as the sand which is upon the sea-shore" (Gen.22,17.), which could not be fulfilled by the practice of chastity and celibacy.

Engaged in a political struggle for independence, the Rabbis fully realised that the only hope for the survival of the nation, lay in the strength of its forces. The people must be encouraged to propagate in order to assure the future of Judaism. "The utilitarian view, which prevails in countries where a political spirit is more powerful than a religious spirit, regards marriage as the ideal state, and to promote the happiness, sanctity and security of the state, is the main object of all its precepts. The mystical view which rests upon the natural feeling of shame, and which, as history proves, has prevailed especially where political sentiment is very low and religious sentiment very strong, regard virginity as its supreme type and marriage simply the most pardonable declension from ideal purity."

61). This refers to the statement of A.Assi, "The son of David (The Messiah) will only come when all the souls of the Guf(body) will be disposed of."(Yeb. 62a).

62). History of European Morals, vol.1. p.109.

63). *ibid.* vol. 11. p.297.

(63). It is true that the Pharisees constituted a strong religious party; but at the same time they could not close their eyes to the political struggle for the independence of the State. Aiming at the strengthening of the Jewish people and the Jewish State, they fought the Sadducees for position and leadership. The Essenes, on the other hand, had no consideration for the welfare of the State. They practised their religion in uninhabited parts of the country, completely dissociating themselves from the general Jewish population and avoided contact with people not of their own sect. In the political struggle for the independence of the State, the Essenes took no part(64), since they firmly believed that fate governs all things and that nothing befalls man, but what is according to its determination.(65).

There is yet another religious consideration which, no doubt, influenced the Essenes in their attitude towards marriage. From early days of history, the Israelite was taught the principle of bringing an offering to God. He was ordered by divine Law to bring his offerings and sacrifices in the form of cattle, sheep, goats, birds and flour. Animal offerings must generally be males and free from any blemish or disease. The same principle applied to food offerings; only the best may be presented. But these

64). Graetz, History of the Jews, 11. p.25.

65). Josephus, Antiq., xiii, 5, 9.

There were also a number of Rabbis who maintained that our lives were governed by fate. (See Shabb.156a; Ber.33b; Keth.30a; M.K.28a; Ned.32a; etc.,etc.,).

offerings did not touch the personal being of the Israelite. The sacrifice of an ox may have meant a financial loss to the property of the Jew, but his body, his pleasures and his physical gratification were unaffected by the sacrifice. "But, when man lays his hands on himself and offers to God the pleasures and pains of his own body...then, such feelings or truths will affect him more strongly and the reaction will easily excite him to greater intensity and produce a more lasting impression..."(66).

It is true that self-immolation and self-injury, in accordance with the practice of the Canaanites, "When they cut into their flesh with swords and spears till the blood streamed down"(1 Kings, 18, 26-28.), was strictly prohibited by law. (Deut.14,1.), but there was no law prohibiting a man from offering his own pleasures, his physical gratification in the service of God. The ancient Israelite, who sought austere modes of self-dedication, could become a "Nazirite", a person consecrated to God, and by doing so, would subsequently deprive himself of certain pleasures in life.

According to the Bible, three restrictions were imposed upon the Nazirite.

1). He was not permitted to drink wine or anything made from grapes.

2). He was not permitted to cut the hair of his head.(67).

66). H.Ewald, The Antiquities of Israel, p.82.

3). He was not allowed to touch the dead (a cause of defilement), not even the body of his father or mother, since, "His consecration unto God is upon his head", therefore, "all the days of his Naziriteship he is holy unto the Lord" (Numb.6,22f). It is of interest to note that the priests too were not allowed to drink wine during their ministrations (Lev.10,9.), nor be in contact with a dead body (21,1.). (68), and according to Ezekiel, the priests were not permitted to cut their hair. (44,21.). In fact, from the juxtaposition of the prophets and Nazirites in the Book of Amos, (2,11-12.) it follows that the latter must have been regarded in a sense as priests, as holy men.

Biblical data, however, does not give the impression that the Nazirites were numerous in the early history of Israel. With the exception of Samuel (1 Sam. 1,11.) (69), Samson, (Jud.13,5.), and perhaps Absalom, (11 Sam.14,26.), (70), no other reference is given to any particular person being a Nazirite. The mention of Nazirites by the Prophet Amos, clearly indicates that there must have been a number of them in the eighth century, B.C.E. It is,

67). According to Bertholet, hair sacrifice played an important part in primitive cults, and it is possible that it was the fear of losing their hair to an alien cult that induced them to let it grow.
(A. Bertholet, A History of Hebrew Civilisation, London, 1926, p. 362.).

68). The ordinary priest was permitted to touch the dead body of his father, mother, son, daughter, brother and unmarried sister. This, however, was strictly forbidden to the High Priest. (Lev.21,11.).

69). It is doubtful whether 1 Sam.1,11, implies that Samuel was a Nazirite. Kennedy, for example, states, "It has been too

however, in the second century, B.C.E., that evidence is available of their numerous existence. In the Book of Maccabees we are told of Nazirites, who joined the Jews at Mitzpah for prayer and supplication. (1 Macc.3,49.). (71). At the time of Simeon b. Shatah, we are told that three hundred Nazirites came to Jerusalem. In the case of one hundred and fifty, R.Simeon found reason for annulling their vows, but in the case of the others he found none. R.Simeon then went to his brother-in-law, King Jannai (103- 76 B.C.E.), and said to him, "There are three hundred Nazirites who need nine hundred sacrificial animals, you give me half and I will give the other half, and so the king sent him four hundred and fifty animals." (72).

hastily assumed that the child was to be a Nazirite or devotee from his birth, in the sense of Num. 6."

(The Century Bible, Edinburgh, 1905. p.39.

In the opinion of R.Nehorai, however, there was no doubt that Samuel was a Nazirite. (Nazir, 65a.).

In the Dead Sea Scroll of the Book of Samuel we read, "And I shall give him for a Nazirite for ever, all the days of his life."

(Allegro, J.M. The Dead Sea Scrolls, London, 1957, p.59.).

- 70). No mention is made in the Bible to the fact that Absalom was a Nazirite. The Rabbi assumed that he was a Nazirite since he cut his hair once a year. (Nazir, 4b.).
- 71). See Josephus, Antiq. xix. 6,11.
- 72). Jer. Ber.7.2. Jer. Nazir. 5.3.

The Prophet Jeremiah mentions another sect that abstained from wine. The Prophet records that he took some Rechabites into the Temple and offered them wine to drink. This they refused since Jehonadab, son of Rechab, their ancestor had commanded them not to drink wine, or live in houses, or sow seed or plant vineyards, and had enjoined them to live in tents all their days. (Jer.ch.35.).

What were the reasons that prompted the ancient Israelite to renounce the pleasure of taking wine and to be restricted in his normal way of life ? The Bible offers no explanation. In the case of Samuel and Samson, both were declared to be Nazirites even before their birth. According to Josephus, it was ~~normal~~ usual for those afflicted with a distemper or with distress to take the vow of the Nazirite.(73). According to the Rabbis, men undertook to become Nazirites in return for some special manifestation of the divine favour shown. "If a man said, I will be a Nazirite if a son is born to me, and a son is born to him, he becomes a Nazirite."(74). It is reported by R.Judah b.El'ai that "The ancient pious men desired to bring a sin-offering. Because the Holy One, blessed be He, did not bring an offence into their hands, what did they do ? They voluntarily made the vow of the Nazirite to God, in order to become liable to bring a sin-offering."(75).

According to R.Jonathan, they were the descendants of Jethro, the father-in-law of Moses. Many of them were members of the Sanhedrin.
(Yalk.Shim. Jeremiah, 323,35.).

73). Josephus, Wars, ii.15.1.

74). Nazir, 2.7.

75). Ned.10a; Tos.Ned.2.1.

These pious men were filled with anxiety lest they might be committing sins and in need of atonement. The sin offering prescribed in Lev.4,27, in case of a transgression in error of a biblical prohibition, required that the sinner should have later become conscious of having unwittingly committed a definite offence. But the pious men who, in

The Mishna also relates of a non-Jewish queen, Queen Helena, (76), who became a Nazirite as a result of a vow she made on the departure of her son to war. "If my son returns from the war, I shall be a Nazirite for seven years." Her son returned from the war and she became a Nazirite.(77).

There were, however, people who became Nazirites in order to display their mastery over their passions or evil inclinations. It is reported that in the time of Simeon the Just(78), a Nazirite came to see him. This man was of handsome appearance and possessed beautiful eyes. Simeon was surprised to note that the man had his hair heaped into curls. "Why, my son," asked Simeon, "didst thou resolve to destroy such wonderful hair?" (79). "In my native town" replied the man, "I was my father's shepherd, and on going down to draw water from the well, I used to gaze at my reflection in its waters. My evil inclination then assailed me, seeking to

their strict care and watchfulness naturally did their utmost to avoid such a violation of the Law, could not satisfy that condition laid down for a sin offering and found no occasion for bringing such a sacrifice. In their desire of bringing a sin offering, they resorted to the law with regard to the Nazirite, who at the conclusion of his temporary vow, was bidden to offer a sin offering.(Numb. 6,14.). As the temporary vow of the Nazirite extended only over thirty days,(see Jos.Wars, ii. 15,1. Nazir,3,2.), the pious men could repeat the vow as often as they liked; bring the sin offering every month and thus satisfy their desire for regular atonement.

(See A.Buchler, Types of Jewish Palestinian Piety, From 70 B.C.E. to 70 C.E. London, 1922, p.77.).

76). Queen of Adiabene. See Josephus, Antiq., xx. 2,1.

77). Nazir, 3,6.

compass my ruin, and so I said to it, 'Wretch ! why dost thou plume thyself in a world that is not thine own? for thy latter end is worms and maggots. I swear I shall shear these locks to the glory of Heaven.'" Simeon the Just was greatly impressed with the sincerity of the man and, thereupon, kissed him upon his head and said to him, "Like thee, may there be many Nazirites in Israel. Of such as thou art, does the verse state, 'When a man shall clearly utter a vow, the vow of a Nazirite to consecrate himself unto the Lord.'" (Numb.6,2.)(80).

If, therefore, a man was praised by the High Priest for being willing to sacrifice his beautiful hair in order to avoid the temptation of sin, what of the man who is willing to sacrifice all pleasures, including physical satisfaction, which can only lead to sin and estrangement from God ?

It was thus that the ideals of self-abnegation and of shunning pleasure that existed among the Nazirites, began to have its influence on the minds and thoughts of the Essenes. When, however, the Essenes began to practise and to preach their

78). High Priest, circa 300 B.C.E. See, however, Aboth, Soncino Edition, p.2. n.1.

79). His hair would have to be cut at the end of the period of his being a Nazirite.

80). Ned.9b; Nazir. 4b.

subversive doctrines of complete suppression of all pleasures, including sexual intercourse and to base their teachings on the ideals of the Nazirite, obviously encouraged by divine law, that the Rabbis found it necessary to attack the very source from which the Essenes drew their ideals. They declared the Nazirite to be a sinner, because he denied himself the pleasure of drinking wine. In connection with the Nazirite, the Bible states, "And make atonement for him, for that he sinned by reason of the soul" (Numb.6,9.), and the Rabbis ask, "Against what soul did the Nazirite sin? Is it not because he denied himself the pleasure of drinking wine? If, therefore, this man who denied himself wine only is termed a sinner, how much more is it true of the man who is ascetic in all things!" (81). "A vow of abstinence" states a Rabbi, "is like an iron collar(such as worn by prisoners) about a man's neck, and one who imposes on himself a vow(of a Nazirite), is like a man who should find such a collar lying loose and sticks his head into it. Or, a man who taketh a vow, is like one who builds an illegitimate altar(bamah), and if he fulfillis the vow, is like one who sacrifices on such an altar" (82). Or, as another Rabbi puts it, "Are not the things already prohibited to you by Law, enough that you want to prohibit yourself other things?"(83).

81). Ned.10a; Nazir.19a.

82). Jer.Ned.9.1.

83). ibid.

In accordance with divine Law, a man is duty-bound to make his children and his household to rejoice on a Festival. (Deut. 16, 14.), and when the question was asked, "wherewith shall he make them rejoice?" the Rabbi did not hesitate in stating, "with wine." (84). It was taught by a Rabbi that when the Temple was in existence, there could be no rejoicing without meat, but after the destruction of the Temple, there can be no rejoicing without wine. (85).

These statements of the Rabbis can only be interpreted as an attack against the Nazirites, and when the Rabbis laid down the principle, "An infringement of the Law with good intention, is better than its fulfillment without good intention" (86), they may have tried to influence the Nazirites and the Essenes to renounce their way of life, rather than be forced to lead a life of asceticism by being deprived of the pleasures of life.

SOCIAL CONSIDERATION.

In the first century, B.C.E., Palestine formed part of the Roman Empire, and it may be assumed that Greek and Roman thought and philosophy towards women in general, and marriage in particular, had its influence on the Essenes. "As early as the first quarter

84). Pes. 109a.

85). ibid.

86). Nazir, 23b.

of the seventh century, B.C." writes Hans Licht, "Simonides of Amorgos had given vent to his feelings in a long satirical poem and expressed and confirmed his conviction of the physiological as well as the moral weak mindedness of women, with startling clearness and frankness. The poem affirms that of ten women, nine are worthless... unhappy is the man who embraces such a pest. Nor will she ever do a good turn to anyone, but it is her aim, which she plans every day, how she may do him the greatest injury."(87).

From the tragedians, especially Euripides, hundreds of attacks on the female sex could be got together, which can all, more or less, be included under the motto, "To bury a woman is better than to marry her."(88). Legally, socially and in general estimation, women occupied a low place in Athens(89), and Prof. Thomson writes that a picture of Athenian family life is not a pleasant one. The extent to which the relations between husband and wife were poised, may be judged from the complacent remarks of an Athenian orator. "We have courtesans for our pleasure, concubines for ^{our} daily needs of our bodies, and wives to keep house for us and bear us legitimate children."(90).

87). Hans Licht, Sexual Life in Ancient Greece, London, 1932. pp. 75-76.

88). ibid. p.73.

89). A.W.Gomme, Essays in Greek History and Literature, Oxford, 1937. p.90.

90). G.Thomson, Aeschylus and Athens, London, 1941, p.366.

A poor opinion of the female sex prevailed among the Romans, (91), and life in the city of Rome under the Empire, according to Dr. Last, is an unsavoury subject, of which little need be said. That there was a general moral collapse, there can be no denying. It must be confessed that during the first and second centuries of the Empire, there was a great deal on which it would be unpleasant to dwell. (92). There were many Romans who, on account of their attitude towards women, chose a life of celibacy. (93), and Cicero, in his treatise 'De Legibus' makes it part of the duty of the Censors to prevent people remaining bachelors. (94).

During the reign of Augustus, legislation was passed in the form of a direct tax or of certain disabilities, penalising those who remained unmarried. The disabilities were that an unmarried man could not take a legacy from a testator, not related to him within the sixth degree, unless he married within a hundred days of being informed of the legacy. The beneficiary clauses of the law were those which relieved married men and women from these disabilities and gave them exemption from certain onerous public duties and special places of honour in the theatres. (95).

91). H. Wagenroort, Roman Dynamism, Oxford, 1947. p. 170.

92). H. Last, Legacy of Rome, Family and Social Life, Oxford, 1951, p. 230.

93). C. Merivale, History of the Romans under the Empire, p. 85.

94). Lib. Hist., 7.

95) Merivale, op. cit., pp. 85 ff.

We are told that the Emperor summoned two meetings of the equites, one of those married and the other of the single. To each he delivered a speech. He pointed out with dismay to the fact that the first meeting was so much less numerous than the second. He commended the married men for having done their duty to the State, but to the unmarried he addressed a longer and more vehement appeal. He argued that they were defeating the purpose of the Creator, were contributing to the disappearance of the Roman race; that in his legislation, he had only followed the precedent of ancient laws with increased penalties and rewards, and that while he acknowledged that marriage was not without its troubles, yet that was true of everything else, and they were compensated by other advantages and the consciousness of duty done.(96).

This legislation by the Emperor Augustus, was no innovation in Roman life. Among the duties of the censors was that of levying fines upon citizens who persisted in remaining single. But neither penalties nor rewards proved effectual to check the increasing tendency of celibacy, and at the period of the Gracchi, an alarm was sounded that the old Roman race was becoming rapidly extinguished.(97). The censor of the year 131, B.C.E., Metellus Macedonicus, expounded the evil to the

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96). E.S. Shuckburgh, *The Life and Times of the Founder of the Roman Empire*, B.C.63---A.D.14. London, 1908. pp.228 ff.

97). Merivale, *op.cit.*, p.86.

Senate, in a speech which seems to have been among the most curious productions of antiquity. "If we could live, citizens, without a wife, we would all abstain from that burden; but since it is in the tradition of nature that one cannot live in a satisfactory way with them, nor in any way without them, we have to take in account perpetual welfare more than passing lust."(98).

To regard woman as a plague and evil, seems to have been the general view of the Roman, and led to the praises of celibacy by a number of Latin authors.(99). At the same time, the women themselves, insulted by the neglect of the other sex, and exasperated by the inferiority of their position, revenged themselves by holding the institution of legitimate marriage in almost equal aversion. They were indignant at the servitude to which marriage bound them, the state of dependence and legal incapacity in which it kept them; for it left them without rights and without the enjoyment of their own property; it reduced them to the status of mere children. For the smallest fault, the wife might be placed on trial before her husband. She might be beaten with rods, even to death itself for adultery or for any other hideous crime, whilst she might suffer divorce from the merest caprice and simply for the loss of her youth, or beauty.(100).

98). Gell.1.6.

99). Plautus, Miles gloriosus, iii.1.

100). Merivale, op.cit., p.83.

On the other hand it should be pointed out, that Seneca,

But the Jewish ascetics need not have drawn their attitude towards women from their Roman neighbours. Did not Ben Sirah state, "From a woman was the beginning of sin and because of her we all die." (25,24). And it must be admitted that even among many of the Rabbis, woman was not held in high esteem. Many of them did not hesitate in expressing themselves in terms most uncomplimentary to womanhood. Thus, the Rabbis state, "There are four characteristics in the nature of women; they are gluttonous, eavesdroppers, lazy and jealous," and in the opinion of another Rabbi, women are also "querulous and loquacious." (101). In order to describe the loquaciousness of women, the Rabbis state that ten measures of gossip descended on this earth; nine of which were taken by women. (102).

Similarly, the Rabbis maintain that women are inclined towards the practice of sorcery (103), and even the best of them is a sorcerer. (104). Women are temperamentally light headed (105), and look upon guests with more grudging eyes than men. (106).

Tacitus, Juvenal and Pliny, all have a high view of woman as she ought to be. To this age belongs some of the purest affection known in the ancient world.

(See H. Last, Family and Social Life in Rome, Oxford 1951, p.235.).

Dr. Donaldson points out that there are numerous instances in which wives resolved to share the ill-fortune of their husbands, to endure calamity along with them, and to die rather than survive them. Many stories are told of the affection of husband for wife and wife for husband.

(Donaldson, J., Woman; Her Position and Influence in Ancient Greece and Rome and among the Early Christians. London, 1917. pp.85-86.).

101). Gen.A.45,5; Deut.R.6,11; Yalk.Shim.247,24.

Perhaps, the most uncomplimentary description of woman is contained in the following statement of the Rabbis: "though a woman is like a pitcher full of filth...yet all men run after her."(107). "Woman is like an ass; an ass will bray if there is there no food in the manger, so will a woman shout if there is no food in her home."(108). "Three must not pass between two men, nor may a man pass between them: viz; a dog, a palm tree and a woman. Some say a swine too; some say a snake too... If a menstruant woman passes between two men; if it is at the beginning of her menses, she will slay one of them, and if at the end of her menses, she will cause strife between them."(109). "He who follows his wife's counsel, will descend into Gehenna."(110).

Prof. Moore points out that the Rabbis, in their endeavour to "keep man a long way from sin", took manifold precautions against the excitement of ^{lustful thoughts through} the senses and administered their warnings with liberal threats of damnation, as is common with moralists when they want to be impressive.(111). "Under no circum-

102). Kid.49b.

103). Yoma. 83b; Pes.110a; Sanh.67a.

104). Sof.15.10.

105). Kid.80b; Shab.33b.

106). B.M.87a.

107). Shab.152a.

108). Temur. 16a.

109). Pes.111a.

stances should a man walk behind a woman, not even his own wife. One who walks behind a woman crossing a stream, will have no share in the world to come. One who pays money out of his own hand into a woman's, so as to look at her, though he has as much learning and good deeds as our master Moses, he will not get off from condemnation to hell, as it is said, "Hand to hand, the wicked man shall not be unpunished"(Prov.11,21.) from condemnation to hell.(112). On the verse, "Thou shalt keep thyself from every evil thing,"(Deut.23,9.), the Rabbis taught that a man should not gaze on a beautiful woman, even an unmarried one; and not on a married woman even if she is ugly.(113). "Whoever gazes on a woman intensely it is as if he lay with her."(114). "Whoever looks at a woman, will in the end fall into transgression."(115).

Such an attitude towards women, could only foster a spirit of contempt for the opposite sex in the minds of the Essenes and greatly influence them in avoiding any contact with women. If the Rabbis, the recognised teachers and leaders of Jewry, could regard woman as an evil and the source of all trouble to be avoided at all costs, why not renounce marriage, thus avoiding contact with them? According to Josephus, the Essenes shunned marriage, because they were convinced that no woman could preserve her fidelity to one man.(116).

110). B.M. 59a.

111). G.F.Moore, Judaism, Cambridge, Mass.1944. vol.1. p.269.

112). Ber.61b; Erub.18b.

113). Abod. Zar.20a.

But what of the rabbis? What justification did they have in declaring womanhood to be evil, licentious and sorcerers? They certainly could not base their teachings on Biblical texts. On the contrary, the condition of woman as pictured in the Bible, contrasts most favourably with that of her modern representative. There is abundant evidence that woman, whether married or unmarried went about freely with their faces unveiled. (Gen. 12, 14; 24, 16, 45; I Sam. 1, 13.). An unmarried woman might meet and converse with men, even strangers in a public place. (Gen. 24, 25, 45-47; 29, 9-12; I Sam. 9, 11.). She might be found alone in the country, without any reflection on her character. (Deut. 22, 25-27), or she might appear in a court of Justice. (Num. 27, 2.). Women, not infrequently, held important offices, some were prophetesses like Miriam, Deborah, Hulda (117); of others, advice was sought in emergencies (II Sam. 14, 2;

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- 114). Kall. 1. Cf. Matt. 5, 28. "Whosoever looketh on a woman to lust after her, hath committed adultery with her already in his heart."
- 115). Ned. 20a.
- 116). Wars. ii. 2; viii. 2.
- 117). The Rabbis speak of seven prophetesses, Sarah, Miriam, Deborah, Hannah, Abigail, Huldah and Esther. (Meg. 14a.).
- 118). David R. Mace, Hebrew Marriage, A Sociological Study, London 1953, p. 198.
- 119). M. Radin, The Life of the People in Biblical Times, Philadelphia, 1929, p. 41.
- 120). B. Jacob, The Jewish Woman in the Bible; The Jewish Library, Third Series, New York, 1934. pp. 4, 7, 26.

20, 16-27). They took part in matters of public interest(Ex.15,20; I Sam.18,6-7); in short, they enjoyed as much freedom in ordinary life as the woman in our own days.

It is certain that the woman in the Bible exercised an important influence in her own home, took part in family affairs and even enjoyed a considerable amount of independence. We find her entertaining guests at her own desire(II Kings, 4,8.), even in the absence of her husband(Judg.4,18), and sometimes even in defiance of his wishes(I Sam. 24,14 ff.). She disposes of her child by a vow, without any reference to her husband,(I Sam.1,24.); she consults with him as to the marriage of her children(Gen.27,14), and her suggestions as to any domestic arrangements are met with due attention (II Kings, 4,9-10), and occasionally, she criticizes the conduct of her husband in terms of great severity.(I Sam.25,25; II Sam.6,20.).

"The factor which links man and woman together", writes Dr.Mace, "is not that one is fashioned out of the other, but that both, in contrast to the animal creation, are made in the likeness of God. Their being made male and female, constitutes their need of one another in the flesh; while the fact that both alike bear the divine image, gives them something in common which makes them fitting companions for one another at the levels of mind and spirit."(118). Or, as Dr.Radin puts it, "Whenever in precepts or in Psalms or Proverbs, filial devotion is mentioned, father and mother are regularly made equal, as is done in the Fifth Commandment. The duty to the one was no greater and no less than to the

other, and since filial devotion is the foundation virtue of ancient society, this gives the mother a very high and important place in the structure of ancient society."(119).

Writing on the Jewish woman in the Bible, Dr. Jacob states, "The Bible declares that man and woman are of the same excellency and nobility; God created them both in His own Image; both share His blessing, "Be fruitful and multiply and fill the earth"; both are invested with the authority to subdue the earth and all its living creatures and have dominion over them. In general, before Biblical law, man and woman stand on equal footing."(120).

If, therefore, in Biblical times, woman was looked upon with respect and allowed her influenced to be used in national affairs, what conditions prevailing in Palestine and Babylon during the Rabbinic period, prompted many of our rabbis to declare woman to be an inferior being, a person to be avoided like a plague and evil.

It may, therefore, be assumed that since the days of the Bible, the morality of the people must have deteriorated to a large extent, and ways and means had to be found to safeguard the purity of family life.

Due to the increase of the power of Rome and especially

Josephus, however, maintains that according to Scripture, "A woman is inferior to her husband in all things."(Con.Ap. ii.25.). This statement is refuted by W. Whiston, who writes that this text is nowhere to be found in our present copies of the Old Testament.
(The Works of Josephus Flavius by W. Whiston, p.791, col.ii. n.1.).

after the Eastern conquests of the Republic, it became impossible to maintain the Roman race in its state of social isolation. To form legitimate connections with those foreign women, was forbidden to the Romans by the harsh institutions of a Servius or Numa. Consequently, the Roman, being forbidden by law to marry the woman of his choice from another country, became licentious and freely indulged in temporary amours, and the results of this vicious indulgency were more depraving than the vice itself. For, the unmarried Roman, cohabiting with a freed woman or slave, became the father of a bastard brood, against whom the gates of the city were shut. His pride was wounded in the tenderest part. He chose rather to abandon the wretched offspring of his amours than to bring them up as a reproach to himself and see them sink below the rank in which their father was born.(121).

That immorality was prevalent among the Jews in the first century, A.C.E., is clear from the action of R.Johanan b. Zaccai, who suspended the ordeal of drinking the bitter water by a woman, suspected by her husband of infidelity.(Num.5, 12-31.). For the Rabbis taught, "And the man shall be free from iniquity," (Num.5,31.), "Only when a man is free from iniquity does the water prove his wife."(122). "When, therefore, adulterers multiplied, the ceremony of the bitter water was discontinued, and it was R. Johanan b.Zaccai who had it discontinued, as it is said,"I will

It is unlikely that Josephus possessed a copy of the Bible, from which such a statement could be derived. It is more probable that Josephus was greatly influenced by the Roman attitude towards women, and his book was written for Roman

not punish your daughters when they commit whoredom, nor your brides when they commit adultery, for they themselves are separated with whores and they sacrifice with harlots."(Hos.4,14). (123). R.Simeon b. El'azar stated, "When purity ceased in Israel, it took away the flavour of the fragrance; when the Tithes ceased, they took away the fatness of the corn; and immorality and sorcery have made an end of them altogether."(124).

In the mind of several of the Rabbis, there was no doubt that the woman, by her unworthy behaviour, was responsible for this immoral degradation of the people of Israel. "It all depends upon the woman", (125), the Rabbis declared, and how decisive a woman's effect can be upon the life of her husband, is emphatically pointed out in the following story. "It is related of a pious man who was married to a pious woman; but being childless they divorced one another. The man went and married a wicked woman, and she made him wicked; the woman went and married a wicked man and made him righteous."(126).

With reference to the verse, "Because the daughters of Zion are haughty, and walk with stretched forth necks and wanton

and Greek consumption. To declare woman to be of equal standing with man, would be not be acceptable to the Romans of his time.

121).Merivale, op.cit., pp.80 ff.

122).Sota, 47b.

123). Sota, 47a.

124).Sota, 9,3. R.Simeon b.El'azar, who lived in the second century C.E., was reporting on events that took place in Israel

eyes, walking and mincing as they go, and making a tinkling with their feet"(Is. 3,16). R.Johanan gives an interesting description of the behaviour of the Jewish women during the fall of the State in the year 70 C.E. (127). "They walked with uplifted heads, stretching their necks in order to display their jewellery; they painted their eyelashes with red paint; they wore high-soled shoes in which they placed the shell of an egg filled with a special perfume. Whenever she saw a company of young men, she used to break the egg with her heel, and the perfume penetrated the man like the poison of a serpent. When the enemy(the Romans) entered Palestine, the women bedecked themselves like harlots. A dux saw them and took them; a governor saw them and took them; a magister militum saw them and took them in his coach."(128).

Many Rabbis, however, must have felt that to regard women as the source of all evil, would only foster a spirit of contempt for the opposite sex and greatly encourage men in renouncing marriage. Realising the danger to the institution of

during the preceeding century.

125). Gen.R.17,7. Yalk.Shim. 2,23.

126). ibid.

127). R.Johanan, who lived in Palestine during the third century C.E., has reported many incidents in the life of the people prior to the destruction of the State in the year 70 C.E. (See Gitt. 55a. ff.)

128). Lev.R.16,1. See also Gen.R.18; Num.R.7,9; Tann.Naso,

marriage by such teachings, these Rabbis expressed a high regard for womanhood. "One must always observe the honour due to his wife, because blessings rest on a man's home only on account of his wife; for it is written, 'And he treated Abram well for her sake' (Gen.12,16.); and thus did Raba say to the townspeople of Mahuza(129), 'Honour your wives that ye may be enriched.'(130). "He who loves his wife as himself and respects her more than himself... concerning him the verse states, 'And thou shalt know that thy tent is in peace.'(131). "The Almighty gave greater understanding to woman than to man."(132). "Jewish women are neither loud nor arrogant nor prone to loud laughter."(133). "It is not the way of women to sit idle."(134). "women are merciful"(135); a good woman is a good gift, a beautiful woman, happy is her husband."(136). "who is wealthy? He who has a wife comely in deeds."(137).

Finally, if in the minds of some people there still existed an opinion that women were inferior to men, there were

129). A large Jewish commercial town, situated on the Tigris.

130). B.M. 59a.

131). Yeb.62b; Sanh. 76b.

132). Nidd. 45b.

133). Tanh. Naso.

134). Jer.Keth.5,6.

135). Meg.14a.

136). Yeb.63b.

saying, 'Thus shalt thou say to the House of Jacob and tell the children of Israel' (Ex.19,3), and the question was asked, 'Who are the House of Jacob, and who are the children of Israel ?' and the reply was given, 'The House of Jacob' refers to the women and the 'Children of Israel' to the men, thus implying that Moses was bidden to approach the women first."(139).

POLITICAL CONSIDERATION.

"Primitive man", writes Ahad Ha'am, "has a rooted belief that his god, like the head of his tribe, would be propitiated by a costly offering of his most valuable possession, and especially of flesh and fat and blood, which are the dainties most palatable to the savage. Now the greater the value of the offering in the opinion of the bringer, the greater clearly, would be his confidence in its acceptability to the gods as a proof of his true service and fidelity. It was then by this process of reasoning, which followed inevitably from the fundamental belief just mentioned, that men were led to sacrifice even their offspring to their gods in time of trouble; and the same reasoning was responsible for the unnatural ideas of sacrificing part of man's own body, his fat and blood, as the most precious of his possessions.(140). Thus religion produced, together with the idea of sacrifices in general, that of fasting and mortification; not from a desire to turn men away from the flesh, but because fasting and mortification seemed to be the

139). Ex.R.28.2.

140). When R.Shesheth used to observe his fast-days, he used to offer the following prayer: "Lord of the Universe ! It is

greatest sacrifice of which flesh and blood was capable and, therefore, the most certain means of propitiating God or gaining His grace. Hence, it is that in all ages this method has been most used in times of acutest distress, when it was necessary, "to cry mightily unto God" and to avert His anger by every possible means." (141).

National disaster would, therefore, lead many to an ascetic life, and the entry of Rome into Palestine was to lead to the greatest national disaster that had befallen the people of Israel since it became a nation.

When in the year 67 B.C.E., Queen Salome Alexandra died, she left the command of the army in the hands of her younger son, Aristobulus; while her elder son, Hyrcanus, acted as high priest. When Hyrcanus by reason of his birthright mounted the throne, Aristobulus marched against him with an army. At that time, a Roman general had arrived in Damascus, and both brothers now appealed to the Roman general for his assistance in obtaining the throne of Judea. Rome now took a hand in directing the affairs of Palestine, and matters moved from bad to worse with the accession of Herod in the year 37 B.C.E. to the throne, with the

revealed before Thee that when the Sanctuary was in existence, a man sinned and brought an offering, of which he sacrificed only the fat and blood and atonement was made for him. Now, I observe a fast and my fat and blood are diminished. May it be Thy will that my fat and blood, which have been diminished, may be accounted as though I have offered them before Thee upon the altar, and do Thou favour me."

(Ber. 17a).

Similarly, R. Eleazar used to state that fasting is more

full support of the Roman army. The whole of Judea was now forced to pay tribute to Rome. For the next thirty-four years, the country was terrorised by the cruel deeds of the King. There have been few rulers in history, whose hands were more stained with cruel deeds. (142).

Herod not only killed the inhabitants of cities who opposed his will, but he also put to death members of his own family. His last act was typical of his whole life. He lay on his death-bed suffering from a painful disease. As he hovered between life and death, he gave orders for the most respected men all over the country to be brought to the city of Jericho, and imprisoned till his death. They were then to be massacred, so that the entire nation might be mourning at his loss. "Murder filled his thoughts from the first moment of his public life until he drew his last breath." (143).

It was soon after the death of Herod that Palestine became entirely subjugated to Roman authority and was united with the Province of Syria. Matters remained in this condition till

important than the giving of charity, since by fasting one offers part of his body, whilst by giving charity one offers only money.
(Ber.32b.).

- 141). L.Simon, Selected Essays by Ahad Ha'am, Philadelphia, 1948. pp.140 ff.
- 142). Graetz, History of the Jews, vol.ii. pp.89 ff.
- 143). ibid. p.116.

the final revolt and the destruction of the State in the year 70 C.E. " A veil of sadness had been spread over the nation, and no joyful feelings could exist beneath it. The last decades exhibit the nation as a captive who, continually tormented and goaded by his jailor, tugs at his fetters with the strength of despair....."(144). The country was ripe for asceticism. God had punished His children because they had sinned against Him. God must, therefore, be propitiated.

To appease God, great personal sacrifices must be made. "The belief that man can propitiate God and placate His anger by deliberately and methodically torturing himself, is prevalent in asceticism."(145). Fasting and mortification must, therefore, be indulged in. Perhaps God will accept their personal sacrifices and avert the impending calamity. Perhaps at the last moment, God will have mercy upon them and send His Messiah to save them?

Did not the Prophet Joel urge the people of Israel to proclaim a fast in order to propitiate God when a great calamity befell the land? (Joel, 1,14; 2,12 ff.). When the children of Israel were defeated at the hands of the tribe of Benjamin, believing they had incurred divine displeasure, they proclaimed a fast for the whole people.(Jud.20,26.). It was at

144). Graetz, History of the Jews, vol.ii. p. 233.

145). N.Berdyayev, Spirit and Reality. Trans. by G.Reavey, London, 1939. p.92.

the instigation of the Prophet Samuel that the people proclaimed a fast before meeting the Philistines in battle. (I Sam.7,6.). Was not the non-Jewish city of Nineveh spared because they had proclaimed a fast when, "Neither man nor beast, herd or flock", were allowed to taste any food, nor drink any water ? (Jonah,3.7.). At the request of Queen Esther, a fast for three days was proclaimed for all the Jews of Shusan, so that the Almighty may be with her when she approaches the king on behalf of her people. (Esther,4,16.). (146).

Quite apart from National fasts, references are found in the Bible when individuals fasted, hoping to propitiate God. "And he(David) said, while the child ^{was} yet alive, I fasted and wept; for I said, who can tell whether God will be gracious to me that the child may live ?" (II.Sam. 12,22).(147). Reference to private fasts is also found in the Books of the Apocrypha, where we read, "And she (Judith) fasted all the days of her widowhood, save the eves of the Sabbaths and the eves of the New Moon and the Feasts and the Solemn days of the House of Israel."(Judith,8,6.).

Examples of self-imposed abstinence are given in the Testaments of the Twelve Patriarchs. For seven years Reuben drank no wine or other liquor, no flesh passed his lips and ate no appetising food.(Test.Reub.1,10.). In the fear of the Lord, Simeon afflicted his soul with fasting for two years for his

146). See also I Sam. 31,13; II Sam.1,12; Ez.8,23; Neh.9,1; I Macc.3,47; II Macc. 13,12.

hatred for Joseph.(Test.Sim.3,4.). Judah, in repentance for his sin with Tamar, took neither wine nor flesh and so no pleasure.(Test.Judah, 15,4.).

No wonder that many of the Rabbis, during this period of national calamity and suffering, resorted to fasting and mortification as a means of propitiating God. Thus we are told that R.Zadok observed fasts for forty years in order that Jerusalem might not be destroyed. He became so thin that when he ate anything, the food could be seen as it passed through the throat. When he wanted to restore himself, they used to bring him a fig and he used to suck the juice and throw the rest away.(148).

It is reported of R.Joshua that his teeth were black on account of his continual fasting.(149). when the Rabbis instituted the order of the fasts for three days, and then for a further seven days, they intended these to be applicable only in the case of fasts for rain; but in all other forms of visitation, the fasts are to be continued until their prayers are to be answered from heaven.(150). A Babylonian Rabbi, is reported to have fasted the whole year, except on the Feast of Weeks, Purim and on the eve of the Day of Atonement.(151).

147). In the case of Moses and Daniel, we are told that they fasted in preparation for divine Revelation.(Ex.34,28; Deut.9,9.18; Dan.9,3.).

148). Gitt. 56a.

149). Hag.22b; Naz.52b. Both R.Zadok and R.Joshua lived in the first century C.E.

150). Ta'an. 14b.

It is interesting to note that fasting and abstinence from marital intercourse appear together as signs of repentance and mourning. Thus, according to R.Meir, "Adam was a great Hasid(pious). When he learnt that through him, death was decreed as a punishment, he fasted for one hundred and thirty years and separated himself (from Eve) for one hundred and thirty years."(152). In the Elephantine Papyri we read that "Since the monthn of Tammuz in the 14th year of King Darius up till the present day we are clad in mourning clothes, and we fast. Our wives have become like widows."(153), and in fact, the principle was accepted by the Rabbis that during fast days, marital intercourse was forbidden.(154).

Such an attitude could only encourage people to renounce physical pleasures and gratification and lead many to adopt a life of asceticism, which implies " fasting, prayer and celibacy, the first and always the chief asceticism."(155).

It is, therefore, possible that some Rabbis, seeing the results of such practices(156), and fully realising the consequences

151). Erub.--18b. Pes. 68b.

153). See A.Buchler, Some Types of Jewish Palestinian Piety, London, 1922, p.52. note 1.

152). Erub. 18b.

154). Karo, 'Orah Hayim, 575.3.

155). O.Hardman, The Ideals of Asceticism, London, 1924. p.35.

156). We are told of a number of Rabbis who indulged in fasting for reasons, other than propitiating God or as a sign of mourning for th e national calamity of the Jewish people.

of such teachings, strongly deprecated the practice of fasting and declared a person indulging in fasting to be a sinner.(157). "No scholar should indulge in fasting", declares Resh Lakish. (158). "As for a young student who indulges in fasting, a dog may eat his meal", is a statement made by R.Shesheth(159). "He who deprives himself from all pleasures of life, is to be regarded as a sinner and wicked man." (160). From the verse, "And of joy I said what doeth it" (Ecc.2,2.), the Rabbis derived the principle that the Divine Presence will not rest upon man when he is in a state of gloom (161), and in Babylon, with the exception of the Ninth of Ab (commemorating the destruction of the Temple), no public fasts were permitted.(162).

Upon the destruction of the Temple in the year 70 C.E., a veritable wave of asceticism swept over the people. Even many of the Rabbis felt that it would be wrong to propagate and increase the species, when it was the intention of God to destroy the people. "When the world is plunged in sorrow and destruction,

When R.Zeira emigrated to Palestine from Babylon, he fasted a hundred fasts in order to forget the Babylonian teachings.(B.M.85a.). The Palestinian method of study was far simpler than the Babylonian, and R.Zeira was anxious that his keen dialectic method acquired in Babylon, should not interfere with the clearer course adopted in Palestine.(See Soncino, B.M. p. 489, note 1.) He also fasted a hundred fasts that R.Eleazar might not die in his lifetime, so that the communal cares should not fall upon him. And yet another hundred fasts that the fire of Gehenna might be powerless against him. (B.M. 85a).

Of another Rabbi it is reported that he fasted forty days because, by accident, the strap of his phylacteries was reversed.(M.K. 26a.). R.Huna and R.Hisda both fasted

it is forbidden for man to have marital intercourse in order to propagate the species; for it would be wrong to build when the Holy One, blessed be He, destroys."(163)."Since the days of the destruction of the Temple", states R.Ishmael,(164), "we should by rights bind ourselves not to eat meat nor drink wine; only the Beth Din (Ecclesiastical Court) cannot lay a hardship on the community unless the majority can endure it. Since they(the Romans) are trying to uproot the Torah from our midst, it would have been better for the world to become waste; not to marry women; not to give birth to children and not to carry out the law of Circumcision until the seed of Abraham would reach an end."(165).

By now, the Essenes were on the wane (166), but new sects were now taking their place. In the opinion of Dr.Donaldson, with regard to marriage, the early sects of Christianity may be

forty fasts each. R.Hisda fasted because his teacher, in the course of a discussion between them, had felt himself humiliated; whilst R.Huna fasted for having unjustly suspected his disciple. (B.M.33a.).

157). Ned. 10a.

158). Ta'an. 11b.

159). ibid.

160). Ned. 10a.

161). Shabb. 30b.

162). Pes.54b; Ta'an. 11b. (See Soncino Pes. p.268, notes 6&7. Soncino Ta'an. p.50 notes 5 & 6.).

163). Gen.R. 34.6; Tanh. Noah. 11 where it is reported that Noah and his sons were commanded to abstain from marital intercourse

divided into two classes. Some affirmed that marriage was unnecessary, whilst others maintained that marriage was immoral, that the flesh was corrupt and that those who sowed to the flesh must reap corruption.(167). Marriage, even for the sake of children was a carnal indulgence, and such thinkers could not help feeling that the arrangements of the Creator was not altogether satisfactory. They held that it was much better not to marry at all, that the man or woman who had never married was a nobler and more exalted being than the man or woman who had married.(168).

In the second century C.E. Gnosticism spread throughout Judea, Egypt, Syria, and flourished especially in Rome. So powerful must have been the charm of the Gnostic teaching, that the authorities of the Synagogue and the Church enacted numberless rules and ordinances against it, and yet were powerless to prevent Gnostic teachings and formulae from gaining ground amongst the Jews and the Christians.(169). According to Dr. Marr, ascetic ideas and ideals took hold upon Christianity to an amazing extent

while in the Ark, because the world was being destroyed. Joseph practised abstinence during the years of famine in Egypt; and Job did not come near his wife during his time of trouble.

164). A Rabbi of the first and the beginning of the second centuries C.E. As a child, he was taken captive by the Romans after the fall of Jerusalem, but was released from captivity by R. Joshua b. Hananiah. (See Herman L. Strack, Introduction to the Talmud and Midrash, Philadelphia, 1945. p. 112.).

He was the first of the Ten Rabbis to be executed during the Hadrianic persecutions. (Graetz, History of the Jews, ii. p.427.).

165). Tos. Sota, 15.5.

and by the second and third centuries we find asceticism fully fixed and developed. Amongst the early Fathers, Tatian was entirely opposed to all sex relations.(170). According to Duchesne, the practice of voluntary celibacy was a recognised form of orthodox asceticism. There were many who embraced a life of celibacy, whether men or women. These people were highly honoured in Christian society, and even outside. The Christian Virgins were the glory of the Church.(171).

The doctrines of Gnosticism were bound up with the practice of asceticism. To the highest order, all carnal intercourse, and indeed all sensual pleasure was entirely interdicted. (172). One of the earliest mentioned is Saturnius of Antioch, who gained notoriety about the time of Trajan. The sect considered marriage and the procreation of children as the work of Satan. (173).

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- 166). Many scholars maintain that the Essenes were absorbed by Christianity. (See G.G.Scholem, Major Trends in Jewish Mysticism, Jerusalem, 1941. p. 42. Cf. Graetz, ii. p.427).
- 167). Donaldson, J., Woman; Her Position and Influence in Ancient Greece and Rome and Among the Early Christians. London, 1907. p. 169.
- 168). ibid. p.177.
- 169). Graetz, History of the Jews, ii. p.374. The Universal Jewish Encyclopedia, New York, 1941. vol. iv. p.630.).
- 170). G.Simpson Marr, Sex in Religion. London, 1936. p.80.
- 171). Duchesne, L., Early History of the Christian Church. vol.i. London, 1951. p. 375-6.)
- 172). Foakes Jackson, F.J., The History of the Christian Church to A.D.461. London, 1957. p. 151.

In Rome, Marcion organised a community which quickly prospered and spread throughout Christendom. According to Marcion not all men will be saved but only some. Their duty is to live in the strictest asceticism, both as to eating and drinking and as to relations of sex. Marriage is forbidden. Baptism may only be granted to the married if they agree to separate.(174).

"But, at the earliest date," writes John Langdon -Davis, "there was a more extreme set of sexual doctrines, and though they never existed as a sect, the Encratites, as they were called, sought to impress upon the Church the dogma of the utter wickedness of marriage. They demanded that no Christian convert should marry and that those already married should dissolve the tie; they encouraged the practice of 'spiritual wives', that is, marriages which were not to be consummated. We see here traces of the Manichaen doctrine, which believed that 'in every act of begetting, human or otherwise, a soul is condemned afresh to a cycle of misery by imprisonment in the flesh'. They, therefore, abstained from eating all animals, whose birth was due to copulation, and hence ate fish only."(175).

"As a rule", writes Bishop Wordsworth, "the great writers of the third and fourth centuries, praised celibacy as the more excellent way..."(176), and Prof. Lecky points out that the object of the ascetic was to attract men to a life of virginity, and as a necessary consequence, marriage was treated as an

inferior state.....To cut down by the axe of virginity the wood of marriage, was the end of the saint.... To abstain from marriage was regarded as a proof of sanctity, and marriage was viewed in its coarsest and most degrading form."(177).

It was, therefore, against such perverse teachings, which threatened the very survival of the Jewish people, that the Rabbis of the first few centuries of the Christian era had to act. Asceticism must be fought with all available weapons. The people must be convinced that asceticism is contrary to divine Law. It is God's wish that His creatures should be happy and it is, therefore, sinful deliberately to shun physical happiness and material well-being. "There is no sadness in the presence of the Holy One, blessed be He, as it is said, 'Strength and gladness are in His place'.(I Chron.16,27.)"(178). R.Joshua used to say, " a foolish pietist(179), a female Pharisee (180), and the plague of Pharisees(181), bring destruction upon the world"(182).

174). *ibid.* vol.i. p. 134.

175). John Langdon-Davis, *A Short History of Women*, London, 1932. p.198.

176). *The Catholic Encyclopedia*, vol.iii. p. 484.

177). W.E.H.Lecky, *History of European Morals from Augustus to Charlemagne*, London, 1892, vol.1. pp. 320 ff.

178). Hag. 5b.

179). When the question was asked "What is a foolish pietist like?" the following example was given; "A woman is drowning in the river and the foolish pietist says, 'It is improper for me to look upon her and rescue her.'" (Sota, 21b.).

180). A woman who gives herself up to prayer(Sota, 22a.)
A woman who gives herself up to fasting(Jer.Sota, 3,4.).

It is reported that when the Temple was destroyed, many of Israel took upon themselves to abstain from meat and wine. R. Joshua argued with them, saying, "My sons, why do you not eat meat and drink wine?" They answered, "Shall we eat meat of which offerings used to be brought upon the altar but have now ceased! Shall we drink wine of which libations used to be poured upon the altar, but have now ceased!" In that case, he replied, "let us all stop eating bread, since the meal offerings have ceased." "Quite right" they replied, "we shall have to exist on fruit." "But we cannot eat fruit," R. Joshua pointed out, "since the offerings of the First-fruits have ceased." "Quite right", they agreed, "we shall have to exist on other kinds of fruit (which were not offered)" "In that case" replied R. Joshua, "we ought not to drink water, since the libation of water has ceased." To this argument the people could find no reply and remained silent. (183).

Recognising the principle that what has been created by God for man's enjoyment must be essentially good, the Rabbis, not only counsel men to indulge in them, but even condemn those

181). One who plagues himself in order to show that he is pious and modest. (Sota, 20a. Rashi id.loc.).

182). Sota, 3,4.; Jer.Sota, 3,4.

183). B.B. 60b.

184). Pes. 109a.

who abstain from them. "There can be no gladness without wine." (184). "At the head of all medicines am I wine; where wine is lacking, drugs are necessary." (185). "One who imposes upon himself vows of abstinence, is like one who takes a sword and plunges it into his heart." (186). The maintenance of the social order has God's approval. Man is, therefore, entitled to enjoy the fruits of his labour. The Rabbis could point to divine punishment, suffered by a great scholar, on account of his ascetic tendencies.

It is related that because of his criticism of the Roman administration, R. Simeon b. Johai was condemned to death. In order to save his life, he and his son hid themselves in a cave for twelve years. On hearing that the Emperor was dead and the decree against him rescinded, R. Simeon and his son emerged from their hiding place. When he saw people ploughing and sowing, he exclaimed, "They forsake the life of eternity and busy themselves with the life that is transitory." Wherever he and his son turned their eyes (probably cursing such acts on the part of people) the land was at once consumed by fire. Whereupon a Bath Kol (Heavenly Voice) said to them, "Have you left your cave to destroy my world? Go back to your cave!" R. Simeon and his son had to return to the cave and stay there for another twelve ~~years~~ months until they were again given permission by a Heavenly Voice to return to civilisation. (187).

185). B.B.58b.

186). Jer.Ned. 9,1.

"The Hebrew Language," writes Prof. Lazarus, "is rich in terms of joy; the expressions vary by imperceptible shades, constituting a complete scale, to designate pleasurable feelings that range from simple comfort induced by absence of suffering, to the jubilant exultation of the soul in its delight. Such a wealth of words for happy states of mind had been impossible if the disposition of the people had been gloomy."(188). This fundamental idea was conveyed at once characteristically and unequivocally in a Rabbinic statement, "The spirit of God rests upon man, neither in a state of gloom nor in a state of inactivity, but solely and alone in the joy of the performance of duty."(189).

The Rabbis clearly indicate that joy can be described by ten different terms(190), and can be experienced under ten different conditions. It was, therefore, by such statements that the Rabbis tried to counteract any subversive influence of those sects who praised suffering and abstinence as the ideals of true religion, and to whom the desire for suffering became a strong passion. It is the will of God that man should enjoy all the good things of which the earth is full. Granted that this world is only an

187). Shabb. 33b. Their return to the cave for twelve months was regarded as a punishment for the punishment of the wicked in Gehenna is twelve months.

188). M.Lazarus, Ethics of Judaism, Philadelphia, 1900. par.253.

189). Shabb. 30b.

190). Aboth d'R.Nathan, 34.

ante-chamber(191), it is an ante-chamber to a banquet-hall, and it is only proper that it should be surrounded with joy and gladness, matching the happiness of the banquet-hall into which it leads.

As to the institution of marriage, Jewry must be convinced without any shadow of doubt that it is the will of God that every member of the House of Israel should marry and propagate the species. But the Rabbis fully realised that the people would not be convinced unless they are able to base their doctrines with regard to marriage on Biblical texts. Consequently, the pages of the Bible were searched in order to find verses on which to base their arguments and from which it can clearly be derived that marriage was a divine institution. Does not the verse, "And the Lord God said, it is not good that man should be alone; I will make a help meet for him"(Gen.2,18), imply that it is the will of God that man should have a helpmate in order to live a true and complete life ? (192). Nay, say the Rabbis, the statement "It is not good for man to be alone", clearly indicates that under no circumstances should a man think of living his life without the companionship of a wife. "Even if a man had already been married, but unfortunately, had been left a widower, he must marry again."(193).

191). Abotn. 4.21. "This world is like an ante-chamber to the world to come; prepare thyself in the ante-chamber that thou mayest enter into the banquet-hall.

192). Yeb.63a.

193). ibid. 61b

Does not the verse, "And ye, be fruitful and multiply" (Gen.9,7.), imply that it is the will of God that life should be multiplied? and the Rabbis, connecting this verse with the previous one, "Whoso sheddeth man's blood, by man shall his blood be shed; for in the image of God made He man", assert that the person who does not marry in order to propagate the species, is to be regarded as one who sheds blood and diminishes the divine Image.(194).

When the Prophet Isaiah stated that God did not create the world in vain, "He formed it to be inhabited"(Is.45,18.), did he not imply that it was the will of God that humanity should propagate in order to assure the future of mankind? Noah was saved by God, because his intention was to marry in order to increase the population of the world, whereas the others were destroyed because they had no such intentions.(195).

Not only is it a divine command for man to marry, duty-bound upon every member of the House of Israel; but it is also a religious crime, liable to divine punishment, even by the extreme penalty of death, for man not to carry out this command. "There are seven persons who are condemned by Heaven, and one of them being a person who is unmarried."(196). The Rabbis could point to King Hezekiah who, "trusted in the Lord God of Israel; so that

194). Yeb. 63a.

195). Gen.R. 30,2.

196). Pes. 113b.

after him there was none like him among all the kings of Judah, nor any that were before him" (II Kings, 18, 5.), and yet, he was told by the Prophet Isaiah, "Thus saith the Lord, set thine house in order for thou shalt surely die and not live." (II Kings, 20, 1. Is. 38, 1.). When the king asked the Prophet the reason for this harsh decree, the latter replied, "Because you refused to marry." "But I refused to marry," ~~he~~ pleaded the king, "because I was informed by the Holy Spirit that I shall have unworthy children." "Why must you concern yourself with matters that belong to God?" replied the Prophet. "You should have performed your religious duty, and whatever it pleases the Holy One, blessed be He, let Him do." (197).

197). Ber. 10a.

CHAPTER II.PURPOSE OF MARRIAGE.

Dividing the Old Testament period into three stages of pre-monarchic, monarchic and post-monarchic, Ryder Smith attempts to show how the emphasis shifted from the conception of the wife as being primarily "means of children" to one which held her role to be chiefly part of a man's companion and helpmeet.(1).

From Biblical accounts it would, however, appear that the ancient Israelite sought to find in marriage a companion in life, a person with whom he could share his joys and sorrows. This does not imply that the important function of procreation was of no consideration to the ancient Israelite. On the contrary, the desire for progeny was strong in his heart, as is clearly illustrated by the agonising cry of Abraham, "O Lord God, what wilt Thou give me, seeing that I go childless."(Gen.15,2.). In fact, according to Deuteronomy, the levirate law(see p.92^p) was introduced in order to raise seed for the person who died childless.(Deut. 25, 5-10.).

It would, however, be wrong to assume that the ancient Israelite regarded his wife as an instrument for producing children only.(2). After creating Adam, "The Lord God said; it is not good that man should be alone; I will make him a help meet for

1). Ryder Smith, Bible Doctrines of Womanhood, p.59.

2). See, however, David R.Mace, Hebrew Marriage, London, 1953, p. 201, who writes, "Again and again we have seen how vitally important it was to the Hebrew marriage that it should result in offspring."

If, however, there is not sufficient evidence in the Bible to show that the wife was looked upon, first and foremost, as a means of propagation, there is evidence to show that the wife was expected to play an important part in the affairs of the home and to be a true companion to her husband. Thus, we find her entertaining guests at her own desire (II Kings, 4,8.), even in the absence of her husband (Jud.4,18.). She consults with him as to the marriage of her children (Gen.27,46.); her suggestions as to any domestic arrangements meet with due consideration (II Kings,4,9.), and at times she criticises the conduct of her husband in terms of great severity.(I Sam.25,25; II Sam. 6,20.). He is occasionally described as her friend(Jer, 3,20; Hos.3,1.). The wife as a consolation to her husband in time of trouble, is stated in Gen.24,67; and her grief at his loss presented a picture of the most abject woe.(Joel, 1,8.).

In the later books of the Bible, we find many references to the good fortune of the man who finds as his wife, a woman possessed of character and ability. " A virtuous woman is a crown to her husband" (Prov. 12,4.) "A wise woman brings prosperity"(14,1.). "The husband of a good wife gains divine honour."(18,22.). "A prudent wife is a gift from God Himself." (19,14.). Similar sentiments are expressed in the Book of Ecclesiasticus(26,1-27; 36,21ff.). In the Book of Proverbs, almost a whole chapter is devoted to praising the worth of a woman "Whose price is worth far above rubies....who doeth him good and not evil all the days of her life", and yet in the

whole chapter, no reference is made to her worth as a "bearer of children."

In the minds of the Rabbis, however, there was no doubt that the purpose of marriage was the propagation of the species. According to Rabbinic teachings, the world was only created for the purpose of procreation,(4),and consequently, the principle was accepted that no man may abstain from the performance of this important function.(5). At a later date, the codifiers of the Law regarded the duty of procreation as a divine command, taking precedence over all the commandments of the Law, by being placed at the head of all the six hundred and thirteen commandments of the Law.(6). "Every man is duty-bound to marry a wife in order to beget children, and he who fails in his duty is as one who sheds blood, diminishes the likeness of God,(7), and causes the Divine Presence to depart

4). Gitt. 4,5; Ed.1,13.

5). Yeb.6,6.

In Ugaritic society, marriage was not an aim in itself but as a means to obtain sons who will assist their father in this world and will assure his rest in the grave. Without children, marriage to the Ugaritians did not have a true meaning.

(A.van Selms, Marriage and Family Life in Ugaritic Literature, London, 1954. pp. 14 & 83.).

The chief object of marriage in Babylonia, is the procreation of children.

(G.R.Driver and John C.Miles, The Babylonian Laws, vol.1. Oxford, 1952. p.310.).

There was a common desire among all ancient peoples to ensure the continuation of the family and, thereby, of the ancestral property and the ancestral cult.

(G.R.Driver and John C.Miles, The Assyrian Laws, Oxford, 1935, p. 249.).

from Israel."(8). This principle was derived from the verse, "And God said to them (Adam and Eve), be fruitful and multiply and replenish the earth."(Gen.1,28.). For, according to Rabbinic teachings, it was the wish of God that the earth, which He had created should always be inhabited and not to be turned into a waste, as is clearly expressed by the Prophet Isaiah, "He created not the earth in vain, He formed it to be inhabited."(15,48.). The world, state the Rabbis, is called APIRION(9), since it was only created for the sole purpose of propagating the species.(10).

According to Dr.Lanspach, the ancestor-worship entered upon matrimony in fulfilment of a sacred duty to raise up offspring, having both the right and obligation to continue the family. And this was the central idea which coloured and pervaded the earlier Roman marriage-practice.
(Charles, W.L.Lanspach, State and Family in Early Rome, London, 1908. p. 148.).

It is obvious, writes Westermarck, that fecundity must be one of the qualities which a man most eagerly requires of his bride. In fact, man's desire for progeny, was an essential condition of his marriage, and this is particularly true among most of the uncivilised races.
(E.Westermarck, The History of Human Marriage, London, 1925. vol. ii. p.32.).

- 6). See J.H.Hertz, Commentary on Deuteronomy, London, 1936. p.310.
- 7). Since man was created in the likeness of God(Gen.1,27.), it is obvious that abstention from procreation would result in the diminuation of His likeness among mankind.
- 8). Joseph Karo, Eben Haezer, 1,1; Maimonides, Ishuth, 15,1.
- 9). The word appears in Cant.3,4. where we read that King Solomon made for himself an APIRION from the trees of Lebanon. Krauss and Loewi derive the word from the Greek *ἀπὶ πύου*, a canopy; a litter.
- 10). Cant.R. 3,18; Num.R. 13,4.

Commenting on the verse, "Behold the bed which is Solomon's" (Cant.3,7.), R.Bebai in the name of R.Elazar stated that this applies to the blessings of the Priests. "Behold the bed", refers to the Temple. As a bed is only made for the purpose of procreation, so as long as the blessings of the Priests existed in the Temple, so long did everything in the Temple flourish and bring forth fruit."(11).

So important was the duty of procreation considered that by the Rabbis, that the School of Hillel agreed ~~th~~ with the School of Shammai, that in the case of a man who was half-bondman and half-freedman(12), his master must be compelled to set him free in order to enable him to marry a freedwoman and have children.(13). From the verse, "To be a God unto thee and to thy seed after thee"(Gen.17,7.), the Rabbis maintain that the Divine Presence will only abide among the people as long as there are "seed after thee". But, if there are no seed after thee, among whom shall the Divine Presence abide ? Among trees or among stones ? (14).

11). Num.R.11,3.

This the Rabbis infer from the verse, "And the staves grew long"(I Kings,8,8.), which, according to them, took place as a result of a miracle. "The Holy One, blessed be He, said to Moses, 'The staves which you have made for the Ark, will extend in length after eighty-four years.(Tanh. on Terumah, 11.).

Similarly on the verse, "And the gold was gold of PARVAIM" (II Chron.3,6.), the Rabbis ask, "What is the significance of PARVAIM ?" and the answer being that it yielded fruit, (Peroth).

May, say the Rabbis, it is even possible for one man, by abstaining from procreation to cause the Divine Presence to depart from Israel. For, according to the Rabbis, the verse, "When it rested he said, Return O Lord unto the many thousands of Israel" (Num.10,36.), implies that the Divine Presence does not rest on less than two thousand and two myriads of Israel. Should the number of Israelites happen to be two thousand and two myriads less one, and one Israelite refuses to propagate the species, will he not, thereby, cause the Divine Presence to depart from Israel ? (15).

Consequently, it was strictly forbidden for anyone to marry a woman, known to be barren, or a woman past the age of bearing children(16), or a child not yet capable of bearing children; nor was a man permitted to take medicines in order to become impotent. (17).

With regard to the verse, "He built the house of the forest of Lebanon"(I Kings, 7,2.), the Rabbis ask, "why was the Temple called the forest of Lebanon ? To tell you that as a forest yields fruit, so in the case of the Temple, the figures on its walls in the shape of trees, yielded fruit." (Num.R.11,3.).

12). A bondman, who had been the property of two masters and was set free by one of them. Since a bondman could only marry a bondwoman, and a freedman a freedwoman, wh a person who was half bondman and half freedman could marry neither.

13). Gitt.4.5; Ed.1.13.

14). Yeb. 64a.

15). ibid. 63b; 64a.

16). According to R.Hisda, a woman who marries under the age of

According to the Mishna, "If a man took a wife and lived with her for ten years and she bore no child, he may not abstain any longer from the duty of propagation"(18), but should divorce her or take another wife.(19). That this law was in actual practice we see from the following stories. "It is related of a very pious man, who lived with his wife for many years and the Almighty did not bless them with children. They, therefore, said to one another 'we are no use to the Almighty, seeing that He has not blessed us with a child. Let us divorce each other.'"(20).

A woman from Zidon, who lived with her husband for ten years but had no children, came with her husband to R.Simeon b. Johai, asking for a divorce. R.Simeon told them that since their marriage was celebrated by a feast, their separation too must be celebrated by a feast. They, therefore, returned home and made a great feast, at which the husband became very drunk. When he became a little sober, he told his wife that she could take back with her to her father's house, any article of his she most desired. When

twenty, will bear children till the age of sixty. If she marries over the age of twenty, she will only bear children till the age of forty. If she marries after the age of forty she will not be able to bear children.
(B.B. 119b.).

17). Tos. Yeb.8.3.

18). Yeb.64a; Tos.Yeb.8.4.

19). See Rashi on Yeb.64a.

In the Assyrian Laws we read, "If a first or favourite wife is divorced because she has failed to bear children, she is entitled to receive from her husband a sum of money....."
(The Assyrian Laws, op.cit. p.267).

he fell asleep, she ordered her servants to carry him to her father's house. During the night the man awoke and asked for his whereabouts, and when he was informed by his wife that he was at her father's house, he failed to understand his presence there. "Did you not tell me", she said to him, "that I could take with me to my father's house any article of yours I desired most? I have no greater desire than to have you with me." They, therefore, returned to R. Simeon, who prayed for them and they had children.(21).

According to R. Ammi in the name of Resh Lakish, the law of to divorce a childless wife, after having lived with her for ten years, is derived from the verse, "After Abram had lived ten years in the land of Canaan" (Gen.16,3.), when as a result of Sarah's barrenness, Abraham took an additional wife. Consequently, this law would only apply to a person living in Canaan (Palestine) but not to a person living outside Palestine.(22).

According to Herodotus, barrenness was good ground for divorce in Sparta.(Herod. v.39.).

In Japan, if a wife proved to be barren, it was considered the duty of the husband to divorce her, for barrenness was considered an obstacle to the perpetuation of ancestor-worship.

(N.Hozumi, Ancestor- Worship and Japanese Law, Tokyo, 1913. p. 145.).

20). Gen.R.17,7; Yalk. Shim. 247, 23.

21). Cant. R. 1,31.

A parallel story, illustrating wifely devotion is recorded in the early history of Germany.

In the year 1141, during the civil war in Germany between the Guelphs and the Ghibellines, it happened that the

That rabbinic Judaism regarded procreation as the main purpose of marriage, we see from the various ceremonies and customs connected with the institution in rabbinic times. Thus, in the dances of the Jewish maidens, which according to R. Simeon b. Gamliel took place in Jerusalem on the fifteenth of Ab and on the Day of Atonement for the sole purpose of attracting potential husbands, the maidens of noble descent used to sing, "Young man, consider the family, for the purpose of life is to bear children." (23).

The Midrash relates that in Temple times there was a custom to bless the bridegroom in the following manner. "When King Solomon built the Temple, he also built two gates; one for bridegrooms and one for mourners and excommunicated people. On Sabbaths and Festivals, the Israelites assembled round these gates and when they saw anyone passing through the gate of the Bridegrooms, they used to bless him, 'May He, who dwelleth in this House, make you rejoice with sons and daughters.'" (24).

Emperor Conrad besieged the Guelph Count of Bavaria in the castle of Weinsberg. After a long and obstinate defence, the garrison was obliged at length to surrender, when the Emperor annoyed that they had held out so long, vowed that he would destroy the place with fire and put all to the sword, except the women whom he gallantly promised to let go free and pass out unmolested. The Guelph Countess, when she heard of this, begged as a further favour that the women might be allowed to bear forth as much of their valuables as they could severally manage to carry. The Emperor, having pledged his word and honour that he would grant this request, on the morrow at daybreak as the castle gates opened, saw to his amazement, the women file out one by one, every married woman carrying her husband with her young ones upon her back. At the sight of this, the Emperor was tenderly moved, and the result was that not only ~~the~~ life and liberty was extended to the Guelphs, but the place itself was spared and restored in perpetuity to its

In explaining the Mishna which states that a virgin should be married on the fourth day of the week(25), Bar Kappara suggests that this day is connected with the blessing for progeny.(26). The custom of throwing nuts and wheat in the path of a bridal pair, that existed in rabbinic times, and explained by Rashi to constitute a good omen, is no doubt, connected with the blessing for fertility.(27). Rashi also mentions that sometime prior to wedding, there was a custom in ancient times to plant barley in a receptical with earth. When the barley was grown, they brought it to the bride and bridegroom, and the blessing was recited, "May you be as fruitful and multiply as this barley."(28). In Tur Malka (29), they used to carry a cock and a hen in front of the bridal pair, intended to convey the blessing, "May you be fruitful and multiply as these fowls."(30).

heroic defenders. The Count and his Countess were, henceforth, treated by the Emperor with honour and affection and the town itself was for long after popularly known by the name of Weibertraue, i.e. the abode of womanly fidelity.

22). Yeb. 64a; Gen.R.45.3.

23). Ta'an. 31a.

24). Pirke d'R. Eliezer, 17.

25). Keth. 1,1.

26). ibid. 5a.

27). Ber.50b; Tos.Shabb.8.

Frazer suggests that the custom of throwing grain or seed over the bride, was intended to promote fecundity.

(Sir James G.Frazer, Totemism and Exogamy, London, 1910. p. 260, note 1.)

To marry without the intention of propagating the species, was regarded by the Rabbis as a *greta* sin, and the opinion was expressed that such a person would be severely punished by God. According to Abba Hanan in the name of R. Eliezer, a person who refuses to procreate, deserves the punishment of death, (31), and the Rabbis attributed the sudden death of a number of people to the fact that they refused to propagate the species. Thus we are told that the Flood was brought upon the people because they abstained from procreation, whilst Noah was saved because he had children. (32). The death of the sons of Judah (Gen.38,7-10), was due to the fact that they refused to procreate (33), and for the very same reason, the sons of Aaron had died. (34).

According to R. Johanan in the name of R. Simeon b. Johai, a person who leaves no heir, provokes the anger of God (35), and among the seven types of people condemned by Heaven, is the person who marries without the intention of procreation (36). In fact, the Rabbis regarded a person without children as already dead. (37). From the verse, "Give me children or else I die " (Gen.30,1.); the Rabbis inferred that a childless person may

28). Av.Zar. 8b; cf. Keth. 8a.

In Morocco, states Westermarck, when the bride arrives at the bridegroom's house, she is received with grain, flour, bread or something else made of grain or red raisins; and very commonly dried fruits, raisins, figs, dates, walnuts or almonds are thrown over her or over the box in which she has been brought.

(E. Westermarck, *Marriage Ceremonies in Morocco*, London, 1914, pp. 194-198.)/

29). *Lit. Mountain of the king*. According to Horowitz, *Palestine*, p. 240, it denotes the whole mountainous region, stretching

R. Joshua b. Levi only went to a house of mourning, where a man died without having left any children, for only such a house did he regard as a true house of mourning.(41).

There can be no doubt, that by stressing the importance of propagating the species, the Rabbis were trying to counteract the influence wielded by the various sects, who were against marriage, as previously stated. Not only marriage, but also procreation is a divine command. Jewry must be convinced without any shadow of doubt that it was the will of God that every member of the House of Israel should marry and propagate the species.

PREFERENCE FOR MALE ISSUE.

Throughout the Talmud, we find a preference expressed for male offspring. This preference is already indicated in the Bible, where we read that those women who had given birth to sons, regarded themselves as most fortunate, whilst those who were denied male issue, offered their prayers for the blessing of a son. Thus Leah expressed her happiness at the fact that she had

36). Pes.113b.

37). Avod.Zar. 5a; Ned.64b.

38). Gen.R.45,2.

In certain parts of Palestine, a bride was called a "builder" (bonah). (See Tanh. on Vayera.).

39). B.B. 116a.

40). Tanh.on Noah.

already given birth to six sons(Gen.30,20.), whilst Rachel, after many years of childlessness, having given birth to a son, called his name Joseph, with the Prayer, "May the Lord add to me another son."(30,24.). From the sentiments expressed by Leah, it would appear that the husband would show more consideration and affection to the wife who had borne him many sons, and consequently, in order to please her husband, a wife would be most anxious to present her husband with as many sons as possible.(42).

It is interesting to note that in the early part of Biblical history, all the great personages seem to have been blessed with sons. Adam, we are told, originally gave birth to two sons. Noah had three sons; Abraham, two sons; Isaac two sons; Jacob, twelve sons and only one daughter; Judah, Joseph and Moses are recorded to have had only sons, and Bertholet rightly points out that the high value attached to the possession of male children, is a universal feature of family life in ancient Israel. Even as the Psalmist says, "Like arrows in a hero's hand, so are sons of youth; Happy the man who has filled his quiver with them".(Ps.127,4.). (43).

41). B.B.116b.

42). In Ugaritic literature we find that sons are prayed for, and that they are preferred to daughters.
(A van Selms, Marriage and Family Life in Ugaritic Literature, London, 1954. p.93.).

Among the Persians, states Herodotus, after valour in battle, it is most reckoned as manly merit to show the greatest number of sons; the king sends gifts yearly to him who can

According to Prof. Lods, the reason why the Israelites longed for sons, was not merely the usefulness of sons as sharers of labour and defenders of the state; the supreme misfortune was not to live without children but to die without having left a son. (44). Abraham's anxiety was due to the fact that as he had no sons as heirs, all his possessions would be left to strangers. (Gen.15,2.).

From the contention of the daughters of Zelophehad, (Num.27,4.), it would appear that ^{originally} only sons could inherit the possessions of their fathers and if there were no sons, the inheritance would be divided among the brothers of the father, But under no circumstances could a daughter inherit, even if there were no sons. It was only after their contention that the law was promulgated which permitted daughters to inherit property in the absence of male issue(27,7-8).But there existed a danger that if heiresses married into another tribe, the property they inherited would pass into the possession of their husbands' tribe and the law specifically stated that "No inheritance of the

show most. (Herod.1,136.).

In Morocco, when the bride has been dressed in her wedding costume, the bridegroom's mother, and subsequently the other women who are present, sing, "Go out, may you give birth to male twins; even one son I wish you to give birth to."

(E.Westermarck, op.cit., pp.154-155.).

43). A.Bertholet, A History of Hebrew Civilisation, London, 1926, p. 133.

44). A.Lods, Israel from its Beginnings to the Middle of the Eighth Century, London, 1932. p.228.

children of Israel shall remove from tribe to tribe."(Num.36,7.). To guard against such a possibility, the law was accepted that "Every daughter that possesseth an inheritance in any tribe of the children of Israel, shall be wife unto one of the tribe of her father....so shall no inheritance remove from one tribe to another tribe, for the tribes of the children of Israel shall cleave each one to his own inheritance"(36,8-9.).

In post-Biblical times, an opinion was expressed that a daughter would constitute a constant worry and anxiety to her father. Thus, Abaye in quoting Ben Sira, states, "A daughter is a false treasure to her father; because of her he does not sleep at night. Whilst she is young, lest she becomes seduced; when she is a Na'arah(45), lest she becomes a prostitute; when she reaches puberty, lest she remains unmarried; when she is married, lest she has no children and when she reaches old age, lest she practises witchcraft."(46). Another consideration for the preference of male progeny was, no doubt, due to the fact that a son, on reaching

In Ugaritic literature we read that the most important aim was to beget an heir who would perform the duties of a true son during the earthly life of his father as well as after his death.
(A van Selms, op. cit., p. 14.).

- 45). A girl between twelve and twelve and a half years of age.
- 46). The wording of the text in the Book of Ben Sira, is slightly different, although the same idea is conveyed. Thus Ben Sira writes, "The father waketh for the daughter when no man knoweth, and the care for her taketh away sleep. When she is young, lest she pass away the flower of her youth; and being married, lest she should be hated. In her virginity, lest she should be defiled and gotten

the age of puberty, would help his father in earning a livelihood. This was expressed by R.Isaac in the name of R.Ammi, when he stated, "When a male child is born, a livelihood comes with it."(470.

But, perhaps the most important consideration in the minds of the Rabbis, when expressing a preference for male progeny, may be due to the fact that the study of the Torah, the main purpose in Jewish life(48), could only be achieved through sons(49), and consequently, the more males born, the greater the number of scholars. In fact, according to Resh Lakish in the name of R.Judah, the world can only exist as long as there are school children studying the Torah(50), and R.Hammuna did not hesitate in attributing the destruction of the Temple to the fact that in the city there were no longer any children studying the Torah.(51).

To have sons devoting their lives to the study of the Torah, was regarded by the Rabbis as the greatest blessing to a father; for such a man would attain eternal life.(52). On the other hand, for not training his sons in the study of the Torah, a father would be excommunicated by Heaven.(530.

with child in her father's house, and having a husband, lest she should misbehave herself, and when she is married, lest she should be barren."(Ch.42, 9-10.).

47). Mid. 31b.

48). See Peah, 1.1.

49). According to R.Eleazar, "A man who teaches his daughter the Torah, is as one who teaches her obscenity" (Sota 3,4.), and

When R. Simeon b. Johai was asked to explain why the Bible states that a woman who had given birth to a male child, shall be unclean for seven days, whilst in the case of a female child, she shall be unclean for fourteen days(Lev.12,2-5.), his reply was, "At the birth of a male child everyone is happy and after seven days, the mother regrets (her vow of abstinence)(54), but at the birth of a female child, everyone is unhappy and the mother does not regret(her vow) till after fourteen days.(55).

Interpreting the verse, "And they went to their tents joyful and glad of heart for all the goodness that the Lord had done"(I Kings, 8,56.), R. Isaac stated that the people of Israel were joyful because they found their wives clean(from menstruation), and "glad of heart" because their wives conceived with male children,(56), for according to R. Isaac, "when a male child is born, peace descends upon earth."(57). "There are three things", state the Rabbis, "that a man does not wish to have: grass among the corn, vinegar in his wine and a female among his children."(58).

Jastrow explains that the laws in the Torah concerning sexual aberrations may excite her sensuality.

50). Snabb. 119b.

51). ibid.

52). B.B.116a; Gen.R.49,4.

53). Pes. 113b.

54). It was assumed by the Rabbis that a woman in child birth, as a result of her labour-pains, would make a vow never to have children again. This vow, however, would be regretted by the woman, when seeing the great happiness expressed by everybody at the birth of a son, and particularly on the eighth

In addition to the general statements made by the Rabbis, expressing a preference for male issue, several incidents are recorded where the Rabbis expressed their great disappointment at the birth of a daughter. Thus we are told that when a daughter was born to R. Simeon bar Abba, he became very sad. His father, in order to comfort him, told him not to be disappointed since an increase has come into the world.(59). Bar Kappara, however, told R. Simeon not to be deceived by his father's words of comfort. Although it is impossible for the world to exist without females, happy is the man whose children are males and woe to the man whose children are females.(60).

The wife of Simeon b. Ammi gave birth to a daughter. When R. Miyya the Great met him and congratulated him on the birth of his daughter, he said to him, "The Holy One, blessed be He, has begun to bless you." "How do you derive this blessing?" asked R. Simeon. "From the verse, 'And it came to pass that when man began to multiply....and daughters were born to them.'"(Gen.6,1.).

day after the confinement when the circumcision ceremony takes place.

55). Nid.31a.

56). M.K.9a; Shabb.30a; Gen.R.35,3.

57). Nid.31b.

58). Tanh.on haye Sarah.

"A daughter brings strife into the world."(D.B.16b.).

59). Rashi explains this statement to mean that since a daughter marries sooner than a son, she will, during the life-time of her father be able to produce more children, thus enabling the father to see an increase in his family.

When R. Simeon went to see his father, the latter asked him whether the Babylonian(R. Miyya) had made him happy. Yes, replied R. Simeon, and this is what he told me. "For all that" said his father, " Although there is need for wine and vinegar, there is more need for wine than vinegar; although there is a demand for wheat and barley, there is greater demand for wheat than barley. When a man marries his daughter, he says to her, 'May it not be necessary for you to return to this place'." (61).

Several Rabbis, moreover, regarded the birth of a daughter as a punishment from God. According to a Midrashic statement, the first men after Creation, gave birth to more daughters than sons as a punishment for their excess in carnal gratification(62).

When the question was asked, "What shall a man do in order to have male progeny?" R. Eleazar replied that he should spend liberally on charity, whilst R. Joshua replied, "Let a man make his wife cheerful by means of good deeds." (63). Other suggestions being that a man should sanctify himself during cohabitation; or, if a man will separate himself from his wife near her period of menstruation, the Almighty will bless him with male children. (64).

60). B.B. 16b.

61). Gen.R. 26.7.

When the daughter of R. Gamliel was married, she asked her father for a blessing. "May it not be necessary for you to return to this house," her father blessed her. "But surely"

When the question was asked whether prayers offered for the birth of a male child could be effective, there was general agreement among the Rabbis that such prayers can be offered and may even be effective, since we are told in the Bible that Hannah offered prayers for a male child and that her prayers were answered by God.(I Sam.1,11). But, should such prayers be offered during pregnancy ? If the sex of the child had already been decided, obviously, prayers could not change the decision and such prayers would, therefore, be in vain, which according to Jewish law is not permitted. The Mishna, therefore, states that, "If his wife is with child and he said, 'May it be Thy will that my wife shall bear a male', his prayers are in vain"(and should never have been uttered. (65). On the other hand, R.Huna in the name of R.Jose disagreed with this decision of the Mishna, by stating that prayers for the birth of a male could be offered even upto the time of birth.(66). However, a Bataitha lays down the principle that a man can only pray for the birth of a male child, when the embryo is between three days and forty days old.(67.).

protested the daughter, "this is no blessing but a curse." "No !" replied the father, "if there will be no peace in your house, it will not be necessary for you to come back to me." The father of R.Simeon, however, used this statement of R.Gamliel to imply that a daughter is not welcome in the house and that a father is only too happy when she marries and leaves his house.

62). Gen.R.26.4.

63). B.B.10b.

64). Shav.18b; cf.Nid.31b; Ber.5b.

THE LEVIRATE MARRIAGE.

From the two reference to the Levirate found in the Bible, (Gen.38,8-12; Deut. 25,5-7.), (68), it is obvious that the "raising of seed" constituted the main purpose of this institution in ancient Israel. After the death of Er, who died without leaving an issue, Judah asked his second son, Onan, to marry his widowed sister in-law in order to raise up "seed" to his brother. This was done and the custom of the levirate was put into practice. But Onan, realising that according to law and custom, the seed he would bear as a result of his marriage with his brother's wife, would not be his but considered as his brother's children, deliberately abstains from procreation and dies without raising any seed.

Thereupon, ^{the widow} now turned to the third surviving brother, expecting to be married by him, in accordance with existing custom. (Gen. 38, 8 11).

Whereas in the Book of Genesis, the Levirate is recorded as an ancient custom, it is in the Book of Deuteronomy that the law of the Levirate is laid down. "If brethren dwell together and one of them die and have no child, the wife of the dead shall not

65). Ber.9,3; Jer.Ber.9,3.

66). Tanh. on Vayetze.

Dinah, the daughter of Leah was originally conceived a male, but as a result of the prayers of Rachel, the sex of the foetus changed. (See Jer.Ber.9,3.).

67). Ber. 60a.

be married abroad unto one not of his kin; her husband's brother shall go in unto her, and take her to him to wife, and perform the duty of a husband's brother unto her. And it shall be that the first-born that she beareth shall succeed in the name of his brother that is dead, that his name may not be blotted out of Israel." (Deut.25,5-6.).

"That his name may not be blotted out of Israel" clearly implies that in addition to the "raising of seed" the motive of the law was to prevent the extinction of a family; for it was deemed a disaster if a man, who had once secured for himself a wife and home, should be left without a descendent to perpetuate his name. Children represented a man's immortality, (69), and every consideration must, therefore, be given to a man's attainment of fatherhood. "Even if the Israelite died without having left children, he still had one last chance of keeping his name alive; the ancient custom of the levirate provided that the nearest relative of the deceased shall be regarded as the dead man's son and should inherit his property." (70).

68). I have omitted the reference to the Book of Ruth, as it cannot be considered a case of the levirate since no brother was involved. It is true that the levirate is implied when Naomi urges her daughters-in-law to return home. "Why will ye go with me? Are there yet any more sons in my womb that they may be your husbands?" The fact, however, remains that Ruth was subsequently married to a near relation and not to a brother of her deceased husband.

69). See II Sam.7, 12,16.

70). A.Lods, Israel: From its Beginnings to the Middle of the Eighth Century, London, 1932. p. 228.

So important was this motive regarded in ancient Israel that a man was even excused from military service for the first year after his marriage (Deut. 24, 5.), in order to be with his wife until she has had time to bear him a child. The woman of Tekoa pleads with David for the protection of her sole remaining son, on the ground that if the relatives kill the child, "They will leave to my husband neither name nor remainder upon the face of the earth." (II Sam. 14, 7.). The fact that the loss of her son would deprive her of her only potential breadwinner, is only of secondary importance in the mind of the woman of Tekoa. The fact that Tamar risked her life by trying to obtain progeny for her dead husband, clearly indicates that a woman would consider it her responsibility and duty to secure the continuation of her husband's line; and when Judah commends her as righteous and accepts blame for not permitting his youngest son to marry her, he fully approves her action in attempting to raise seed for his deceased son.

"The patriarchal family," writes Dr. Epstein, "was considered like a branched tree, the head of the family being the trunk and the children the branches. When one of the children died childless, it was as if one branch were cut off. It had to be re-rooted into the trunk in some semi-artificial way. That was accomplished by the levirate act, for the child born of co-habitation between the widow and the surviving kin of the husband, would be counted as a son to the deceased husband, and thus his branch of the family would continue." (71).

Before discussing the levirate law as understood and interpreted by the Rabbis, it is important to bear in mind that this law was found to be practised on a widespread scale throughout the world. Prof. Westermarck cites many instances where the levirate marriage is still practised (72), whilst Prof. Briffault enumerates the tribes and places still practising the levirate marriage, in a list which runs to no less than five pages. (73).

In ancient days, this custom was practised among the Assyrians, Babylonians (74) and Hittites (75), and Dr. van Selms points out that in Ugaritic literature, there is something that could compare with the idea underlying the levirate marriage. Once married into the husband's family, the wife is regarded as belonging to the family, and on her husband's death, she remains in the care of her father-in-law. (76).

Among the Hindus, there is the ancient custom known as "Nioga", by which a childless widow raised a son to her dead husband's brother. (77). Prof. Driver, therefore, assumes that an institution so widely diffused as the Levirate, must rest upon some common basis and be due to some common principle or principles influencing society. (78).

71). Louis M. Epstein, Marriage Laws in the Bible and Talmud, Cambridge, Mass. 1942. p.78.

72). History of Human Marriage, vol.iii. pp.208-10.

73). R. Briffault, The Mothers. The Matriarchal Theory of Social Origins, New York, 1931. vol.i. pp.766-71.

74) C.R. Driver and J.C. Miles, The Assyrian Laws, Oxford, 1935, pp. 240, 249.

The fact that this custom was found to exist among so many tribes in almost every part of the world, has led many scholars of Anthropology to propound theories as to its origin and its underlying motive. Thus McLennan maintains that this institution is a survival of early semitic polyandry. "It could be more easily feigned", says McLennan, "that the children belonged to the deceased brother, if already at a prior stage, the children of the brotherhood had been accounted the children of the eldest brother."(79). Smith, following in the footsteps of McLennan, maintains that the levirate custom of marrying the wife of a dead brother to raise up seed for him, was an outgrowth of fraternal polyandry.(80). Both McLennan and Smith argue that no one would have thought of counting the son of one brother as the son of another, if previously the sons had not been the property of all in common.(81).

75). J.Pedersen, Israel, Its Life and Culture, London, 1925, p. 79.

76). A.van Selms, op.cit., p.36.

77). Sir J.G.Fraser, Folk Lore in the Old Testament, London, 1919. vol.ii. p.340, note 2.

According to Fraser, the idea of "Nigga" was to have a son to offer libations to the dead husband to save him from the terrible hell. Hence it was only allowed

- a). to a childless widow
- b). not more than one child
- c). the son belonged to the dead husband of his mother.

78). S.R.Driver, A Critical and Exegetical Commentary on Deuteronomy, p. 248.

79). McLennan, Primitive Marriage, London, 1886. p.164.

This view of the levirate was strongly contested by a number of scholars. Prof. Westermarck points out that if the levirate was a relic of polyandry, it might rightly be expected that the issue should belong to the surviving husband, who was once a fellow-husband.(82). Both Starck and Westermarck point out that the levirate or institutions of a similar nature have existed in many parts of the world where there was no suspicion of polyandry ever having been practised.(83). Frazer, in opposing McLennan's theory of the polyandric origin of the levirate, argues that, "whereas both the levirate and the classificatory system with its plain testimony to group marriage occur very widely over the world, the custom of polyandry appears to have been comparably rare and exceptional." Frazer, therefore, concludes that it is more reasonable to look for the origin of the levirate in group-marriage.(84).

80). Smith, W.R., Kinship and Marriage in Early Arabia, London, 1903. p.87.

In fraternal polyandry, the eldest brother is the head of the family and the wife is, or in time becomes, the property of the group of brothers. When the eldest brother dies, the next in age succeeds to his prerogatives and to his larger claim, to the wife. Thus the idea is established that inheritance carries with it, not only rights of property, but marital rights as well.

(See G.A.Barton, A Sketch of Semitic Origins, New York, 1912, p.65).

81). History of Human Marriage, II. p.217.

82). S.C.Starck, The Primitive Family, London, 1889, pp.157-8.).

83). Westermarck, op.cit., ii.p.217.

84). J.G.Frazer, Totemism and Exogamy vol.i. pp.201 ff
Folk Lore in the O.T. vol.ii. p.341.

Writing on Marriage and Family among the Nuer, Dr. Evans-Pritchard points out that among the Nuer, when a man marries, his kinsmen provide the bride-cattle and the cattle go to the wife's people. The wife leaves her kinsmen and becomes one of her husband's people. Her reproductive and economic services are not due to her husband alone but to all her husband's near kinsmen who speak of her as "our wife". If the husband dies, Nuer do not regard the union as broken. The wife continues to bear children and, whoever may beget them, they are counted as children of the dead man.(85).

Spencer has attempted to explain the levirate from the prevailing custom that the brother should inherit his dead brother's widow. After referring to McLennan's theory, Spencer observes that it would be more to the purpose to seek for the explanation of the levirate in the fact that the wives formed part of the inheritance, since in primitive communities they were regarded merely as property.(86). Driver is prepared to accept the explanation of Spencer with regard to primitive and semi-primitive societies where women do not possess independent rights and are treated as part of the property of the family to which they belong. A married woman on the death of her husband, passes with her children and her late husband's estate to the new head of the family, who assumes in relation to them, the same right and duties which the husband had. He holds towards them the joint position of guardian

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85). E.E.Evans-Pritchard, Some Aspects of Marriage and The Family Among the Nuer. Livingstone, 1945. p.13.

86).H.Spencer, The Principles of Sociology, pp.679-81.

and owner, and thus brings with it, as a corollary, the right to treat the widow as his wife. It is the brother who thus becomes the deceased man's heir, because from his age and position he is, as a rule, the person who is best fitted to be the new head of the family and the guardian of its interests and rights. But, Driver rightly points out that this could not be applied to the Hebrew levirate, since the institution is strictly limited to cases where no children are born of the deceased brother. According to Spencer there would be more reason for the levirate if the widow has been left with children.(87).

Dr. Evans-Pritchard emphasizes an important difference between the "levirate marriage," where the dead man is still the husband of his widow and the future children are his and do not belong to the man living with her, and "widow inheritance," where the widow is expected or even compelled to marry a relative of the dead man, but the future children belong to the new husband.(88).

Prof. Gluckman mentions another form of the levirate "the ghost marriage" which is found among the Zulus and the Nuers. There are two forms of this:

a). if a man was betrothed and died, his fiancée should marry one of his kinsmen and bear children for the dead man, as if she were a widow.(89).

b). A man may "waken" a dead kinsman who was never betrothed by marrying a wife to his name and begetting children for him.(90).

87). S.R.Driver, Commentary on Deuteronomy, p.284.

88).A.R.Radcliffe-Brown and Daryll Forde, African Systems of

In connection with the levirate as practised by the ancient Hebrews, Josephus maintains that this institution will be for the benefit of the public, because, thereby, families will not fail, and the estate will continue among the kindred, and this will be for the solace of wives under their affliction that they are to be married to the next relation of their former husbands. (91).

According to Josephus, therefore, the levirate was to serve three ends;

- a) the continuation of the family line,
- b) the preservation of the family property,
- c) the welfare of the widow.

Prof. Burrows, in discussing the motives underlying the levirate, seems to agree with Josephus that the raising of the seed to the deceased brother involved three things, but differs with Josephus as to the nature of the motives. Whilst agreeing with Josephus that the levirate provided an heir to the property of the deceased brother and that it assures the continuation of his personal life in the life of his son born as a result of the levirate marriage,

Kinship and Marriage, Oxford, 1950. p.183.

89). It is of interest to note that the Cutheans(Samaritans

according to Jastrow), only practised the levirate when the the woman was betrothed and the marriage had not been consummated. "They subjected אִשׁוֹתֵינוּ to בְּיָמֵינוּ ' but exempted married women."(Kidd.76a.). R.Akiba maintained that the Cutheans were true proselytes and R.Simeon b.Gamliel maintained that every precept which they had adopted, they observe with minute care, even more than the Israelites.(ibid. 76b.).

he omits the consideration of the welfare of the widow and instead introduces the motive that there would be someone to perform the ancestral rites, thus assuring the welfare of the deceased in the hereafter.(92).

A similar view was expressed by Dr. Epstein, who felt that the ancestor worship as a motive for the levirate cannot be ignored. The deceased must have a child to bear his name, otherwise he would be "cut off" from the family estate here and from the celestial estate hereafter. Wherever ancestor worship existed, saving the soul of the childless' brother became of primary importance in the logic of the levirate marriage. Where ancestor worship did not assume undue significance, the foremost consideration in the levirate process when the brother had died childless, was to perpetuate his name in the family estate, that is, not to have him 'cut off' from the estate of the living.(93).

In order to appreciate the importance of leaving an heir to inherit the estate of his father, one must bear in mind the Biblical legislation concerning the inheritance of property. "If a man die, and have no son, then ye shall cause his inheritance to pass unto his daughter. And if he have no daughter, then ye shall give his inheritance unto his brethren."(Num.27,8-9.). If, therefore, a man died without leaving any issue, the estate would be inherited by his surviving brothers, and probably

90). M. Gluckman, *Kinship and Marriage among the Lozi of Northern Rhodesia and the Zulu of Natal*. Oxford, 1950. p.183.

91). Josephus, *Antiq.* iv. 8,23.

divided among them. The raising of issue through a levirate marriage would, therefore, ensure the property remaining intact in the hands of the issue.

This view is clearly expressed by Prof. Starck, who maintains that the levirate was connected with the old agrarian law of Israel, which aimed at retaining the undivided property in the tribe and family. The brother took with the widow, his brother's whole property which must otherwise have been divided among all the brothers. This property is kept in trust until the son, begotten of the widow, would be old enough to take possession of it.(94).

In connection with the theory that the raising of the seed to the deceased brother was instituted for the purpose of performing traditional rites and ceremonies connected with ancestral worship, Frazer is of the opinion that wherever it came to be supposed that a man's eternal welfare in the other world, depends on his leaving children behind him who will perform the rites necessary for his soul's salvation, it naturally became the pious duty of the survivors to remedy, as far as possible, the parlous state of a kinsman who had died without offspring, and on none would that duty appear to be more incumbent than on the brother of the deceased.(95).

92). Burrows, Levirate Marriage in Ancient Israel, London, 1940. p.33.

93). L.M. Epstein, Marriage Laws in the Bible and Talmud, Cambridge, Mass., 1942. p.78.

It is true that no evidence can be found in the Bible as to the existence of ancestor worship in ancient Israel. The desire for progeny on the part of Abraham, Isaac and other Biblical personages may have been due other considerations, whether social or economic; but as Dr. Neufeld rightly points out that it may be taken for granted that the motives underlying the levirate reach far back into pre-historic times, when ancestral worship was, no doubt, of considerable importance.(96). It is of interest to note that Driver and Miles, when dealing with the levirate as it existed among the ancient Assyrians and Babylonians and suggest that this custom was derived from the desire common to all ancient people to ensure the continuance of the family and, thereby, of the ancestral cult, without specifying whether the ancestral cult was in any way connected with ancestral worship. (97).

94). Starck, op.cit., p.150.

95). Frazer, Folk Lore in the O.T. ii. p.339
Totemism and Exogamy, i. pp.972ff.

96). E. Neufeld, Ancient Hebrew Marriage Laws, London, 1944.
p.26.

A son is expected to perform certain rituals at the grave of his father, e.g. the burning of incense, the pouring of liquids on and into the grave; the son must erect a stela in the sanctuary; the name and lineage of the deceased is inscribed on this monument.

(A. van Selms, op. cit., p.102.).

Mayne cites the following text attributed to Manu. "A son of any description must be anxiously adopted by one who has none, for the sake of the funeral cake, water, and solemn rites, and for the celebrity of his name."
(J.D. Mayne, A treatise on Hindu Law and Usage, Madras, 1900, p.134.).

With regard to the statement of Josephus that the levirate "will be for the solace of wives under their affliction"(98), it is important to note that Josephus, who lived at a period when the levirate was still practised in Palestine, must have realised the great advantages for the widow from such an institution. Although the Biblical legislation makes no mention of any benefits to the widow from the levirate marriage, in the mind of Josephus there was no doubt that such an institution would protect and safeguard her interests. In fact, Dr. Mattuck considered this motive as the main purpose of the levirate marriage, "which was intended to benefit the childless widow, whose interests the Lawgiver had especially at heart."(99).

In order to appreciate this motive, it is well to remember that in accordance with Biblical legislation, a wife could not inherit the estate of her husband.(100). If there were children, the widow would be expected to remain with her husband's family in order to look after them. She would then be supported from her husband's estate until the children are old enough to take charge of the estate. As long as there were children her maintenance would be assured. But when there were no children, the widow would normally be expected to return to her father's home(101), and it is not likely that she would be well received by her parents, especially in view of her childlessness. Even more tragic

At Rome, adoption had the same object and the adopted son had to perform the "sacra" of the family into which he was adopted.

(Gaius, Inst.ii. 55.)

of having to return to her paternal home or seek for another husband, no mean task in ancient society, when virginity was greatly prized.

Closely allied with this motive, is the view expressed by Prof. Granqvist that the levirate marriage had as its object the continuation of the union between the families related by affinity. Prof. Granqvist cites many instances, where among the present day Palestinian Arabs, after the death of a husband or wife, the surviving spouse is married to a brother or sister of the deceased in order to continue the family relationship, and that the levirate marriage takes place even when the deceased left children.(104). Similarly, Prof. Westermarck gives many instances where a man is compelled to marry a deceased brother's wife, even if she has children.(105).

In Ancient Arabia, according to Prof. Robertson Smith, a contract of marriage conveyed to the husband certain rights over his wife, which were so far of the nature of property that they could be transferred by him to another and passed with the rest of the property to his heirs.(106). In those societies where

According to Dr. van Selms, the lot of widows in Ugaritic society was pitiful. If no special provisions were made by the father during his lifetime, a merciless eldest son could deprive her of everything which belonged to the estate of the deceased. (van Selms, op.cit., p.142.)

- 104). H. Granqvist, Marriage Conditions in a Palestinian Village, Helsingfors, 1931. vol.ii. pp. 299 ff.
- 105). History of Human Marriage, iii. p.214.
- 106). W. Robertson Smith, Kinship and Marriage in Early Arabia, Cambridge, 1903. p.107.

Absalom considered himself heir to the throne of his father and in order to convince the people that he was now king in succession to his father David, "Absalom went into his father's concubines in the sight of all Israel." (II Sam.16,22.) (109). Abner makes himself strong in the house of Saul by having intercourse with Ritzpah, the concubine of King Saul (II Sam.3,7.), and when Adonijah asks for the hand of Abishag, the woman closely connected with King David, Solomon suspects that his brother is after the throne.(II Kings, 2,21-22.).

From the Judah-Tamar story, the earliest reference to the levirate in the Bible, several important points emerge. The raising of seed to the deceased brother is clearly indicated as the main, if not the only function of the levirate. The welfare of the widow is of no consideration. After the death of the second brother, Tamar is sent home to her father's house and no provision made for her support out of the estate of her late husband. The intentions of Judah are clearly stated. Under no circumstances would he permit his youngest son to marry his brother's widow. He had already lost two sons, whose death he attributes to Tamar (110), and was not prepared to take a chance on the life of his youngest son.(111).

109). See J.H.Hertz, Pentateuch and Haftorahs, London, 1950. p.131. on Gen.35,22.

110). J.H.Hertz, *ibid.* p.145, note on v.11.

111). It is of interest to note that several Rabbis were opposed to the re-marriage of a woman, who had already lost two husbands. In later rabbinic literature, such a woman became

The fact that his deceased sons' would be left without an issue, does not seem to worry the father. It is also clear that an alternative to the levirate in the form of נָשְׂאָה (112), which we find in the Book of Deuteronomy, did not exist in the time of the Patriarchs. As long as there were surviving brothers the widow is not permitted to marry an outsider. Consequently, Tamar is still tied to ^{the} family of Judah, waiting for her brother-in-law to marry her. When, however, she realises that Judah has no intention of allowing his son to marry her, and consequently, there is no possibility of raising seed to her dead husband, she contrives by cunning to become pregnant by her father-in-law. This gave rise to a suggestion that originally the duty of the levirate, in the absence of brothers, would devolve upon the father of the deceased.(113).

But the Deuteronomic law, ^{as} ~~as~~ will be discussed later, makes it quite clear that the levirate obligation devolves only upon brothers. Both Driver and Miles maintain that in the absence of brothers, the father-in-law would be duty-bound to marry the widow. The omission of the Deuteronomic law to mention the father-in-law is explained by them to the probable fact that in the normal course of events a father dies before the death of his children.(114).

known as a $\text{אִשָּׁה שֶׁנִּשְׂאָה}$, a murderess, since the death of her husbands were attributed to her.
(See Nid.64a; Yeb.64b; Tos.Shabb.16.).

The Judah-Tamar story, however, clearly indicates that among the ancient Hebrews the duty of the levirate did not apply to a father-in-law. No suggestion is made that Judah should marry his son's widow. The fact that Tamar finds it necessary to deceive her father-in-law indicates that under no circumstances would Judah be prepared to marry her, or even to have temporary relations with her for the purpose of providing her with issue.

When Judah is convinced that he was responsible for the pregnancy of his daughter-in-law, one would have expected him to marry her, if the obligation of the levirate would have devolved upon him. The statement, "And he knew her no more" (v.26), implies that it was not the custom of the ancient Hebrews for a father-in-law to have relations with a daughter-in-law. On the other hand, Tamar, realising that Judah has no intention of allowing his youngest son to marry her, finds herself in a desperate position. She feels it her duty to raise seed to her deceased husband. As she is growing older, she may soon reach a stage in her life, when she would be past child-bearing. Is she to die without leaving an heir to her deceased husband?

In her desperation, Tamar resorts to a Hittite law, according to which, in the absence of surviving brothers, the

113). E. Neufeld, *Ancient Hebrew Marriage Laws*, London, 1944. pp. 34-36.

114). "The Deuteronomic law does not refer to the levirate as a duty incumbent upon the father-in-law... is due to the ~~fact~~ probable fact that the father-in-law must be dead before the brothers can share the inheritance." (C.R. Driver and

father-in-law is duty-bound to marry his son's widow. This law reads, "If a man have taken a woman; then the man die and his brother take her; then his father take her...."(115). When Judah, on discovering the cunning of his daughter-in-law remarks, "She is more righteous than I", he does not imply that she was righteous in claiming him as a person whose duty it was to perform the levirate act, but "for as much as I gave her not to Shelah my son."

Judah fully appreciates her desperation in trying to obtain issue for her husband. By not allowing his son to perform the levirate duty, Tamar is forced to act in a cunning manner in order to raise seed. Pederson points out that Israelitic women have always looked up to Tamar as an example of a woman who knew how to show endurance and cunning and set aside all other considerations in order to attain the great victory, namely, to give her husband progeny.(116).

Whereas the Book of Genesis records the levirate as a custom among the ancient Hebrews, the Book of Deuteronomy describes the law of the levirate and states the reason for its promulgation. According to Driver, the wording, "If brethren dwell together" (Deut.25,5.), limits the performance of the levirate to brethren living on the same family estate, thus connecting the levirate with inheritance. "It was a collateral object of the levirate institution", writes Driver, "to prevent a family inheritance from being broken up."(117). This would be in accordance with the

view held by a number of Rabbis that the word "together" implies brothers who are together in respect of inheritance, i.e. brothers who are entitled to inherit from one another.(118). This view was definitely held by R.Eleazar who maintained that where a brother could not inherit his deceased brother, there would be no levirate.(119). This is explained by R.Avin in the name of R.Jonathan to apply to brothers of the same mother but not of the same ~~brother~~ father.(120). On the other hand, any brother of the same father, even an illegitimate brother, would be duty-bound to perform the levirate act.(121).

The view of R.Eleazar was, however, unacceptable to a number of Rabbis who maintained that there was no connection whatsoever between the levirate and inheritance. When the question was asked, "has the All Merciful in any way made the levirate marriage dependent on the inheritance?" the answer was given,

115). G.A.Barton, Archaeology of the Bible, London,1925. p.386.

116). Pederson, op.cit., p.79.

117). S.R.Driver, Commentary on Deuteronomy, p.282.

118). See Sencino Talmud, Yebamoth, vol.1. London,1936. p.95,note7.

119). Yoma, 66b; Jer.Yeb.1.5.

120). Jer.Yeb.5.1.

121). Nid.4a; Yeb.29a. The Rabbis understood an illegitimate child as a child of an adulterous or incestuous marriage, i.e. one with forbidden degrees of kinship as laid down in Leviticus, chs. 18 & 20.

"The levir must contract the levirate marriage in any case, and if any inheritance is available, he receives it; if not, he does not receive it.", and R. Judah even maintains that if the father is still alive, it is the father who inherits the estate of the deceased son and not the levir who marries the widow in accordance with the levirate law.(122).

From the statement "If brethren dwell together", the Rabbis also inferred the law that there can be no levirate condition unless the brothers are contemporary. If, therefore, the levir was born after the death of his brother, the widow is not expected to wait till the levir is old enough to perform the levirate marriage. (123). This law of the rabbis would appear to be in contradiction to the statement made by Naomi, when she pleads with her daughters-in-law to return home. "If I should have an husband also to-night, and should also bear sons; Would ye tarry for them till they were grown? Would ye stay for them from having husbands?"(Ruth, 1, 12-15), clearly implying that if there would have been the possibility for her of giving birth to sons, and if her daughters-in-law were prepared to wait for those sons to grow up, the levirate marriage could have been put into practice.

122). Yeb. 40a.

123). ibid. 17b.

From the statement, "And one of them die" the Rabbis accepted the principle that the levirate condition will only exist in the case of a woman who is the widow of one brother. If, however, as in the case of Tamar, after marrying the levir and the levir dies without having left children, the widow is exempt from the levirate duty. "The wife of one brother is to be married to a levir and not the wife of two brothers."(124).

"And have no child". The Hebrew term used for child is "Ben", which literally means "son", and the verse should be translated "and have no son". In fact, Driver quotes many authorities who translate "no son".(125). This gave rise to the question whether a daughter would exempt the mother from the levirate. It is quite possible that originally, when the levirate was dependent on inheritance and only a son could inherit his father, it was necessary for the widow to have given birth to a son in order to be exempt from the levirate. When, however, as a result of the pleas of the daughter of Zelaphad, the law of inheritance was changed to include daughters (Num.27.), the birth of a daughter would also exempt the widow.(126).

124). Jer.Yeb. 10,8; Sifri, 155. This principle is in contradiction to the Judah-Tamar story, when the third son of Judah is expected to marry the widow of his two brothers.(Gen.38.).

125). S.R.Driver, Commentary on Deuteronomy, p.282.

~~126~~). On the other hand, Josephus (Antiq.iv.8,23.) employs the term "child". Similarly, in the quotation by the Sadducees the term "children" is used to signify seed of either sex. (Mt.22,24; Mk.12,19; Lk.20,28.)

In the minds of the Rabbis there was no doubt that the birth of a child of either sex, would exempt the mother from the levirate(127), and they even derived the principle that the existence of a grandchild of either sex, would exempt the widow from the levirate.(128). Nay, say the Rabbis, the verse "and have no child" clearly implies that the man left no issue whatsoever. It should, therefore, be investigated whether the man had any child with another woman, whether legitimate or otherwise, since any issue of the man would exempt his widow from the levirate. (129).

It is of interest to note that the Rabbis were prepared to give the woman the benefit of any doubt whether her husband left any children. Thus a case is cited when during the lifetime of a man, it was known that he had no children, but before he died, he mentioned the fact that he had a child with another woman, the Rabbis declared his widow to be exempt from the levirate, even without any investigation as to the truth of her husband's statement.(130).

Another case is cited when at the time of marriage, she was told by her husband that he already has children from another woman, but before he dies he repudiates his earlier statement and maintains that he never had any children, we accept his earlier statement and the woman is exempt from the levirate.(131). It

128). See L.M.Epstein, Marriage Laws in the Bible and the Talmud, Cambridge, Mass. 1942, p.98.

E.Neufeld, Ancient Hebrew Marriage Laws, London,1944,p.45.

this obligation, the eldest brother must be forced to carry out the levirate duty. If, on the other hand, the eldest brother is prepared to marry the widow and in the meantime one of the younger brothers had secretly married her, the Rabbis consider the levirate duty as having been fulfilled and she remains the wife of the brother who married her.(133). In fact, the Rabbis maintain that there is no need for any of the brothers to marry her. Any intercourse between the widow and one of the brothers, was regarded by the Rabbis as if the levirate obligation had been carried out. (134).

It is clear that the duty of the levirate devolves upon one brother only; but what would be the position in a polygamous family where the deceased brother was married to more than one wife, and dies without issue from any of his wives ? would the levir be expected to marry all his brother's widows ? The Book of Deuteronomy, perhaps for the sake of clarity deals with the levirate condition where only one wife is involved, although in a previous chapter, Deuteronomy deals with the case, "If a man have two wives, the one beloved and the one hated....(21,15ff). The Rabbis made it quite clear that the marriage of the levir to one of the widows would exempt the other widows from the levirate. (135).

133). Yeb. 4,5.

134). ibid.54a.

135). ibid. 43 & 44.

On the other hand, if it is the wish of the levir to marry all his brother's widows, he is at liberty to do so. (136). Under no circumstances could the widows be married to several brothers. As soon as one of the brothers had married one of the widows in accordance with the levirate law, the other widows are no longer under the levirate obligation and free to marry an outsider, and consequently, a marriage between any of these widows and one of the brothers, would be considered incestuous in accordance with the law laid down in Leviticus, 18,16.

If the deceased brother had two or more wives, of whom one was within the degrees forbidden to his surviving brother, this woman would render the other wives exempt from the levirate marriage. Thus, if two brothers are married to two sisters and one of the brothers dies, since the levir is prohibited by law to marry his wife's sister (Lev.18,18.), all the widows of the deceased brother are exempt from the levirate obligation. (137). Even if the levir had previously divorced his wife, he is still not permitted to marry his brother's widow, as long as her sister, his divorced wife, is yet alive. (138).

Since a man is not permitted to marry a divorced brother's wife (139), according to R. Eleazar, if one of the brothers had

136). Yeb.4,11; Jer.Yeb. 4,12.

137). Yeb. 1,1.

138). Yeb.4,8.

139). See Table of prohibited marriages in Pentateuch and Haftorahs by J.H.Hertz, London, 1950. p.559.

divorced his wife and then remarried her and subsequently dies without issue, his wife would be exempt from the levirate, since by her previous divorce she became prohibited to any of her husband's brothers.(140).

The rabbis, moreover, agreed that there was no levirate obligation in cases where the marriage between the deceased brother and the widow was not valid, whether according to Biblical law(141) or Rabbinic law. If the deceased brother was a minor(142), or insane or deaf-mute(143), or if the widow was a minor and acted without her father's authority(144), there was no levirate duty. Similarly, there would be no levirate duty if the marriage of the deceased brother was incapable of being productive. Thus, the widow of a natural eunuch(145), or hermaphrodite, or if she married an old man incapable of procreation, she would be exempt from the levirate. The widow too, must be capable of being productive. Consequently, a woman incapable of conception, or a woman past the age of child-bearing or a child under the age of twelve, would be exempt from

140). Yeb.108a.

141). i.e. an incestuous marriage. See Lev. chs.18& 20.
Yeb. 2,3.

142). Yeb.69b; Midd. 45a. Under the age of nine years and one day.

143). Yeb.112b. Rabbinic law considers the deaf-mute as incapable of contracting marriage.

144). Yeb.2b.

145). If the deceased was castrated, the levirate duty remains

the levirate duty.(147). In addition, the Rabbis enumerate other cases where the widow would be exempt from the levirate. According to Biblical enactment, a High Priest could only marry a virgin (Lev.21,13), consequently, he could not possibly marry his brother's widow.(148). Having accepted the principle that proselytes on conversion to Judaism, completely lose their kinship and genealogy; two brothers on conversion are not regarded by the Rabbis as true brothers and consequently, their wives would be exempt from the levirate duty.(149).

It may appear strange that the Rabbis, whose main consideration when formulating legislation, was to maintain Biblical law and to avoid any infringement of that law, should have found it possible to exempt so many cases from the levirate obligation. There is, however, no doubt that in the Book of Deuteronomy we find a change of attitude towards the levirate institution. whereas in the Book of Genesis, the levirate duty is absolute, and that there is no escape from that duty, the Book

since there was a time in the life of the deceased when he was capable of producing seed.

146). Tos.Yeb.2,4; 11,2; Yeb. 79b.

147). Tos.Yeb.8,3; 6,10; Jer.Yeb.4,1; 13,7. In the case of a child she would have to wait till she reaches puberty before marrying the levir.

148). Yeb.6,4; Jer.Yeb.6,4.

149). Tos.Yeb. 12,1; Jer.Yeb.11,2.

of Deuteronomy states that if the levir does not wish to marry his sister-in-law, he can be freed from his obligation by the performance of בִּשְׂרָף .

"But if the man like not to take his brother's wife, then shall his brother's wife go up to the gate unto the elders and say: My husband's brother refuseth to raise up unto his brother a name in Israel, he will not perform the duty of a husband's brother unto me. Then the elders of the city shall call him and speak unto him; and if he stand and say, I like not to take her; then shall his brother's wife draw nigh unto him in the presence of the elders, and loose his shoe(150) from off his foot, and spit in his face(151), and she shall answer and say; So shall it be done unto the man that doth not build up his brother's house. And his name shall be called in Israel, The house of him that hath his shoe loosed.(Deut. 25,7-10).

By this ceremony of בִּשְׂרָף , the levir could escape from his obligation towards his brother and sister-in-

150). It is from the root of the word that the ceremony is called בִּשְׂרָף . The removal of the shoe is referred to by Robertson Smith as a Bedouin form of divorce, the husband saying "She is my slipper and I have cast her off" (Kinship and Marriage, p.105. See also Burckhardt, Notes on the Bedouins, vol.1. p.113.)

According to Straham, it is probably a ritual expression of the fact that by renouncing his duty towards his sister-in-law, he also forfeits his right to his dead brother's estate, which was conditional upon his taking her to wife; since the right to walk over an estate at will belonged to the owner, and the shoe was the natural symbol of possession.

(J.S.Straham in Peake's Commentary on Deuteronomy, p.272)

law, who would then be free to marry whomever she wishes.

But the $\alpha\gamma\delta$ was no simple ceremony. It had to be performed in public in the presence of the elders of the city. The fact that a brother refused to raise seed to his deceased brother was regarded by Deuteronomy as a public disgrace, hence the spitting in his presence to signify public contempt for such a person; and the fact that he became known in Israel as the man who had his shoe loosed. It is, therefore, obvious that Deuteronomy preferred the levirate condition to be fulfilled but at the same time recognised that under certain conditions the performance of the levirate may not be possible or desirable. To insist on the performance of the levirate may lead to hardship, when the brother is already married and is in no position to support another wife or wives; or to unhappiness when the brother is not fond of his sister-in-law; or when there exists a disparity in age between the levir and his sister-in-law. Under such conditions, it would be the duty of the elders to discourage the levir from marrying his brother's widow.(152).

For the significance of the removal of the shoe, see "The Symbolism of the Shoe" by J.Hecht, J.Q.R. N.S. iv.1.

151). According to the Rabbis, the spitting was on the ground in the presence of the elders. Yeb.106b.

152). "If he is young and she is old, or if he is old and she is young, the leders of the city say to him, go and marry your equal and do not bring strife into your home."
(Yeb. 101 b.).

But in all other circumstances the brother was expected to marry his sister-in-law in accordance with law and custom. It was only when he refused to carry out his levirate duty that בְּיָדָא was resorted to. This attitude continued in Israel for many centuries, until we come to the rabbinic period, when we find a change of mind.

The Tannaim began with the tradition that בְּיָדָא is satisfactory only in cases where marriage is impossible. As long as the brother wishes to marry ~~his~~ his brother's widow, we should encourage such a marriage; the principle being that the levirate is preferable to בְּיָדָא . (153). But gradually, the Rabbis developed a feeling that since marriage with a brother's wife is incestuous (Lev.18,16.), and is only permitted by law in order to fulfil the levirate duty, any marriage that is not entered upon with that pious feeling, namely to raise issue for a deceased brother, but because the brother is fond of his sister-in-law, savours of incest and should, therefore, be discouraged.

This view was first expressed by Abba Sha'ul in the second century C.E. who states, "If a levir marries his sister-in-law on account of her beauty or for the purpose of acquiring her property or to gratify his sexual desires or for any other ulterior motive, such a marriage should be regarded as an infringement of the law of incest, and I am even inclined to regard the child of

from such a marriage, a bastard." (154). The attitude of Abba Sha'ul seems to have influenced a number of Rabbis and early in the third century we find it expressed in the Mishna, "Now that the levir's intention is not for the fulfilment of God's command, it is decided that נשואין is preferable to marriage" (155).

The tragedy of a man's name being lost because of childlessness, does not seem to alarm the Rabbis. It was no longer a token of disgrace for the levir^{no'} to marry his brother's widow. It is true that the "loosening of the shoe" and the "spitting on the ground" were still retained in the נשואין ceremonial, but they no longer signified any contempt for the man who refuses to raise seed to his deceased brother. Consequently, any objection to the performance of the levirate duty, raised by the levir or widow, would receive full recognition by the Rabbis. (156).

In Deuteronomy it was taken for granted that the brother would either marry his sister-in-law or give her נשואין . The possibility that the levir might refuse both marriage and נשואין is not contemplated. In rabbinic times, however, this possibility was not overlooked. If the widow and the levir agree to have neither marriage nor נשואין , the Court will not interfere.

154). Yeb.39b; Jer.Yeb.1,1; Tos.Yeb.6,10.

155). Yeb.39b, 109a; Bek.13a.

156). Yeb.4a; Keth.77a; Jer.Yeb.12,6.

It was, however, clearly understood that the widow is not free to marry an outsider until the דְּבִירָה ceremonial has been performed.

If, therefore, the woman wishes to re-marry, the levir can be forced by certain penalties, i.e. by imprisonment or flagellation to grant her דְּבִירָה . (157). According to one Rabbi, however, no levir can be forced to leave Palestine in order to grant דְּבִירָה to his sister-in-law, residing outside Palestine. In fact, the Rabbi dissuaded a man from doing so. Thus we are told that a certain priest came to R. Hanina and asked him whether he would be permitted to go to Tyre in order to perform the levirate duty or דְּבִירָה , and the Rabbi refused to grant him permission on the ground that it was not right for a Jew to leave Palestine, even for the performance of a commandment. (158).

It should be noted that the Rabbis were not concerned with the welfare of the widow. They have, however, agreed that the widow should be maintained from the estate of her late husband for a period of three months only. After this period, she is to receive no maintenance either from the estate of her late husband or from the levir. (159). Similarly, if her levir is a child, she is to receive no maintenance until the levir reaches the age when he is capable of performing the levirate duty. (160). In the

157). Yeb. 39a; Keth. 64a.

158). Jer. M.K. 3, 1.

The decision of the Rabbi implied that if the woman is anxious to re-marry, let her come to Palestine to receive

case of a man leaving several widows, the fact that the levir is expected to marry only one of the widows in order to fulfil the levirate duty, clearly indicates that the other widows could not make any demands on the estate, either of their late husband or of the levir.(161).

It should also be noted that the purpose of raising seed to the deceased brother, "That his name be not blotted out in Israel"(Deut.25,6.), was understood by the Rabbis to imply that the brother should have an heir to the estate. It did not imply that the son born by a levirate marriage, should be named after the deceased brother.(162).

It is reported that a man who lived in Israel came to R. Hanina and asked him whether he could go to Be-Hozae (a town in Khuzistan, S.W.Persia. Sonc.Keth.p.504, note 5) in order to marry his sister-in-law in accordance with the levirate obligation. "His brother", replied the Rabbi, "married a heathen" (apparently a term of contempt for the Jewish women of Be-Hozea, *ibid.* p.714, note 16.) "and died, blessed be the Omnipotent who slew him, and this one would follow him !"
(Keth. 111a.)

159). Yeb. 41a.

160). ibid. 41b.

161). ibid. 43 & 44.

162). ibid.24a.

P O L Y G A M Y .

There is a controversy among scholars whether the Biblical ideal of marriage is that of monogamy or polygamy. Abrahams maintains that monogamy was the ideal. The tendency of Jewish social life was always towards monogamy. (163). Similarly, Dr. Hertz states that the Biblical ideal of human marriage is the monogamous one (164), and Dr. Mace concludes his chapter on Monogamy and Polygamy by stating, "So we may sum up by saying that throughout the period of Hebrew history, concerning which knowledge comes to us from the Old Testament, we find the ideal to be always that of monogamy." (165).

Those who express the view that monogamy constituted the Biblical ideal of human marriage, point to the verse, "therefore shall a man leave his father and his mother and shall cleave unto his wife and they shall be one flesh." The fact that the verse states "wife" and not "wives" clearly indicates that the original law of marriage was monogamy. (166). They also point to the fact that the early generations, with the exception of Lamech (Gen. 4, 19.) lived in monogamy (167). Thus Adam, Noah and his sons, Isaac and his the sons of Jacob (167), Moses and Aaron all seemed to have lived in monogamy.

163). See J.E., article on Polygamy, vol. ix.

164). J.H. Hertz, op. cit., p. 932.

165). David R. Mace, Hebrew Marriage, London, 1953. p. 137.

With regard to Abraham, the point of view is expressed that he lived in what may be called "legal monogamy", his other consorts being concubines.(168). Similarly, in the case of Jacob, there is no doubt that his intentions were to marry only Rachel, the youngest daughter of Laban.(Gen.29,18.). Because it was not the custom "to give the younger before the firstborn(29,26.), Jacob was forced into bigamy by the deception of Laban.(169). As to his other wives, Bilhah and Zilpah, since they were only "handmaids" or "concubines" according to Dr. Neufeld(170), they cannot be considered as real wives. "It has been suggested", writes Briffault, "that the chief wife is in reality the only "real" wife and that the others are little better than "concubines" thus implying that such marriages, although in appearance polygamous, are theoretically monogamous, and that monogamy is, or formerly was, the rule among the people and polygamy either a novelty or an exception."(171).

166). W. Smith, Dictionary of the Bible. vol.ii. p.240.

167). With the possible exception of Simon (Gen.46,10.). It is however, not clear whether he had both wives at the same time.

168). Epstein, op.cit., p.3.

169). According to Rab, "Leah's eyes were weak" (Gen.46,10.) from constant crying when she heard people say that she, the eldest daughter of Laban, was destined to marry Esau, the eldest son of Rebekah.
(B.B. 123a.).

170). See Neufeld, op.cit., p.121.

171). Briffault, op.cit., vol.ii. p.307.

There seems to be no evidence that any of the Prophets lived in polygamy. In fact, monogamous marriage was used by them as a symbol of the union of God with Israel, while polygamy was compared to polytheism or idolatrous worship.(172.). "There is not one of the utterances of the Prophets" states Kennett, "which would justify the conclusion that they accepted polygamy".(173). It may also be noted that the theory of monogamy comes prominently forward in the pictures of domestic life portrayed in the poetical writings of the period(174), and the idyllic picture of Prov. 31, 10-29, would be impossible in a polygamous setting.

A peculiar passage in the Targum of Ruth, points to the ideal of monogamy. The kinsman of Elimelech, being requested by Boaz to marry Ruth, replies, " I cannot redeem her since I have a wife already and have no right to take another in addition to her, lest she be a disturbance in my house and destroy my peace. Redeem her thou, for thou hast no wife."(175).

In the first century, B.C.E., there lived in Damascus a Jewish sect, known as the Zadokites.(176). They taught and

172). See Hos.2,18; Is.50,1; Jer.2,2; Ex. 16,8.

173). R.H.Kennett, The People and the Book, London, 1930, p.394.

174). Ps.128,3; Prov.5,18; 18,22; 19,14; Ecc. 9,9.

175). Targum on Ruth 4,6.

This is corroborated by R.Isaac who states that the wife of Boaz died on the day that Ruth entered Palestine.
(B.B.91a.)

practised strict monogamy. The taking of two wives was regarded by them as a whorish practice, since the true basis of nature being the pairing of one male with one female, even as it said (of Adam and Eve), " A male and a female created He them " (Gen.1,27.), and of those that went into the Ark, "in pairs they entered " (Gen.7,9.). Similarly too, it is said concerning a prince, "He shall not take more than one wife."(Deut.17,17.). (177).

From several verses in the New Testament, it may be inferred that monogamy, as the ideal marriage, was advocated. Thus we read, "Let each man have his own wife and let each woman have her own husband." (I Cor.7,2.), "Whosoever shall put away his wife.... and shall marry another committeth adultery"(Matt19,9.) (Lk.10,11.). "Let the deacons be the husbands of one wife." (I Tim.3,12.).

176). The Zadokite Document, sometimes known as the Damascus Document, was discovered nearly fifty years ago in an old Synagogue in Cairo. With the discovery of the Dead Sea Scrolls, seven different manuscripts of the Damascus Document has appeared. (J.M.Allegro, The Dead Sea Scrolls, London, 1957, p.120). In fact, the Zadokite Document expounds the same doctrines, deals with the same events and even makes use of the same language as the Manual of Discipline. Many characteristics and unusual expressions are shared by both, and there are rather extended passages that appear in identical form in the Zadokite Document and the Manual of Discipline.

177). Trans. by Theodor H.Gaster, The Scriptures of the Dead Sea Sect, London, 1957. p.76.

R.V. "Neither shall he multiply wives unto himself."

The fact that out of 2,800 Rabbis mentioned in the Talmud, only one is stated to have had two wives, led Dr.Hertz to the conclusion that Rabbinic literature presupposes a practically monogamic society.(178).

When the Mishna lays down the law that if a man took a wife and lived with her for ten years and she bore him no child, he may not abstain any longer from the duty of propagation (179), it is not quite clear whether the man was expected to take an additional wife, or to divorce his first wife before marrying another woman. But another statement of the Rabbis makes it quite clear that the man would have to divorce his barren wife, before contemplating marriage with another woman.(180). In fact, R.Ammi laid down the law that under no circumstances should a man marry another woman, unless he had already divorced his former wife. (181).

A sentiment against polygamy is illustrated in a story related of the son of R.Judah Hanassi. R.Judah was making preparations for the marriage of his son. It was agreed that the son should spend twelve years at the academy and that the marriage would be solemnised after this period. When, however, he saw the girl, he asked his father to reduce his period of study at the academy for six years. When he saw the girl a second time, he expressed his

178). J.H.Hertz, op.cit., p.932.

179). Yeb.6.6.

180). Yeb.64a; Tos.Yeb. 8,4.

desire to marry her before leaving for his studies. After the marriage, he departed and spent twelve years at the academy. By the time he returned, his wife had lost her power of procreation.

"What shall we do?" asked R. Judah. "Should we order him to divorce her, it would be said, this poor soul waited in vain! Were he to marry another woman, it would be said, the latter is his wife and the other his mistress." R. Judah, therefore, prayed for mercy to be vouchsafed to her and she recovered. (182).

On the other hand, Prof. Briffault maintains that like all other semitic peoples, the Jews were polygamous. "Nowhere in the laws of the Jews" writes Briffault, "is any condemnation of polygamy to be found and no reference exists in their literature to any preference for monogamy. On the contrary, Hebrew law assumes polygamy." (183). "The typical form of Hebrew marriage in historical times was polygamy. It emerges as an early and firmly established institution." (184).

In the mind of Pederson there was no doubt that polygamy was the natural type of marriage among the Israelites (185), and Dr. Neufeld is quite convinced that marriage in ancient Israel was always polygamous, in spite of the view of Westermarck, which he quotes, that from the earliest times the normal type of human marriage has been based on the monogamous patriarchal family. (186).

181). Yeb. 65a.

182). Keth. 62b.

Those who express the view that polygamy was the biblical tradition, point to the many instances in the Bible where cases of polygamy are reported. In addition to Abraham and Jacob, Nahor (Gen. 22,24.), Esau (28,9.), Gideon (Jud.8,30.), Elkanah (I Sam.1,2.), Saul (II Sam.12,18.), David (5,13.), Solomon (I Kings,11,3.), Shoham (I Chron.8,8-9.), Rehoboam (II Chron.11,21.), Abijah (13,21) Joash (24,5.), all had married more than one wife. From the number of children born to Jair, Inzan and Abdon, three Judges in Israel (Jud. 10,4; 12,9,14.), it is clear that they must have married more than one wife each.

How widespread polygamy was practised among the masses of the people in biblical times, can be seen from the report in the Book of Chronicles with regard to the tribe of Isaachar, "For they had many wives" (I Chron.7,4.), and Dr.Mace quotes Jahn, who concludes that polygamy must have been excessive in the time of Moses, drawing this conclusion from the fact that while adult men numbered 603,500, the number of first-born males is recorded as 22,373. This would give each man an average of more than twenty five sons. (187).

The fact that legislation was enacted to protect the interests of the wives and their children in a polygamous family (Ex.21,9. Dent.21,15.), clearly indicates that polygamy was the rule rather than the exception. A prohibition was imposed upon

183). R.Briffault, The Mothers, vol. iii. pp.315 ff.

184). J.Hastings, Dictionary of the Bible, III. Article on Marriage.

kings against multiplying wives(Deut. 17,17.), and according to the Rabbis, since the prohibition applied only to kings, ordinary people could marry as many wives as they wished.(188). The prohibition of marrying two sisters together (Lev.18,18.), also implies that there was no prohibition for a man to marry two strangers at the same time.

"In this controversy" says Epstein, "it seems to us that the evidences advanced in support of the theory of polygamy are more compelling than those offered to prove monogamy."(189).

If we are to accept the view that Polygamy was the Biblical tradition, the question may be asked, what were the causes that led to this practice in ancient Israel ? The Code of Hammurabi, which normally inculcates monogamy, permits a man, if his wife is barren, to beget children either by her maidservant or, if she is not accessible, to take a concubine.(190). Consequently, the barrenness of a wife would be ~~the-cause~~ a cause for the choice of another wife.

185.). J.Pederson, Israel; Its Life and Culture, London, 1926.
p.70.

186). E.Neufeld, Ancient Hebrew Marriage Laws, London, 1944. p.118.

187). Mace, op.cit., p.122, note 1. cf. Epstein, op.cit., p.5.
note 11.

188). Sanh.21b.

189). Epstein, op.cit., p.6.

190). parag. 144-147.

Since the main purpose of marriage in ancient Israel was the procreation of children (191), if that purpose has not been fulfilled, another wife would have to be taken. It is, therefore, in this respect that the polygamy of Abraham, Elkanah, and to a certain extent that of Jacob, can be explained. Sarah was childless. The cry of Abraham, "O Lord God, what wilt thou give me, seeing that I go hence childless" (Gen.15,2.), shows his great distress at the thought that at his death there would be no child to inherit him. Both Sarah and Abraham ^{are unhappy} because God had not blessed them with progeny. What could be done to save this unfortunate situation? Coming from Babylon, they knew of the Babylonian custom that if a man's wife was barren, he was permitted to take a concubine. (192). The suggestion is, therefore, made by Sarah, "Go in, I pray thee, unto my handmaid, it may be that I shall be builded up through her." (Gen.16,2.). (193).

It may also be assumed that had Jacob married Rachel as he had intended and she would have borne children unto him, he would like his father Isaac, never have married any other woman. Similarly, in the case of Elkanah, it has been suggested that he was forced to marry another wife because of the childlessness of his first wife Hannah (194). The strong probability being that Hannah was

191). See Bertholet, A., A History of Hebrew Civilisation, London, 1936. p.150.

192). J.H.Hertz, op.cit., p.56. Note on "Unto my handmaid".

193). Another woman taken at the request of the wife under the idea that children born to a slave were, in the eyes of the law,

the original wife and that because of her sterility, he had married Peninah in order to secure offspring.(195).

Polygamy, therefore, solved the problem of marital sterility. In the opinion of Dr.Mace, it was a provision to cover a desperate necessity.(196). This desperate necessity may have arisen in the case of Abraham, Elkanah and to a certain extent, in the case of Jacob. But many instances are recorded in the Bible when polygamy was practised, where the necessity of progeny did not arise. Thus we are told that Gideon had many wives, who bare him seventy sons.(Jud.8,30.). Jair had thirty sons (10,4.), Ibzan had thirty daughters(12,9.), Abdon had forty sons(12,14.). clearly implying that these four Judges did not practise polygamy because their first wives were sterile. That Saul had more than one wife is implied in II Sam.12,8., whilst David's harem counted seven or eight wives mentioned by name, a number of principal wives and ten concubines. (II Sam. 2,2; 3,2-5; 5,13; 11,27; 15,16.) (197). Solomon had the proverbial thousand wives, of whom three hundred were concubines.(I Kings,11,3.). Abijah had fourteen wives, and of whom we are told, "But Abijah waxed mighty and married fourteen wives and beget twenty and two sons and sixteen daughters"(II Chron. 13,21.).

children of the mistress.(W.Smith, Dictionary of the Bible, vol.II. p.241.

194). See J.E. vol.ix. Article on Polygamy.

195). Yalkut Shim. on Samuel, 1,1.

196). Mace, op.cit., p.124.

It would appear that the Bible connects the "might" of Abijah with the large number of wives he had married, and Dr. Westermarck points out that a multitude of wives usually increases the social importance, reputation and authority of a man. Statements such as "Polygamy is held to be a test of a man of wealth and consequence" or "A man's greatness is ever proportional to the number of his wives", are frequently met with in books of travel.(198).

In Israel, only Judges and Kings are reported to have had many wives(199), and it is a fact that the harem of the oriental potentate was the index of his splendour and opulence. The vast harem of King Solomon becomes little more than an impressive exhibition of his power and might. It should also be noted that in the case of kings, marriages were contracted for the purpose of cementing alliances with neighbouring rulers. This stratagem was certainly employed by Solomon.(200).

No doubt, the people were not too happy about the many wives supported by their rulers. It probably implied a heavy burden on them. A harem implied an expensive luxury for the king and maintained at the expense of the people. It was, therefore found necessary to limit the number of wives a king was permitted to marry, although no indication is given as to the number.(201).
 197). According to the Rabbis, David had married eighteen wives, (Sanh. 21a.).

198). E.Westermarck, History of Human Marriage, vol.iii. pp.82-85.

199). The only exception being the sons of Issachar. (I Chron. 7, 4).

Kennett, husband and wife lived without conjugal intercourse while the latter was suckling the child.(204). If Kennett is right then the separation of husband and wife must have lasted for ~~years~~ years, for we read in the Book of Maccabees that a mother sucked her child for a period of three years (II Macc. 7,27.), and Kennett maintains that the usual period of lactation in biblical times was two years.(205).

Although Dr.Hertz maintains that Rabbinic literature presupposes a practically monogamic society,(206),one can point to many statements of the Rabbis, clearly implying the practice of polygamy during the Talmudic period. Thus Rabba taught that a man can marry as many wives as he wishes, provided he is in a position to support them.(207). On the verse, "Neither shall he multiply wives to himself"(Deut.17,17.), the Rabbis offer the explanation that this prohibition only applies to kings, but ordinary people could marry as many wives as they wished.(208). Similarly, Resh Lakish maintained that one could marry more than one wife at the same time.(209). "Marry not two wives, but if you marry two, take a third" was the advice given by Rab to his disciples.(210). It is reported that in Jerusalem, even the hour

200). According to Armstrong, it was the custom of Ibn Saud, the Lord of Arabia, to contract marriages in order to strengthen his position by alliances with important families. One by one he married into all the leading families. (H.C.Armstrong, Lord of Arabia,London,1934, pp. 137-8.).

201). Deut. 17,17. The Rabbis mention the number 18, 24 or 48. (Sanh. 21a.).

202). E.Westermarck, op.cit., vol.iii. pp. 64ff.

of marriage was recorded in the marriage document, in order to establish priority when a husband contracted two or more marriages on the same day.(211).

In order that a man could distribute his weekly marital contacts equally among his wives and give them each marital satisfaction once a month, a man was advised not to marry more than four wives.(212). The principle was accepted that a man shall not marry one woman in one place and then marry another woman in a different place, in order to avoid the possibility of their children marrying one another with the result that a brother would marry a sister.(213). Certain marriage formulas were accepted by the Rabbis as binding, and one of these being, "If a man says to a woman, be thou betrothed unto half of me," and this formula is interpreted to imply that the man reserves his other half in order to marry another woman.(214). In connection with the levirate law, cases are assumed where the brother was married to several wives.(215).

203). There is no satisfactory explanation why the period is doubled when a female-child is born.(J.H.Hertz, Pentateuch, p.460, note on v.5.).

It has, however, been pointed out that according to ancient belief, the puerpual state continues longer in the case of a female birth.

(See Article on Birth in Hasting's Dictionary of the Bible, vol.i. p.300).

204). R.H.Kennett, Ancient Hebrew Social Life and Custom, London, 1933, p.8.

205). *ibid.* p.8.

206). J.H.Hertz, *op.cit.*, p. 932.

There is, therefore, sufficient evidence to show that in Rabbinic times the practice of polygamy prevailed among the Jews and that this practice continued in Jewry for many centuries. The fact that in the eleventh century C.E. a prohibition against polygamy was promulgated by one of the great Rabbis of that period, implies that it was still practised in France and Germany till then. In spite of this prohibition, we find polygamy practised in Spain in the fourteenth century and among the Jews in Italy till much later.(223), and Abrahams attributes the practice of polygamy among the Jews in the Middle Ages to the great desire for progeny.(224).

216). E.Neufeld, op.cit., p.119, note 2.

217). Ant. XVII, 1,2. Wars. 1,24,2.

218). Ant. XVII, 1,3

219). Ant. XVII, 13,1.

220). Yeb.15a.

221). Yeb.37b; Yoma 18b.

222). See Epstein, L.M., op.cit., p.17.

223). S.W.Baron, The Jewish Community, Philadelphia, 1948. Vol.II. pp. 207 ff.

224). I.Abrahams, Jewish Life in the Middle Ages, London, 1932, p. 135.

CHAPTER IIITHE IDEAL WIFE.

Having accepted the principle that the main purpose of Jewish marriage is the propagation of the species, and in view of the fact that there existed a common belief that the children take after their mother (1), the Rabbis advised man to exercise due precaution before making one's choice in marriage. "Do not hesitate in buying land, but be most considerate before marrying a woman" (2). For the Rabbis clearly realised the great influence a mother could wield over the children in moulding their character. Thus the Rabbis explain that Dinah, the daughter of Jacob, was involved in trouble (Gen. 34, 2.), through the influence of Leah, her mother. (3).

The eligible woman for matrimonial purposes was termed קַנְיָוּת from the root קָנָה, to be worthy, fitting. According to Krauss, this root is derived from the Greek εὐγενος, i.e. suitable, worthy; whilst Levy derives it from a semitic root and compares it to the Arabic, meaning white, pure, with the connotation to be worthy, suitable, noble.

1). Keth. 63a. "Ewe follows ewe; a daughter's acts are like those of her mother."

Jer.Sanh.2,6. "Like daughter like mother; like mother like daughter."

There is a popular Aramaic saying, "The son is his father's leg,"

This consideration to be exercised by a man in selecting a suitable wife was deemed so important by the Rabbis, that he was advised not to enter into matrimony until such a woman has been found.(4). This may often lead to the deferment of marriage and a delay on the part of the man in fulfilling the most important ~~part~~ commandment in the Torah, namely the commandment to propagate the species. Thus the Rabbis tell us that Jacob, who married late in life(5), could not find a suitable wife until his father advised him to go to Padan-Aram, in order to select the woman worthy for him. (6).

Even if a man had made a vow to marry a woman in Palestine(7), although it would be his duty to fulfil his vow on arrival in that country, the Rabbis advised such a man not to hurry but to wait until he had found the suitable woman.(8). The Rabbis, moreover, accepted the fact that a man would make extensive investigation before entering into matrimony.(9).

implying, "like father like son." This saying, however, is not found in the Midrash or Talmud, and is probably based on the statement of the Rabbis, "The heir steps into the father's place" and is consequently entitled to all his father's rights.

(See Erub. 70b.).

- 2). Yeb. 63a.
- 3). Gen.R. 80,1.
- 4). Tos. Kidd. 1,2.
- 5). He was 84 years old when he married his first wife.
(See Gen.R. 70,17.).

According to the Rabbis, the person who has made the right choice by marrying a suitable wife, was indeed fortunate and blessed. Thus, R. Akiba expounded, "When husband and wife are worthy, the Divine Presence abides with them; when they are not worthy, fire consumes them", and to this Raba added that the fire which results from the woman is severer than that from the man, (10), implying that a bad wife is more destructive of domestic happiness than a bad husband. (11). A similar statement is reported in the name of R. Meir, "Man and woman, the Divine Presence is among them. The letter 'Yod' in 'Ish' (man) and the letter 'Heh' in 'Ishah' (woman) combine together to form the word 'Yah' (God). If they are suited for each other, the Divine Presence dwells among them and they are happy and blessed. But if they are not suited for each other, the letters 'Yod' and 'Heh' would then depart and only the letters 'Alef' and 'Shin' would remain to form the word 'Esh' meaning fire, which would consume them both." (12).

cf. J. Heilpern, Seder Hadoroth, Warsaw 1897, p.45.

- 6). Tanhuma on Noah.
- 7). It was regarded a religious duty to marry a woman in Palestine and settle in that land.
- 8). B.K. 80a.
- 9). Keth. 75b. "No man drinks out of a cup unless he has first examined it."
- 10). Sota, 17a.
- 11). See Soncino Talmud, Sota, p.89, note 4.

That a person who marries a worthy woman is beloved by God, is expressed in the following statement: "Whoever marries a woman worthy for him, Elijah (the Prophet) kisses him and God loves him"(13). Interpreting the verse, "God setteth the solitary in families"(Ps.68,6), the Rabbis state, "If a man marries a woman worthy of him, the Holy One, blessed be He, builds houses for them"(14), implying that God would give them children who would bring ^{honour} and respect to them(15).

According to Gen.2,20., a wife was regarded as a help for her husband, but according to R.Eleazar, only a worthy wife may be considered as such. "If a man has found a worthy woman, she will be a helpmate for him; but if she is not worthy for him, she will be against him."(16). Other Rabbis maintain that R.Eleazar, when interpreting the verse in Gen.2,20., asked the question, "Why does the verse employ the Hebrew term ^{למנוח} "meet for him", which can be read ^{למנוח} "to strike him?" and the answer being that if a man marries a woman worthy of him, she is indeed "meet for him, but if she is not worthy of him she will "strike him"(17). No doubt, R.Eleazar realised that an unworthy woman would only bring unhappiness and discontent to her husband, and in order to

12). Lekah Tov. on Genesis.

13). Der. Eretz. Ia.

14). Numb.R.3,6.

15). Sota 11b. On the other hand, the Rabbis tell us that if a man marries an unworthy woman, he will have unworthy children.
(See Numb. R. 3,6.)

avoid any strife in the house, a man was advised that under no circumstances should he marry a woman not worthy for him.(18).

In fact, both R.Akiba and R.Meir regarded a person who marries an unworthy woman as a sinner and a criminal. He is a sinner because he will ultimately hate her and abstain from his duty of procreation. " Anyone who marries a woman not worthy of him " states R.Akiba, "transgresses five prohibitory laws; namely, "Thou shalt not bear any grudge", "Thou shalt love thy neighbour as thyself", "Thou shalt not avenge", "Thou shalt not hate thy brother in thy heart" and "That thy brother may live with thee".(Lev.19,18.). Since he will hate his wife, he will pray for her death and as a result will abstain from procreation.(19).

Similarly, Rabbi b.b. Hana regarded the life of a man married to an unworthy woman as futile and unproductive. "He who is married to an unworthy woman, is regarded by the verse as if he ploughed the whole world and sowed it with salt."(20).

16). Yeb.63a.

17). ibid.

18). Kidd.70a.

19). A.d.R.Nathan, 26.

20). Kidd. 70a See Soncino Talmud, Kidd. p.354, note 2.

It is, therefore, clear that the Rabbis were most anxious that a man should marry a 'worthy' woman. But what, in their opinion, constituted the 'worthy' woman? What qualities did the woman have to possess in order to meet with the approval of the Rabbis?

In the Bible we are told that the wives of the Patriarchs were beautiful and fair to look upon. (Gen.12,11; 24,16; 29,18.). Abigail, the wife of Nabal, who subsequently married David, was a woman of good understanding and of beautiful countenance (I Sam.25,3), and Bath-sheba is described as a very beautiful woman to look upon (II Sam. 11,2.). Adonijah asked for the hand of Abishag (I Kings,2,17), who was regarded as the most beautiful girl in the whole of Palestine (I Kings, 2,3.).

To the author of the Book of Proverbs, however, beauty in itself is of no importance. On the contrary, "As a jewel of gold in a swine's snout, so is a beautiful woman without discretion." (Prov.11,22.). "Favour is deceitful and beauty is vain, but a woman that feareth the Lord, she shall be praised." (31,30.). It is the gracious woman that brings honour. (11,16.) "A virtuous woman is a crown to her husband" (12,4.). "Every wise woman buildeth her house" (14,1), "A prudent wife is from the Lord." (19,14). In the opinion of the author, one should avoid marrying a contentious and angry woman. "It is better to dwell in a corner of the housetop than with a brawling woman in a wide house." (21,9.), or "It is better to dwell in the wilderness than with a contentious and angry woman" (21,19.), or " A continual dropping in a very rainy day and

beautiful as a bride under the canopy.(24).

In particular did the Rabbis appreciate beautiful eyes in a woman. According to Rosh Lakish it is good for a woman to have beautiful eyes(25), and according to R.Levi, "any bride that has ugly eyes, all her body needs investigation, but one who possesses beautiful eyes, her body requires no investigation."(26). No doubt, R.Levi wished to convey the idea that a woman possessing beautiful eyes, in the sense of healthy eyes, presents a sure sign of a healthy body and there was no need to investigate whether she possesses any physical defects.(27). For we are told that the main prerequisite in marriage is that the woman does not suffer with any physical defects, whether permanent or transitory. Thus the Mishna states that if one marries a woman on condition that she has no defects and after marriage it was discovered that she has some defect, the marriage is not valid, and the Mishna continues that even when no such conditions were made at the time of the marriage, and after marriage it was found that she has a defect, the husband is at liberty to divorce her, without repaying the marriage settlement.(28).

21). For. 57b.

22). Meth. 59b; Sh'an. 31a.

23). Yeb. 65b; Sanh. 100b. The wording in Ecclesiasticus is significantly different. "Blessed is the man that hath a virtuous wife, for the number of his days shall be double"(24,1.).

Rashi explains "for the number of his days shall be double" to mean that every day of a happy man is as good as two.

According to the Mishna, a man was permitted to betroth a woman through an agent (29), but Rab was not happy with such an arrangement. He rightly felt that no man should enter into any marriage arrangements without first seeing the woman he is to marry. Consequently, Rab laid down the law that it is forbidden for a man to marry a woman without first seeing her, lest he subsequently sees something repulsive in her and she becomes loathsome to him; whereas the All Merciful said, "but thou shalt love thy neighbour as thyself." (Lev.19,18.). (30).

A man was, therefore, expected to make careful investigation as to the physical fitness of the woman he intends to marry. Such an investigation would avoid any unhappiness and tragedy after the marriage, as illustrated in the following story. It once happened that a certain person was told that his wife was defective in the sense of smell. He followed her into a ruin to test her. He said to her, "I sense the smell of radish in Galilee" (he had some radishes in his pocket with which to test her sense of smell), to which she replied, "Would that one gave me of the dates of Jericho and I would eat with it." (31). Thereupon the ruin fell upon her and she died.(32).

24). Gen.R. 45,5.

25). Yoma, 74b.

26). Cant.R.4,3.

27). In Ta'an. 24a, a similar statement is found, but instead of 'ugly eyes' the term 'dripping eyes' is employed, implying

According to Resh Lakish, eugenic consideration in selecting a wife was most important. "A tall man should not marry a tall woman, lest they produce a child as tall as a mast. A dwarf should not marry a female dwarf, lest their child should be as small as a finger. A white-complexioned^{ion} man should not marry a white-complexioned woman, lest they have an albino, and a dark-complexioned man should not marry a dark-complexioned woman, lest their child should be as black as a pitcher." (33).

Since the Rabbi fully recognised the religious and moral influence of a wife upon her husband, a man was advised to look for character in the woman of his choice. That a good wife has a good influence on her husband and that a wicked woman has a bad influence on him, is best illustrated by the following story. A pious man was married to a pious woman, but were not blessed with children. Realising that their marriage served no purpose, they decided to divorce each other. After the divorce, the man~~s~~ married a woman who happened to be wicked and she turned him into a wicked man; whilst the pious woman married a man who happened to be wicked and she turned him into a righteous man. "Does not this story"

that a woman possessing dripping eyes needs investigation as to the general state of her health.

28). Keth. 7.8.

29). Kidd. 2.1.

30). Kidd. 4.1a; Keth. 37b; Sanh. 45a.

31). Jericho was famous for its dates which were so sweet that

good woman whom Scripture praises. If Scripture speaks of the Torah, then how precious is a good wife whom with whom the Torah is compared. How baneful is a bad wife, for it is written, "And I find more bitter than death, the woman." (Ecc.7,26.). Now, if Scripture speaks of herself, then how baneful is a bad wife whom Scripture censures. If Scripture speaks of Gehenna, then how baneful is a bad wife with whom Gehenna is compared."(37).

That a man should avoid marrying a wicked woman, who would only bring strife, misery and contention to the house, is the advice given by Ben Sira, "Give me any plague, but the plague of the heart; and any wickedness but the wickedness of a woman."(25,13.). "I had rather dwell with a dragon and a lion than to keep house with a wicked woman."(25,19.). "An evil woman is like a yoke shaken to and fro; he that hath hold of her is as though he holds a scorpion"(26,7.), and the advice given by Ben Sira is to divorce such a woman. "If she hearkens not unto you, cut her of thy flesh, give her a bill of divorce and let her go."(25,26.).

The Rabbis too described the wickedness of woman in no uncertain terms. "It is impossible to live with a serpent in one cage."(38). When Rab departed from R.Hiyya, the latter said to him,

35). Ber. 8a.

36). Soch.Tov. 59.

37). Ber.8a; Yeb.63b.

38). Yeb. 112a; Tos.Demai, 3,12.

"May God save you from the thing which is worse than death."

When Rab asked himself the question whether there existed anything worse than death, he reminded himself of the verse, "And I find more bitter than death the woman." (Ecc. 7, 2.). (39).

According to R. Judah, there are fourteen things, one worse than the other, but a wicked woman is the worst of all. (40).

According to R. Joshua b. Nehemiah, there are three things that will cause a man to age prematurely and one of them being a wicked woman. (41). In interpreting the verse, "All the days of the afflicted are evil" (Prov. 15, 15.), R. Hanina stated that the verse refers to a man who is married to a wicked woman. (42).

Consequently, if a man finds himself married to such a woman, he has no alternative but to divorce her. "A wicked woman is like leprosy, divorce her and you will rid yourself of the disease." (43). "A wicked woman is like Gehenna. It is a religious duty to divorce her." Does not the verse clearly state, "Cast out the scorner and contention shall go; yea, strife and reproach shall cease." (Prov. 22, 10.). (44). There are three kinds of persons who will not see Gehenna (i.e. who will not be punished for their

39). Yeb. 63a.

It is interesting to note that both R. Hiyya and his nephew Rab suffered a great deal of unhappiness and misery through the wickedness of their wives. Thus we are told that whenever Rab asked his wife for lintels, she would give him beans, and if he asked for beans she would give him lintels. Consequently, Rab had no alternative but to ask for the wrong thing being convinced that his wife would reverse it and bring him the thing he actually wanted. No wonder that we find the

ains in the world to come as they are already suffering on this earth), and one of them being a man who is married to a wicked woman."(45).

Although the Rabbis agreed that it would be a religious duty to divorce a wicked woman (46), they foresaw circumstances when a divorce would not be possible or advisable. When the marriage settlement was large and the husband was not in a financial position to pay it, a divorce could not be granted. This was the case of R. Jose Ja-gelili, who was unable to divorce his wicked wife(47), because he did not possess sufficient funds to pay her Kethubah (43). It was then suggested by one of his disciples that they should find the money for their master and enable him to get rid of her.(49).

It is, therefore, not surprising to find that the Rabbis were very sorry indeed for the man who was married to such a woman and did not possess the means to pay for her Kethubah. Thus, R. Nahman applied to such a man the verse, "Behold I will bring evil upon them, which they shall not be able to escape"(Jer.11,11.), and

following statement in the name of Rab, "There is no illness like the illness of the bowels, no pain like the pain of the heart and no evil like an evil woman."
(Shabb. 11a.).

40). Sec.R. 7,46.

41). Tanhum. on Mayyo Sarah.

42). B.B. 145b.

43). Yeb. 63a.

R.Hisda applied to him the verse, "The Lord had delivered me into the hands from whom I am not able to rise up." (Lam.1,14.). (50).
 When R.Hiyya, who was married to a wicked woman, was asked by his nephew Rab, why he does not divorce his wife, his reply was, "Is it not sufficient for us that they rear up our children and deliver us from sin?"(51).

The general rabbinic attitude, however, was that the majority of people find the right partners in life, whereas only a small minority marry the wrong type of woman. "Many people set out to sea, most of them return whilst only a small minority never return; similarly, many people marry, most of them succeed whilst only a small minority stumble."(52).

44). Yeb.63a.

45). Erub.41b.

46). Yeb.63a; Erub.41b.

47). The suffering of R.Jose Ha-galili is reported in the following story. R.Jose was married to a wicked woman who insulted him in the presence of his disciples. When his disciples asked him why he does not divorce her, he admitted that he had no means to repay her dowry. One day he and R.Eleazar b.Azariah were in discussion, when they decided to enter the house for some food. As soon as they entered, his wife lowered her face in an angry mood and left the house. When R.Jose asked her whether there was anything in the pot, she replied that it contained salad. When, however, the pot was opened, it was found to contain chicken. R.Eleazar then realised that the relationship between R.Jose and his wife were strained and asked him why he does not divorce her. "Her dowry is large", replied R.Jose, "and I have not the means to give it to her."
 (Gen.R. 17,2; Lev.R.34,14.).

48). Lit. a written document, containing a) a wife's marriage

Besides beauty, physical fitness and character required in a woman to make her a suitable wife, R. Akiba stated that a woman of good deeds is to be preferred. "Who is wealthy?" the Rabbi asked, and R. Akiba replied, "He who has a wife comely in deeds." (53). On the other hand, a fanatically sanctimonious woman and one who constantly prays, should be avoided. (54). A bad-tempered woman was regarded by R. Hilda as a worm in a ⁵seame-plant (55), and according to R. Nahman, "laughtiness and pride in a woman is most unbecoming." (56), for it was considered essential that Jewish women should not be noisy, walk with uplifted foot (i.e. haughty), nor laugh in a loud voice. (57).

But far more important than the above considerations was the chastity of the woman. People demanded chastity of their brides, and the Bible already deals with the case of a man who accuses his wife of unchastity (Deut. 22, 14-20.), and the punishment for unchastity in Biblical times was death by stoning. In general, however, it can be stated that Jewish girls in rabbinic times preserved their chastity. Thus, a story is told that at the time

settlement which she is entitled to recover on her being divorced, or on the death of her husband. The minimum settlement for a virgin was two hundred zuz, and for a widow remarrying, one hundred zuz.

b). The marriage contract specifying the mutual obligations between husband and wife and containing the amount of the endowment and any other special financial obligations assumed by the husband.

49). Gen. R. 17, 2; Lev. R. 34, 11.

50). Meb. 63a.

of the destruction of the Temple, seventy Jewish maidens were taken captive and placed on a ship to be conveyed to houses of prostitution. The maidens, preferring death to a life of shame, threw themselves overboard and were drowned.(58).

When Resh Lakish maintained that a scholar should be as virtuous and as modest as a Jewish bride, he accepted the fact that all Jewish brides were, as a rule, virtuous and modest.(59). According to Samuel b.Nahman, a bride who has been modest in her father's home, deserves to have kings and prophets as descendants (60), and according to R. Jose, she deserves to marry a high priest and have children worthy of becoming high priests(61). Similarly, if a girl conducts herself in accordance with Jewish law, i.e. in a modest manner, she is worthy of children studying Mishna and Torah and practising good deeds.(62).

51). Yeb.63a.

52). Humb. 1.9,2.

53). Shabb.25b.

R.Akiba spoke from personal experience. his wife stood out as a model of fidelity and trust, and it was she alone who enabled him to attain his high position.(See Ned.50a.).

54). Sota, 22a. In Jer.Sota, 5,4., the reading is "A woman who gives herself up to fasting."

According to Juvenile, learned women were dreaded in Rome(vi.448)

55). Sota, 3b.

56). Meg. 14b.

II. FAMILY CONSIDERATIONS.

"Even if a woman is as beautiful as the moon and as bright as the sun, one should not marry her if by doing so, he brings shame upon the family," is a statement of the Rabbis found in the Midrash. (63). This consideration for the family of the bride, we already meet in the early parts of biblical history. Thus, Abraham insists that a wife for his son should be obtained from the family of his own kinsmen. (Gen.24,4.). In fact, according to Rashi, five verses have been inserted in the Bible (Gen.24,4.)^{22,20-24.} in order to give the genealogy of Rebekah, the intended bride for Isaac. (64). Jacob is sent to Padan-Aram "to take a wife from the family daughters of Laban, thy mother's brother." (Gen.28,2.). Esau, on realising that the wives he had already married were not pleasing to the eyes of his father, marries the daughter of Ishmael, the son of Abraham. (28,9.).

57). Numb. R. 9,8; Tanh.on Naso

58). Lam.R.1,13; Lam.Z.2,9; Yalk.on Lam. 50.

59). Ex.R.41,6; Gen.R.4,22; Tanh.on Ki Tissa

60). Sota,10b.

61). Tanh.on Vayishlach

62). Numb.R.8,10.

63). Numb.R. 21.

64). See Rashi on Gen.22,23.

65). See A.Cohen, Everyman's Talmud, London, 1937. p.168.

Since the basis of Jewish life is the family(65), it is natural that the Bible should be preoccupied with genealogies. "The common ancestor", writes Dr.Mace, "occupied in the world of Semitic thought much the same place as the totem does in totemic society. A man was, therefore, described in terms of his ancestry." (66). "We are given exact information of a man", writes Pederson, "who his father is and what family he belongs to; without that piece of information his being would not be defined."(67). The pedigree of the man was in a sense his guarantee to his place in society.

It was, therefore, natural that in order to preserve the purity and stability of the family, wives would be sought from the families of one's kinsmen. This may explain the rabbinic dictum that a man should wait till his sister's daughter becomes of marriageable age and then marry her.(68). On the verse, "Then shalt thou call, and the Lord shall answer; thou shalt cry, and He shall say, here am I"(Is.58,9.), the Rabbis state that it applies to a man who marries his sister's daughter.(69).

This preference for a sister's daughter is explained by Rabbi to the fact that a man's love for his sister is greater than

66). Mace, Hebrew Marriage, op.cit., p.67.

67). Pederson, Israel, op.cit., p.268.

68). Tos.Kidd. 1,2.

69). Yeb. 62b.

that for his brother and consequently, he would show greater love for his sister's daughter than to the daughter of his brother. On the other hand R.Tam explains that since most children take after the wife's brothers(70), both uncle and niece are born under the same planetary influences and are, therefore, suited for each other. (71). Similarly, *סו"א ב חו"א* explains that since uncle and niece are of the same character, they are certainly suited for each other(72). Dr.Slotki regards the marriage of a man with his sister's daughter as a meritorious act, because the affection a man has for his sister will be extended to her daughter, his wife.(73).

Since it was an accepted fact by the Rabbis that "most children resemble the brothers of the mother"(74), a man was advised to make extensive enquiries as to the character of his intended wife's brothers. This advice Rabba derived from the marriage of Aaron. The Bible tells us that Aaron took Elisheba, the daughter of Aminadab, the sister of Nahshon for a wife (Ex.6,23). Since it is stated that she was the daughter of Aminadab, is it not obvious that she was the sister of Nahshon? The Bible, therefore, finds it necessary to mention the fact that Elisheba was the sister of Nahshon, in order to teach us that he who takes a wife should make enquiries as to the character of her brothers.(75).

70). B.B.110a; Soph.15.

71). See Rashi and Tos. on Yeb.62b.

72). *סו"א ב חו"א* on Tos.Kidd.1,2.

73). Soncino Talmud, Yebamoth, vol.I. p.419, note6.

That a man should marry a woman from a respectable family, is the advice given by Josephus. "Let the Hebrews marry virgins that are free and born of good parents"(76), and in connection with the custom that prevailed in Jerusalem before the destruction of the Temple, when the daughters of Jerusalem went forth and danced in the vineyards on the 15th of Ab and on the Day of Atonement (see p. 223) with the object of attracting husbands, the Baraita states that those maidens who came from noble families used to say, "Young man, consider the family, for a wife is only for the purpose of bearing children" and Rashi explains that children descending from noble and respectable families, will find no difficulty in obtaining partners in marriage since they will have many suitors.(77).

Mention has already been made to the accepted fact by the Rabbis that a mother has great influence over her children in moulding their character, and consequently, any marriage with a woman from a noble and respected family could only result in noble and respected children. "A man should always attach himself to a good family" is the advice of R. Eleazar, "for Moses who had married the daughter of Jethro, the Priest of Midian, had Jonathan as a descendent (78), and Aaron who married the daughter of Aminadab, gave birth to Phineas" (who was jealous for his God and made atonement for the

74). B.B. 110a; Soph. 15.

75). B.B. 110 a.

76). Antiq., iv. 8, 23.

children of Israel (Numb. 25, 13.). (79).

In the opinion of the Rabbis, the choice of a wife was not only a personal matter, but a matter in which the whole family was interested. Consequently, by marrying a woman from an unworthy family, a man would not only discredit himself but would also discredit his own family. (80). That a man who marries an unworthy woman brings shame upon his family is clearly expressed by Rabba b. Adda. "Anyone who marries an unworthy woman, Elijah binds him and the Holy One, blessed be He, flogs him", and the Baraitha adds, "Elijah inscribes and the Holy One, blessed be He, attests, 'Woe to the man who causes his children to be disqualified and his family to be tarnished.'" (81).

If, therefore, one member of the family did marry an unworthy woman, the other members of that family, in order to preserve the nobility of their family, would sever all connections with that man, and try to make public the fact that they no longer recognise the man, who married an unworthy woman, as a member of their family. This severance was known as קטן (cutting off), and was performed in the following manner. If one of the brothers has married a woman, who is unworthy of him, the members of the family come together, bring a cask full of fruit, break it in the

77). Ta'an. 31a.

78). Jonathan, the grandson of Moses was a priest to the tribe of Dan. (Jud. 18, 30). Although originally a priest to an idol, he returned to God with all his heart. (See B.B. 110a.).

middle of an open space place and say "Brethren of the house of Israel, hear, Our brother has married a woman who is not worthy of him and we are afraid lest his offspring ally themselves with ours. Take this as a sign for future generations (82), so that his descendants shall not be united with ours." Thereupon, the children collected the fruit and ran, shouting, "So-and-so has been cut off from his family". When however, the man divorced his unworthy wife, a similar performance took place, and the children, whilst collecting the fruit shouted "So-and-so has returned to his family".(83).

It is reported that when Ulla visited R.Judah, he noticed that Isaac, the son of R.Judah was still unmarried, although he had already reached the age of maturity. When Ulla asked R.Judah why he had not taken a wife for his son, the latter replied, "Do I know whence to take one?" implying, "do I know which family is of pure descent?". (84). This discretion and care exercised by R.Judah, may be due to the belief expressed by R.Hama bar Hanina, "When the Holy One, blessed be He, causes His

79). B.B. 109b.

80). Numb.R.21,3; Tanh.on Phineas; Yalkut on Numb.773.

81). Kidd.70a.

82). They should remember what happened and tell their children so that everyone will know to distinguish between the offspring of this brother and those of the rest of the family.

83). Keth.28b; Jer.Keth Kidd.1,5.

Divine Presence to dwell among the Israelites, He will do so, only on families of noble descent."(85).

The Rabbis also advised a man not to marry a woman from a family, subject to certain diseases. Thus, Rabba stated, "a man should not marry a woman from a family subject to epilepsy or leprosy." (86). Rabba, however, qualified his statement by adding that this applies only to a family where there are known to be three members suffering from either of these diseases.

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According to Dr. Buchler, בְּיָמָיו was only performed in the case of a priestly family, when one of its members married a woman not suitable for the priesthood. The main concern of such a priestly family would be to maintain its purity and sanctity. (See Studies in Jewish History, The Buchler Memorial Volume, Oxford 1956, p.68.).

It should, however, be noted that בְּיָמָיו was also performed in the case of a Jew selling his landed-property to a non-Jew. (Ruth R.7,11.). This could not apply to a priest as the priests did not possess any land in Palestine.

Since R. Jose compares the custom of בְּיָמָיו in the case of a member of a family marrying an unworthy woman, to that of a Jew selling his land to a non-Jew, it cannot be assumed that בְּיָמָיו in the case of marriage was only performed by a priestly family. (See Jer. Kidd.1,5.).

84). Kidd.71b.

85). ibid.70b.

86). Yeb.64b.

III SOCIAL CONSIDERATIONS.

The Mishnah states that when the Jews returned to Palestine from the Babylonian Captivity, they consisted of ten different genealogical Classes. These were:-

1. Priests.
2. Levites.
3. Israelites.
4. Priests unfit for Service on account of their father's illegitimate connection, i.e. those born of the union of a priest and a woman forbidden to him by law. (Lev. 21, 1, ff.)
5. Proselytes.
6. Freedmen
7. Mamzerim, i.e. children born from a union prohibited by law under the penalty of death or $\sim \sim \sim$ (incestuous ~~marriage~~ union.)
8. Nethinim, i.e. the descendents of the Gibeonites whom Joshua made into Temple-slaves. (Josh. 9,27.).
9. Those of doubtful paternity
10. Foundlings.

The enumeration of these genealogical classes was for the purpose of marriage. Thus the Mishnah explains that with regards to inter-marriage among the classes, the first three classes enumerated were permitted to intermarry; the 2nd--6th classes may intermarry and so could the last six. (87).

87). Kidd.4.1.

From this list it is obvious that the social rank of the priest was regarded as the highest in Jewish family life. According to biblical law, a priest was not permitted to marry a prostitute, a woman profaned, or a divorced woman, (Lev.21,7.) and we are told that children from such a union would be unfit for the priesthood.

The Rabbis, therefore, were most anxious to preserve the genealogical purity of the priests and the law was laid down that a priest, intending to marry the daughter of a priest, should investigate the family records of his intended wife upto four mothers, which is indeed eight (88), in order to ascertain the purity of her descent.(89). If, however, a priest intends marrying the daughter of a ~~priest~~ Levite or Israelite, he must trace her descent back to one mother more, namely her mother's mother's mother, and her father's mother's mother's mother.(90).

There were, however, certain priestly families that required no investigation as to the purity of their descent. Thus, the Mishnah states "They need not trace descent beyond the Altar(91), or beyond the Platform(92), or beyond the Sanhedrin(93), and all those whose fathers are known to have held office as public officers,

88). i.e. her mother and her mother's mother; her mother's father's mother and this one's mother. Her father's mother and this one's mother; her father's father's mother and this one's mother.

89). Kidd.4,4.

90). ibid.

91). i.e. If the bride's father administered as a priest in the Temple, there was no need for any investigation.

(94), or almoners, may marry into the priestly stock and there is no need to investigate as to their descent. To this list, R. Jose added those, whose fathers' name was signed as a witness in the old archives of Sepphoris(95), and R. Hananiah b. Antigonus added those, whose father's name was recorded in the king's list of officers.(96).

It is reported that in Temple times, the Sanhedrin used to sit and investigate the genealogy of every priest and Levite before allowing anyone to administer before the Altar.(97). The procedure was as follows: "The great Sanhedrin in Israel used to sit and judge(investigate the purityof) the priesthood; and if any disqualification was found in a priest, he clothed himself in black and veiled himself in black and departed. But the priest in whom no disqualification was found, clothed himself in white and ministered with the other priests. And when no disqualification was found in any of the priests, the day was kept as a festival, and thus they used to say, 'Blessed be He, that no disqualification was found in the seed of Aaron, and blessed be He, who had chosen Aaron and his seed to stand before the Lord and to serve in the

92). If it was known that her father, a Levite, sang in the Temple.

93). Only men of unimpaired stock could be members of the Sanhedrin

94). i.e. Judges in ordinary courts, apart from the Sanhedrin.

95). See Soncino Talmud, Kiddushin, p.389, note 4.

96). The reference may be to I Chron. 7,40. See H.Danby, The Mishnah, Oxford, 1933. p.328, note 5.

97). Kidd.76b; Tos.Hag.11,9; Sifra Numb.116.

House of the Holy of Holies."(98).

Among the priestly families, there were those who distinguished themselves by virtue of their special work in connection with the Temple ministrations.(99). Owing to their special knowledge in making the necessary preparations for the Temple Service, these families were held in high esteem. Thus we are told that the family of Garmu had expert knowledge how to prepare the Shewbread; and the family of Abtinah, how to prepare the Incense. They had, however, fallen in disfavour because they refused to teach others their expert knowledge of these preparations.(100).

The Rabbis also mention a number of priestly families, who misused their social position in the community by oppressing the people. Thus, Abba Saul b. Batnith said in the name of Abba Joseph b. Hanin, "Woe is me because of the house of Boethus(101), woe is me because of their staves(102); woe is me because of the house of Hanin; woe is me because of their whisperings(103); woe is me because of the house of Kathros(104); woe is me because of their pens(105); woe is me because of the house of Ishmael the son of Phabi(106), woe is me because of their feasts ! For they are

98). Midd. 5 end; Tos.Sanh. 7,1; Tos.Hag.2,4.

99). Shek. 5,1.

100). Yoma, 3,11.

When the Rabbis asked them the reason for refusing to teach others their expert knowledge, they replied, "It has been handed down to us by our fathers that the Temple will, one day, be destroyed and we do not wish to impart our knowledge

High Priests(107) and their sons are treasurers and their sons-in-law are trustees and their servants beat the people with staves."(108)

Another family that oppressed the people and consequently, fell in disfavour with the Rabbis, was that of Issachar of Kefar Barkai.(109). The downfall of that family came about in a very strange manner. It is related that once the king and queen(110) had an argument whether goat's meat or lamb was better. The king maintained that goat's meat was better whilst the queen held the opposite view. It was decided to ask the opinion of the High Priest, Issachar of Kefar Barkai, who gave his decision in favour of lamb. "Since he had no fear of the royal person", said the king, "let his right hand be cut off." But Issachar gave a bribe and instead of his right hand, his left hand was cut off. When the king heard about it, he ordered that his right hand too must be cut off. When R. Joseph heard about this incident, he said, "Praised be the Merciful One, who caused Issachar of Kefar Barkai to receive his deserts in this world."(111).

to others lest they may later use it for idol-worship."
(Cant.R.3, 7-8.).

It is also reported of the family of Abtinus that no woman of theirs ever used perfumery, so that they could not be accused of using the spices of the Temple for their own benefit. When they married women from other families, they stipulated that they too may not use perfumery.

With reference to the family of Garmu, who were experts in the preparation of Shewbread, it is related that no piece of white bread was ever found in the hand of their children, so that they could not be accused of eating Shewbread.

101). Boethus was the founder of a sect similar to that of the

Although in the Bible, there is no objection to the marriage of a priest with the daughter of an Israelite, yet in rabbinic times such marriages were often looked upon with disfavour. Many Rabbis felt that in order to preserve the purity of the priesthood, a priest should marry the daughter of a priest, and the daughter of a priest should marry a priest. Thus the Mishna states that the Beth Din of Priests used to levy the sum of 400 Zuz as the marriage settlement of a virgin(the daughter of a priest married to a priest)(112), and no objection to this was raised by the Sages.(113).

This practice of increasing the marriage settlement in the case of a priest's daughter marrying a priest was allowed by the Rabbis in order to raise her social rank and to encourage her to marry a priest. If, however, the daughter of a priest married an Israelite, her marriage settlement was only 200 Zuz.(114). In fact, several Rabbis tried to discourage the marriage of a priest's daughter to an Israelite. Thus R. Johanan stated that a marriage between a priest's daughter and an Israelite will not be auspicious. When the question

Sadducees. (A. d. R. Nathan, 5.). It is related that his daughter Miriam, who was once the richest woman in Jerusalem was, during the siege of the city in the year 70 C.E., compelled to look for food amidst animal dung. (Gitt. 56a.).

102). With which they beat the people.

103). Their secret conclave to devise oppressive measures.

104). See Josephus, Antiq., 20,1,3.

105). With which they wrote evil decrees.

106). He himself was held in high esteem, but he did not restrain his children from lawlessness. (Pes. 57a.).

was asked to what extent such a marriage would be unfortunate, R.Hisda explained that either she would be left a widow, or be divorced or she would have no children, and a Baraita explained that either her husband would bury her or she would bury her husband or she would reduce him to poverty.(115).

Although a marriage feast was regarded by the Rabbis as a religious feast, at which every Jew was duty-bound to participate, yet R.Simeon ruled that the marriage feast of a priest's daughter to an Israelite is not ^{to} be regarded as a religious feast, and consequently, no scholar was permitted to participate.(116).

- 107). The High Priesthood by this time was a source of great political power.
(See Soncino Talmud, Pesahim, p.285. note 6.).
- 108). Pes. 57a. Cf. Josephus, Antiq., xx, 8, 8.
- 109). He used to wrap his hands with silks and perform the sacrificial service, which according to rabbinic law, disqualifies the sacrifice.
- 110). In Ker.28b, the name of the king is given as King Jannai.
- 111). Pes. 57a,b.
- 112). The marriage settlement of a virgin, whether the daughter of a priest or Israelite was 200 Zuz.
- 113). Keth. 1,5.

Probably refers to a Beth Din dominated by Sadducaic or high-priestly influence, as opposed to the Pharisaic school of thought. (See H.Danby, The Mishnah, p.245, note 24.).

The statement that "No one is appointed king in Palestine unless he is married into priesthood(Tos.Sanh.4,6.) is probably due to the same influence.

- 114). This was a penalty imposed upon her for marrying someone

It is interesting to note that several Rabbis who were married to priests' daughters, attributed their misfortunes to that very fact. Thus we are told that R. Joshua, who was married to a priest's daughter, became ill. Whereupon, R. Joshua remarked, "It does not please Aaron that I should have married a descendent of his and that he should have a son-in-law like me." (117). Similarly, R. Kahana stated that had he not married a priest's daughter, he would not have been exiled. (118).

On the other hand, several Rabbis attributed their good fortune to the fact that they had married into priestly families. "If I had not married a daughter of a priest" stated R. Papa, "I would never have become rich." (119). R. Idi was married to a priest's daughter. He had two sons who became famous scholars. (120).

Although, as previously stated, the Rabbis discouraged a priest from marrying the daughter of an Israelite, (121), an exception was made in the case of a number of families of whose pure genealogical descent there was no doubt. Such families were termed by the Rabbis, "Those who were eligible to give their daughters in marriage to the priestly stock." (122). "In former times" states R. Simeon b. Gamliel, "only those, whose daughters were eligible to marry into the priesthood, were permitted to sign the marriage

outside her own tribe and family. (See Jer. Keth. 1, 5.).

115). Pes. 49a.

116). ibid.

117) ibid.

Such families of pure traceable descent were known as "families of distinction", and according to R.Hama bar Haninah, "when the Holy One, blessed be He, causes His Divine Presence to rest, it will only be upon these families of distinction"(127). In fact, according to R.Judah, the daughters from such families were entitled to a marriage settlement of 400 Zuz, instead of the usual 200.(128).

Since great importance was attached to the social rank of the family, if the husband or the wife deceived the other, prior to the marriage, by stating that he or she is of a higher social rank than the actual case, the marriage was declared invalid.(129).

If, during a marriage ceremony, one of the parties suddenly died, it was regarded as an act of God, since the parties were not suited for each other, by reason of a blemish in one of the families. Thus, it is reported that when Rabbi was about to write the marriage document at the marriage of his son, the bride collapsed

tribe and his own family."

122). Kidd.4.6; Keth.4.6.

123). Tos.Sanh.7.1.

124). Jer.Sanh.4.7.

125). Yeb.4.13.

126). Gen.R.98.13.

127). Kidd.70b.

128). Keth.12b.

129). Kidd.2.3. From the Mishna it is clear that even if the husband

and died. "Is it possible" asked Rabbi, "that there is a taint in the proposed union?" An enquiry was, therefore, instituted into the genealogy of the two families and it was discovered that Rabbi was a descendent of Shephatiah (the son of David), whilst R.Hiyya, the father of the bride, was a descendent of Shimsi, a brother of King David.(130).

It is reported that one of the sons of R.Pazi, refused to marry a woman from the family of the Nasi, with the excuse, "I do not want them to be ashamed of ^{us} me"(131), in spite of the statement found in the Tosefta that if a man marries a woman of a lower social rank or if a woman marries a man of a lower social rank, it would be wrong of them to be ashamed of their in-laws. On fact, severe punishment would be meted out to the person who is ashamed of his or her in-laws, on account of their ~~ee~~ lower social rank. Thus the Tosefta states, "If a man marries a woman and is ashamed of her brothers and relatives, she will bury him. If a woman marries a man and she is ashamed of her husband's brothers or relatives, her husband will bury her."(132). For all that, the advice given

is found to be of a higher social rank than stated at the time of marriage, the marriage was also declared invalid, as the wife could claim that she did not wish to marry anyone of a higher social rank than her own. "I do not wish to walk in a shoe larger than my foot"(Kidd.49a), or "I do not want him to boast to me about his high social rank"(Jer.Kidd.2,2)

130). Keth.62b. As the latter was not a descendent of the appointed King's family, it was not proper for his daughter to be united in marriage with one who was a descendent of King David.

~~131). See Sanhedrin 5.~~

is that a man should marry a woman of a lower social rank than his own.(133). The death of Nadab and Abihu, the sons of Aaron, is attributed to the fact that they were proud and refused to marry women of lower social ranks than their own. "They used to say, our uncle is king, our maternal uncle is a prince, our father is High Priest, and we are assistant priests; which woman is suitable for us?"(134).

The Rabbis advised a man or woman to marry into a family of scholars. "Let a man sell all he has in order to marry the daughter of a scholar, or marry his daughter to a scholar. This may be compared to the grafting of grapes of a vine with grapes of a vine, which is seemly and an acceptable thing. But let him not marry the daughter of an "Am-ha-aretz"(135), which may be compared to the grafting of grapes of a vine with berries of a thorn-bush, which is

137). Jer. Abod.Zar. 3.1.

138). Tos.Sota, 5.6.

139). Yeb.63a.

"Come down a step in choosing your wife." A wife of superior rank might put on airs, or not be content with her husband's social or financial position. (See Soncino Talmud, Yebamoth, vol.1. p. 421, note 17.).

134). Lev.R.20.7.

135). Am-ha-aeretz(lit. people of the land), the name given in rabbinic literature to

- a) a person who, through ignorance was careless in the observance of Levitical purity and of those relating to the priestly and Levitical gifts

repulsive and unacceptable."(136)

The reason for this advice is given by a Baraita, which reads, "A man should sell all he has in order to marry the daughter of a scholar, so that if he dies or goes into exile, he is assured that his children be will be scholars. But he should not marry the daughter of an Am-ha-aretz, so that if he dies or goes into exile, his children will be Amei-ha-aretz."(137) For, as previously stated, the Rabbis fully recognised the influence of a mother over her children. In their minds there was no doubt, that

b). an illiterate or uncultured man.

Earliest reference in the Bible to Am-ha-aretz, is applied to the Council or Assembly of the Hittites, who sat in session when Abraham approached them to secure a burial place for his wife Sarah. (Gen.23,3-18.). According to Sulzberger, the term Am-ha-aretz is used in the Bible to signify the Representatives of the people, i.e. Parliament. (H.Sulzberger, The Am-ha-aretz, the Ancient Hebrew Parliament, Philadelphia, 1910.).

In Talmudic times, however, the name of Am-ha-aretz was applied to those people who were ignorant of the Law and who failed to observe the rules of cleanness and uncleanness and were not scrupulous in setting apart tithes from their produce. (See H.Danby, The Mishnah, London, 1933. p.793.).

When the question was asked, "Who is an Am-ha-aretz ?" R. Meir replied, "One who does not insist on eating ordinary food in a ritually clean condition." The Rabbis say, "One who does not give tithes of his produce in accordance with prescribed law."

When the question was asked again, "Who is an Am-ha-aretz ?" R.Eliezar replied, "One who does not recite the Shema, morning and evening." R.Joshua replied, "One who does not put on his Tefillin". Ben Azzai replied, "One who does not fringe his garment"; R.Nathan replied, "One who has no Mezuzah on his door-post"; R.Nathan b.Joseph replied, "One who does not rear his children in the study of the Law"; and other Rabbis replied,

only the daughter of a scholar would influence her children to become scholars. "Even if a man has to give away all his money in order to marry the daughter of a scholar, he should do so without any hesitation."(138).

If, however, a man cannot find for himself a wife from a family of scholars, the Rabbis enumerate an alternative list of families into which one should marry. Next in importance to the daughter of a scholar, is the daughter of a great man, followed by the daughter of the head of a Synagogue, followed by the daughter of a charity treasurer and the daughter of a school teacher, but under no circumstances may one marry the daughter of an "Am-ha-aretz" because they are detestable and their women are an abomination and concerning their daughters, the verse states, "Cursed be he that lieth with any manner of beast"(Deut.27,21.).(139), and according to R.Meir, "whoever marries his daughter to an Am-ha-aretz, it is as though he bound and laid her before a lion; just as a lion

"Even if a man had studied Scripture and Mishna, but does not serve scholars, he is an Am-ha-aretz".
(Ber.47b; Gitt.61a; Sota,22a.).

From the many references to the Am-ha-aretz in the Talmud, it is clear that a great antipathy existed between the scholars and the Am-ha-aretz. Thus the statement is made that the very touch of the garment of an Am-ha-aretz, was defiling to the scholars. Such exclusiveness tended to intensify the hatred between the two classes and bitter expressions were used by both, against each other. Thus, an anonymous Rabbi stated, "Greater is the hatred wherewith the Am-ha-aretz hates the scholars than the hatred wherewith the heathens hate Israel; and their wives hate them(the scholars) even more than they"(Pes.49b.). Similarly, R.Akiba stated, "When I was an Am-ha-aretz, I used to say, give me a scholar and I will

tears his prey and devours it and has no shame, so an Am-ha-aretz strikes and cohabits and has no shame."(140).

From several rabbinic statements, the impression may be gained that women are not particular in choosing the right partners in life. "A woman prefers an unhappy life in a married state, to a happy life in solitude."(141). "With the husband, the size of an ant, her seat is placed among the great."(142). "Though her husband be a carder, she calls him to the threshold and sits down at his side"(143), "If her husband is only a cabbage-head (144),

bite him like an ass." R.Eliezar stated, "If they would not need us for trade, they would kill us all."(Pes.49b.).

The hatred between the two classes was so great that R. Eleazar expressed the opinion that one would be permitted to kill an Am-ha-aretz even on Yom Kippur that falls on a Sabbath.(ibid.).

Lazarus, however, points out that these and similar statements concerning the Am-ha-aretz cannot be taken too literally but must be considered as merely humorous. (R.Lazarus, Ethics of Judaism, pp.258ff.).

The fact, however, remains that a hostile feeling towards them, prevailed among the Rabbis. Thus the Rabbis taught concerning the Amei-ha-aretz,

1. We do not commit testimony to them
2. We do not accept testimony from them
3. We do not reveal a secret to them
4. We do not appoint them as guardians of orphans
5. We do not appoint them stewards over charity funds
6. We must not join their company on the road.
7. We should not proclaim their losses. (A person

who finds lost property is duty-bound to proclaim it. If, however, the finder is aware of the fact that the lost property belongs to an Am-ha-aretz, he need not proclaim it.(See Pes.49b.).

It is reported that during a famine, Rabbi opened his storehouses and announced that only scholars were permitted to take food, but no Am-ha-aretz. (B.B.8a).

she requires no lentils(145) for the pot"(146).

On the other hand, a point of view was expressed that women are very careful in their selection of husbands(147), and several instances are recorded when women were particular in their selection. Thus, we are told of a certain lady who was very beautiful and received many offers of marriage, but she told them all that she was already married. After a time she became betrothed, and the Rabbis asked her why she maintained previously that she was already married. "At first", replied the woman, "when unworthy men came to me, I told them that I was already married, but now that a worthy man came to me, I became betrothed to him."(148).

This action of Rabbi, may have been due to the ruling laid down by Antigonus, "The claim of the scholar upon charity to provide his wife with raiment, is greater than that of the Am-ha-aretz for the support of his life."
(Jer. Hor.3,4.).

On the other hand, some Rabbis were more considerate towards the Am-ha-aretz. "A man should not say, love the scholar and hate the Am-ha-aretz, but one should love them all."
(A.d.R.Nathan,16,5.).

136). Pes.49a.

137). ibid.

138). Tana d.b.Elijahu R.1.

139). Pes.49b.

140). ibid.

141). Yeb.118b.

142). ibid.

143). She is proud of her husband despite his lowly social status.

IV. LOCALITY.

For the purpose of marriage, Palestine was divided into three districts: Judea, Transjordan and Galilee. A man may not take out his wife with him, except with her consent, from one town to another town or from one city to another city in a different district; but within the same district, he may take her out with him, even if she objects, from one town into another or from one city to another. A man is not permitted to take his wife from a town to a city, or from a city to a town, even in the same district.(150).

The Tosefta, in explaining this division of Palestine into three districts, makes the following observation. "When is the husband unable to compel his wife to leave the district and follow him, when he lives in Judea and marries a woman in Judea, or he lives in

150). Keth.15,10.

The reason for not compelling the wife to follow her husband from a town to a city or from a city to a town, even in the same district, is due to the change of conditions prevailing in the two localities. In a city it is easier to obtain the necessary things which is not so easily obtainable in a town (i.e. a large village). On the other hand, the life in a city is full of hardship. (Keth.110b.).

No doubt, taking into consideration the happiness of the woman, the Rabbis felt that forcing a woman to join her husband in another district may lead to her unhappiness. Any change of place, even from a town to a city may be very trying for a woman. One who is used to living in a town, may find it difficult to settle in a city or vice versa.

If, however, at the time of marriage, it was made quite clear that she was prepared to follow her husband, wherever he

Galilee and marries a woman from Galilee. But, if he is a Judean and marries in Judea a woman from Galilee, she can be compelled to leave her district and settle with her husband in Judea, for this was a condition of marriage. If, however, it is clearly stated in the marriage-contract, "I, so-and-so from Judea, marry a woman from Galilee" she cannot be compelled to leave her district.(151).

Similarly, a man can compel his wife to leave a place where the majority of its inhabitants are non-Jews in order to settle in a place where the majority are Jews, but he cannot compel her to leave a place where the majority are Jews in order to settle in a place where the majority are non-Jews. A man can also compel his wife to follow him if he intends settling in Palestine, but he cannot compel her to leave Palestine in order to settle in any country outside Palestine. On the other hand, if the wife wishes to leave Palestine in order to settle elsewhere, she can be compelled to remain in Palestine.(152).

may decide to settle, she could not subsequently refuse to follow him. This is illustrated by the following comparison: "It is similar to a man who marries a woman from a village and says to her, "Come and live with me." To her question, "Where do you wish to settle?" the answer is given, "Come with me from here to Tiberius(where the air is pure), and from there to Burski(a tannery near Tiberius, where the air is bad), and from there to the upper part of the town(where the air is good), and from there to the lower part of the town (where the air is foul)". To all this the woman replies, "Wherever you will take me, I am ready to follow."

Consequently, if at the time of marriage it was made quite clear that the husband may find it necessary to move from place to place, the wife can be compelled by law to join him on his travels.

(Cant.R.1,27.).

In order to avoid any misunderstanding, a man was advised to marry a woman from his own place of residence. Commenting on the verse, "Let thy fountain be blessed" (Prov. 5, 18.), the Rabbis state "Happy is the man whose wife is from his own city." (155.). No doubt, the Rabbis had another consideration in mind, when this advice was given. They realised that in order to lead a happy married life, it was necessary for husband and wife to know about each other before marriage. What better opportunities would they have of making enquiries about each other if they both lived in the same place.

According to R. Eleazar, when Ezra came to Palestine, he brought with him all the Jewish families of mixed descent and left in Babylon only those families, who were known to be of pure descent. (156). Consequently, R. Judah in the name of Samuel stated that with regard to the purity of Jewish families, those of Palestine are of purer descent than those of other countries, but the families in Babylon are of purer descent than those of Palestine. (157). However, in the time of the Nasi, and later in the time of R. Phinehas, attempts were made to declare the Jewish families in Palestine to be of pure

parents home, may be due to ~~the fact~~ her desire to have the protection of her own relations.

(See G.R.Driver and John C.Miles, The Assyrian Laws, Oxford, 1935, pp. 140-142.).

154). Tos.Kidd.2.2.

155). Yalk.Shim. Prov.937.

156). Kidd.69b.

Ezra intentionally took those of inferior rank so that they

descent than those of Babylon, but both the Nasi and R. Phinehas objected. (158).

We, therefore, find a number of Babylonian scholars who, for this reason refused to marry into Palestinian families. When Zeira, a Babylonian scholar refused to marry the daughter of R. Johanan, a Palestinian scholar, the latter remarked to him "Our learning is fit but our daughters are not!" (159).

According to Samuel, we may assume that every Jewish family in Babylon is of pure descent, unless we have proof to the contrary, (i.e. when a family has become impure through a prohibited marriage); whereas in Palestine, those who have the presumption of being of pure descent, are to be considered as pure. (160). From this statement it would appear that a person marrying

should not remain in Babylon, where owing to the absence of leaders, they might mingle with the rest of the nation. By this act, Ezra purged the Jews of Babylon.

157). Kidd. 69b.

"All countries are as dough compared with Palestine, and Palestine is as dough relative to Babylon."

The term "dough" (דֹּגָה) is used for a family suspected of containing an alien admixture, and in many instances, a priest would not be permitted to marry into such a family. The Rabbis make a distinction between a woman from an דֹּגָה family not permitted to marry a priest and one that is permitted to do so.

(See Keth. 11a; Tos. Kidd. 5, 3-4; Jer. Keth. 1, 5; 4, 4.).

Halevi conjectures that the purity of the Palestinian families became doubtful during the wars with the Greeks, when many Jews and Jewesses were taken captive by the enemy. It is also possible that during the Hellenizing period, a great deal of intermarriage between Jews and Greeks may have taken place.

(See, Halevi, Doroth, 1, 3. p. 104).

It is interesting to note that before the destruction of the First Temple, the families of Jerusalem were regarded with great respect, and it was considered a great honour to marry into them. On the verse, "The precious children of Zion", (Lam. 4, 2.), the question was asked, "In which respect were they precious?", and the answer given, "If a man from the provinces married a woman from Jerusalem, he gave her, her weight in gold; and if a man from Jerusalem married a woman from the provinces, they gave him his weight in gold." (163).

With regard to Samuel's statement about Palestine, the Rabbis found it self-contradictory. "You say, those who have the presumption of being ~~impure~~ of impure descent are impure, implying that those undetermined should be regarded as of pure origin, and yet you state that those who have the presumption of being of pure descent are to be regarded as of ~~pure~~ pure origin." This contradiction was, however, explained by R. Huna as follows, "Here it is to permit him to take a wife; there it is to take the wife away from him." (When one wishes to marry a woman of pure descent, he must prove his own fitness, if he lacks the established presumption. On the other hand, if he is married to a woman of pure descent, he is not compelled to divorce her, unless his own unfitness has been established.

(See Soncino Talmud, Kiddushin, p. 363, note 1.).

161). Rashi: To be regarded as Babylonians for the purpose of marriage.

162). Kidd. 71b.

163). Lam. R. 4, 2.

V. ECONOMIC CONSIDERATIONS.

Since a husband was duty-bound to support his ~~free~~ wife with food, clothing, etc.(164), a man was advised not to contemplate marriage until he was in a financial position to support a wife. In the opinion of the Tosefta, the possession of a field was essential before contemplating marriage(165). Explaining the order of the verses,....that hath built....that hath planted....that hath betrothed....(Deut.20,5-7.), the Rabbis state that the Torah has taught a rule of conduct in life. "A man should first build himself a house, plant a vineyard and then betroth a woman." And even King Solomon in his wisdom, gave the same advice, "Prepare thy work without, make it fit for thyself in the field and afterwards build thine house."(Prov.24,27). "Prepare thy work without" refers to the building of a house, "and make it fit for thyself in the field" refers to a vineyard, "and afterwards build thine house", applies to a wife.(166).

164). See Keth.48a: 58b: 64a: etc.etc.

165). Tos.Sota. 7.13.

166). Sota. 44a.

The Rabbis often called a wife "a house"(Yoma, 2a.), and R. Jose stated that he always called his wife "my house" and his ox "my field"(no doubt, due to the fact that the ox was the source of his livelihood) (Shabb.118b.).

That the possession of a field and vineyard was regarded as the minimum requirement for a man to make him economically independent, is a statement made by R.Huna. Thus, R.Huna in

No doubt, the Rabbis must have realised that there cannot be true happiness in a home, where the husband is not in a financial position to support his wife and family. In fact, the Rabbis were convinced that the inability of a husband to support his wife, would only lead to strife and contention. Thus, R.Judah stated, "One shall always take heed that there is corn in the house; for strife is prevalent in a house only on account of corn(food)." (167).

Similarly, R.Papa used to say, "When the barley is gone from the pitcher, strife comes knocking at the door" (168), and Rabba in the name of R.Isaac stated that when there is no grain in the house, the ^{wife} ~~strife~~ starts shouting. (169). Consequently, in order to avoid any unhappiness in the house, before contemplating marriage, the man must consider carefully his financial position, whether he has the means to support a wife and family.

In fact, the Rabbis considered the financial status of the man as an important condition of marriage, so that if subsequently it was discovered that an untrue statement regarding the financial status has been made at the time of the marriage, the marriage was annulled. Thus the Mishna states, "If a man said to a woman, accept

interpreting the verse, "I went by the field of the slothful and by the vineyard of the man void of understanding" (Prov.24,30) stated, Only a man possessing a field and a vineyard can be regarded as a man in the full sense of the word." (Gen.R.21,2.).

167). Ba H. 59a.

168). ibid.

169). Dem. 16a.

my proposal of marriage on condition that I am a rich man, and after the marriage it was ascertained that he was a poor man, or on condition that I am a poor man and subsequently it was ascertained that he was rich, the marriage is annulled. R. Simon, however, stated that if he deceived her to her advantage, (i.e. in the latter case), the marriage is considered valid."(170).

On the other hand, according to the Tosefta, a man could marry on condition that he need not support his wife or family, and even on condition that his wife should support him (171), and it is reported that Joshua, the son of R. Akiba, made such a condition prior to his marriage, to enable him to continue with his studies. (172).

Such conditions, however, were deprecated by the Rabbis, who stated, "He who looks for the earnings of his wife" will never see a sign of blessing"(173), and Rab maintained that the man who refuses to maintain or support his wife, should be forced to divorce her.(174). No doubt, the Rabbis considered the psychological

170). Kidd.2,3.

171). Tos.Keth.4,7.

172). ibid.

This concession was probably granted a scholar to enable him to continue with his studies, without having to worry about financial matters. Commenting on the verse, "The fear of the Lord is clean, it endureth for ever"(Ps.19,10.), R. Haninah stated that it refers to a man who studies the the Torah in a state of purity, i.e. he marries and then continues with his studies.(Men.110a, Yoma, 72b.).

effect on a woman who is supporting her husband. She would assume an attitude of superiority towards him which could only lead to strife and contention. Thus Ben Sirah stated, "A woman who maintains her husband is full of anger, impudence and much reproach." (25,22.).

Under no circumstances should a man marry a woman for her money. Thus, Rabba bar bar Ullah stated, "Anyone marrying a woman for her money, will have unworthy children"(175), and R.Akiba stated that if a man marries a woman for her money, hoping that she would die in order to inherit her, will die before her.(176.).

Whether a man should marry first and then continue with his studies, or should complete his studies before contemplating marriage, is discussed by the Rabbis. According to R.Judah in the name of Samuel, a man should marry and then continue with his studies. R.Johanan, however, disagreed with this point of view by stating, "How can a man pursue his studies with a yoke round his neck?"

This divergence of views was later attributed to the different circumstances prevailing in Babylon and Palestine. The Babylonian scholars used to travel to Palestine in order to continue with their studies; hence they were free from household worries and, therefore, were at liberty to marry before completing their studies. The Palestinian scholars, on the other hand, studying at home, and bearing family responsibilities, could make no progress in their studies if married, and consequently, they were expected to complete their studies before contemplating marriage. (See Rashi on id.loc.).

R.Tam, however, offers a different interpretation. The Babylonians who leave for Palestine in order to continue with their studies, should first complete their studies before considering matrimony, for otherwise there will be no one to look after their wives when they leave for Palestine; but the Palestinians, who continue with their studies in Palestine, may marry and then continue with

Under no circumstances, should a man rely on the support he may receive from his father-in-law. "It is not proper for a son-in-law to live at the house of his father-in-law, as it is written in the Book of BenSira, 'I have weighed all things in the scale of the balance and found nothing lighter than bran; lighter in mind than bran, is a son-in-law who lives in the house of his father-in-law. (177). It is true that it was customary for the bridegroom to receive gifts of money or property from his intended father-in-law, but in return for such gifts, the bridegroom was expected to spend a certain sum of money on his bride.(178).

In cases where a man wishes to settle in marriage, but has no means to support a wife and family, it was the responsibility of the Community to provide him with the means for a livelihood. Thus the Tosofa states, "If an orphan(usually poor) wishes to marry, we should hire a house for him and provide him with a bed"(179), and to

their studies.
(See Tosaf. id.loc.).

It is reported that R.Abiathar once sent the following message to R.Judah, "Jews who come from Babylon to Palestine, fulfil in their own persons the words of Scripture, 'They have given a boy for a harlot and sold a girl for wine and have drunk' (Joel, 4,3.)"(Gitt.6b.).

R.Abiathar obviously disapproved of the practice of Babylonian students, marrying before graduation and then betaking themselves to Palestine, leaving behind them their wives and children in utter destitution.
(See Soncino Talmud, Gittin, p.20, note 1.).

We are told of a number of Rabbis who married and then left their wives for a number of years(usually twelve), in order to continue with their studies.(See Keth. 62b.).

this statement the Rabbis add that "He should also provide him with the necessary tools to enable him to earn a livelihood." This, the Rabbis derive from the verse, "Thou shalt surely open thine hand wide unto him....sufficient for his need in that which he wanteth," (Deut.15,3.). (180).

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- 173). Pes. 50b.
 - 174). Keth. 63a.
 - 175). Kidd. 70a.).
 - 176). Tos. Sota, 5, 5; A. d. E. Nathan, 3, 3.
 - 177). B. B. 98b.
 - 178). See Keth. 3, 4; 6, 2; 69b.
 - 179). Tos. Keth. 6, 9.
 - 180). Keth. 67b.

From the whole discussion it is obvious that this does not apply only to an orphan. Every poor man who wishes to marry, must be helped by the Community.

it applies to a father who gives his daughter in marriage to an old man.(183). R; Eliezer, no doubt, realised that marriage between a young girl and an old man would, generally speaking, not be a happy one and may lead the woman to seek happiness elsewhere, which would ultimately lead her to prostitution. In expressing the feelings of a woman, R.Samuel b.Isaac stated, "A woman loves a poor young man more than a rich old man."(184).

Commenting on the verse, "To add dry to the thirst, the Lord will not spare him"(Deut.29,18-19.) R.Judah in the name of Rab stated that this applies to a father who gives his young daughter in marriage to an old man, or takes an old woman for his young son.(185).

the marriageable age, ten years in this instance.

Again in the 2nd Oration of Isaeus we read that a certain Menecles, already advanced in years, asks the hand of the speaker's younger sister, who has just reached the marriageable age and that, notwithstanding the discrepancy in years, the girl is given to him in marriage by her brothers.
(C.C.Savage, The Athenian Family, Baltimore, 1907. p.50.).

According to the Laws of Manu, a man of thirty should marry a girl of twelve, and a man of twenty four should marry a girl of eight.
(The Laws of Manu, trans. by G.Buhler, ix.94.)

Later books fix the higher limit of age in such cases at ten or eight years, and reduce the lower limit to seven, six or even four years.
(Sir H.Risley, The People of India, London,1915. p.189.).

Granquist reports that among the Arabs, it is customary to betroth a girl as soon as she is born. "What did God give you?" asks one man of another, who has just become a father to a girl. "A little bride has just been brought to us." "May she be blessed" runs the reply. If it happens

Consequently, in order to avoid any unhappiness as a result of the action of irresponsible parents in arranging the marriage of their young children with unsuitable partners, the law was laid down in the third century, C.E., that it is strictly forbidden for a father to arrange a marriage for his daughter, whilst she is still a minor; but the father must wait until his daughter grows up and is able to make her own choice.(186).

No minimum age, either for boys or girls, is laid down in the Bible. Dr.Mace suggests that it was a custom amongst the Hebrews for marriage to take place at an early age, probably not long after puberty has been reached(187), and Dr.Neufeld maintains that from the general circumstances existing in the East in ancient times, it can be assumed that children were married at a very early age, even before the age of puberty.(188). Kennett has collected a number of instances from the Old Testament to indicate that marriage from

that the father rejoins, "She is for thee" and the other replies, "I accept her", then the girl is already betrothed on the day of her birth.
(H.Granqvist, Marriage Conditions in a Palestinian Village, Helsingfors, 1931, vol.I. p.23.).

184). Ruth R.6,4.

185). Sanh.76b.

Rashi explains that "thirst" applies to the young who are thirsty for love, whilst "dry" refers to the old, who are dry and have already lost their virility.

186). Kidd.41a; 81b.

187). D.R.Mace, Hebrew Marriage, London, 1953. p.143.

188). Neufeld, E., Ancient Hebrew Marriage Laws, London, 1944. p. 143.

about the age of fifteen seems to have been the rule amongst the men, (189), whilst concerning girls, Burrows is of the opinion that probably few women came to maturity in ancient Israel, without being, at least, betrothed.(190). According to Dr.Mace, the phrases, "wife of youth"(Prov.5,18; Is.54,6; Mal.2,14-16.) and "friend ^{friend} children of youth" (Prov.2,17; Jer.2-5; Joel,1,8.) and "children of youth"(Ps.127,4.) suggest that marriage was undertaken at an early age.(191).

The Bible records that Isaac was forty years old when he married Rebekah(Gen.25,20), and Joseph we are told was thirty years of age when he was presented to Pharaoh, and after interpreting the dreams,(although we are not told how soon after), he was given Osnath for a wife(Gen.41,46.). According to the Yalkut, Abraham was twenty-five years old when he married Sarah(192), but Heilpern maintains that he was at least fifty when he married(193). Hiskiah reaches the conclusion that Jacob must have been eighty four years old when he married his first wife(194), and according to Heilpern,

"It is considered a disgrace for a girl to remain unmarried after she has reached puberty. As a general rule, one can say that the question of marriage is raised as soon as the period of puberty is reached."

(G.G.Seligman and Z.B.Seligman, The Kabahish, A Sudan Arab Tribe, Cambridge,1918. p.133.).

According to Grant, girls were often married at the age of seven, and betrothed at a much tenderer age. Grant maintains that the bride is usually considerably younger than the groom, so that when the husband reaches old age, he will have a strong and able housekeeper and caretaker in his wife.

(E.Grant, The People of Palestine, London,1931, pp.53-4.)

Prof.Granqvist relates the following story, told to him

Moses was seventy-nine years old when he married Zipporah(195).

It is possible that the Patriarchs, leading a nomadic life, were not in a position to marry at an earlier ~~date~~ age. In the case of Isaac and Jacob, according to the Rabbis, they had to wait till a suitable wife was procured for them. On the other hand, according to R.Huna, we find an instance of child-marriage in the Bible when Jacob, prior to his departure for Egypt, arranged marriages for his grandchildren Peretz and Hetzen, aged one year and two years respectively.(196). This, however, was only due ^t the fact that Jacob wished to increase the number of souls entering Egypt to seventy.(197).

In Temple times, we are told, early marriages were arranged for the sole purpose of propagation. Interpreting the verse, "The city full of people"(Lam.1,1.) Rabba in the name of R.Johanan stated that they used to marry a girl under the age of twelve, to an adult; and a woman over the age of twelve to a boy under the age of thirteen, so that they could bear as many children

by a married woman. "When my mother brought me into the world, she wrapped me in rags and laid me on a tray and everybody was angry with me. Then came Dubanij from Bethlehem. He said, thou Abu Brahin, blessed be thy daughter. He said to him, she shall belong to thee. I accept her, be witnesses of this, ye who are present. They said, we are witnesses of that which we have heard."
(H.Granqvist, op.cit., vol.I. p.27.).

When the son or daughter approaches a marriageable age, the parents begin to set about the well-important business of finding a suitable bride or bridegroom.
(C.T.Wilson, Peasant Life in the Holy Land, London, 1906. p.107.).

as possible(198), and the Rabbis explain that a boy of twelve was given in marriage to a ~~wean~~ woman of twenty; whilst a grown up man was married to a young girl, so that they could conceive and bear children.(199).

According to rabbinic teaching, a boy of nine years and one day is capable of the sexual act, and a girl at three years and one day(200), but it does not follow that the Rabbis expected that children should be married at that early age. On the contrary, Judah b.Tema stated that a man should marry when he reaches the age of eighteen(201), and according to R.Huna, it is only when a man has reached the age of twenty and is not married, that he can be regarded as a sinner.(202). That a man was expected to be married by the time he reaches the age of twenty, is clearly indicated by the statement of Rabba, as taught in the school of Ishmael. "The Holy One, blessed

189). R.H.Kennett, Ancient Hebrew Social Life and Custom, London, 1933. pp.16-17.

190). Burrows, Basis of Israelite Marriage, p.57.

191). Mace, Hebrew Marriage, p.144.

192). Yalkut on Lech Lecha.

193). J.Heilpern, Seder Hadoroth, Warsaw, 1897. vol.I. p.32.

194). Gen.R.68,5.

195). J.Heilpern, op.cit., I. p.80.

196). Tanhuma on Shemoth, 3.

197). According to Gen.46,26., the number of souls was only sixty-six. By the marriage of the two grandchildren, the number was increased

be He, waits for man to marry till he reaches the age of twenty, but if man reaches the age of twenty and is not yet married, he is cursed by the Almighty."(203).

Several Rabbis, however, were in favour of marriage at an earlier age. On the verse, "And thou shalt know that there is peace in thy tent"(Job, 5,24.), the Rabbis state that it applies to a man who arranges marriage for his sons and daughters, when they are about to attain the age of puberty.(204). R.Hisda boasted that he was superior to his colleagues because he was married at the age of sixteen; but had he married at the age of fourteen, he would have said to Satan, "An arrow in your eyes."(205). Rabba told R.Nathan b.Ami that the right age for marriage being during the period when a son is still under the influence of his father. According to some, between the age of sixteen and eighteen, and according to others, between the age of eighteen and twenty-four. (206).

On the other hand, we are told by R.Levi, a Palestinian scholar of the third century, C.E., that in his generation it was customary for men to marry at the age of thirty and even forty. (207). This marriage late in life, may have been due to economic conditions prevailing in Palestine in the time of R.Levi, for he

to sixty-eight, plus the two children of Joseph in Egypt, making a total of seventy.

198). Sanh. 104a.

209). Abod.Zar. 37a.

199). Yabkuf on Lam. 31.

continues, "when a man has laid out the wedding expenses, he becomes joined(married) to her."(208). Consequently, in times of economic difficulties, a man may not find himself in a financial position to support a wife and family till very late in life.(209).

With ~~the~~ regard to the marriageable age of a girl, the Mishna states that a father could accept marriage on her behalf, whilst she was a שש חודשים , i.e. during the six months after she had reached the age of twelve years and one day.(210). From this statement of the Mishna, it was understood that under the age of twelve, a father had no right to accept marriage for his daughter(211), and as stated previously, Rab a Babylonian scholar of the third century C.E.,laid down the law that it was forbidden to accept marriage for a girl until she is in a position to make her own choice.(212)

201). Aboth. 5,24.

202). Kidd.29b.

203). ibid.

204). A girl at the age of twelve years and one day, and a boy at the age of thirteen.

205). Kidd.29b.

206). Ibid.30a.

207). Cant.R.7.7.

208). ibid. See Commentary of Matnoth Kehunah.

209). Towards the end of the first century and beginning of the second century,C.E., we find two great scholars, R.Eliezer b.Hyrcaanus and R.Akiba, marrying late in life.

210). Kidd.2,1.

Although, according to the Mishna, a father could only arrange marriage for his daughter after she had reached the age of twelve, yet we find another Mishna that speaks of a girl under the age of twelve, receiving a divorce from her husband(213), implying that such marriages were recognised by the Rabbis.(214). This may also be deduced from the dispute between Samuel and Karna whether a minor, having accepted marriage on her own behalf without the consent of her father, requires a divorce or ~~not~~ Refusal.(215)

The Rabbis were, however, in agreement that marriage should not be delayed once the children have reached the age of puberty. Thus, Ra Akiba stated, "Anyone who delays the marriage of his daughter when she reaches the age of puberty, causes her to become a prostitute."(216). When the question was asked,"Which poor man is

Rashi deduces from this statement that a father has the right to accept marriage on behalf of his daughter, even before she reaches the age of twelve years and one day. Tosafoth, however, disagrees with the view of Rashi by maintaining that under that age, a father has no right to accept marriage on her behalf. Tosafoth then makes the following interesting observation, "And now(i.e. during the Middle Ages) that we do accept marriage for our daughters whilst they are minors (under the age of twelve), it is only because every day the Galuth increases and if a father is in a position to give her a dowry, he may not be in a position to do so if he waits till she grows up, and she may consequently, remain unmarried."

(See Rashi and Tosafoth, id. loc.).

211). Kidd.41a.

212). 1b1d.81b.

213). Git. 6,3.

subtly wicked?" Abaye replied, "He who delays marrying off his daughter after she reaches the age of puberty."(217). If, however, a father finds it difficult to arrange a marriage for his daughter when she reaches the age of puberty, the advice given by the Rabbis is, "free your slave and give him your daughter."(218).

That early marriage in the case of a woman is advisable, if only for the purpose of procreation, we see from the statement of R.Hisda. "A woman, who marries under the age of twenty, will bear children till she reaches the age of sixty; if she marries at the

214). If marriage under the age of twelve would not be recognised by the Rabbis, a divorce would not be necessary.

215). Kidd.44b.

If the father subsequently consented to her action, a divorce would be necessary. If, however, the father's consent was never obtained, a Refusal by the girl would be sufficient to annul the marriage.

RIGHT OF REFUSAL.

If a fatherless girl under age, has been married off by her mother or brothers, and she does not wish to live with her husband, she is at liberty to appear before a Beth Din and make a declaration before them to that effect. By such a declaration, she immediately acquires her freedom without the requirement of a divorce.
(See Yeb.12,2.).

It was, however, understood that only a minor, married with the consent of her mother or brothers, requires to make such a declaration in order to obtain her freedom without the necessity of a divorce.

If, however, she was given in marriage without her consent, she was at liberty to leave her husband without any legal formality and to marry any other man.
(See Yeb. 107b.).

age of twenty, she will only bear children till the age of forty; if, however, she marries at the age of forty, she will never bear children." (219).

216). Banh.76b.

217). ibid.

Through his poverty, he delays her marriage so that he may profit by her labour. His wickedness consists in the fact that by keeping her unmarried, he endangers her chastity. (See Rashi id.loc.).

218). Pes.113a.

219). B.B.119b.

According to R.Eliezer b.Jacob, none of the daughters of Zelaphad were married under the age of forty. Johebed, the mother of Moses, was married at the age of one hundred and thirty. (See B.B. 119b.).

CHAPTER IV.ARRANGEMENTS FOR MARRIAGE .1. BY FATHER.

In Biblical times, we find the father taking an active part in arranging marriage for his children. "It is the business of the parents, especially of the father", writes Bertholet, "to secure suitable marriages for his children, especially for his sons; and the leanings and likings of the individuals concerned have little to do with the choice made."(1). Thus Abraham, being old and

- 1). Bertholet, A., A History of Hebrew Civilisation, London, 1926. p. 151.

In Ugaritic society, it was the father who chose the bride for his son, at least as long as the son was living under the patria potestas.
(A. van Selms, Marriage and Family Life in Ugaritic Literature, London, 1954. p.18.).

In both Babylonian and Assyrian Laws, references are found to a father acquiring a bride, whether for a specific son or, if that son died or disappeared, the girl would be married to any other of his sons. Presumably, if no specific son was named in the contract, the girl would remain the kallatu (the daughter-in-law) of her father-in-law and not become the wife of any one until he assigned her to a son or even to a slave.

(C.R.Driver and J.C.Miles, The Assyrian Laws, Oxford, 1935. pp.168 ff.

C.R.Driver and J.C.Miles, The Babylonian Laws, Oxford, 1952. vol.L, pp 249 ff.).

According to Plato, the right of valid betrothal shall, in the first instance, belong to the father.
(Plato, Laws, 774.).

infirm, entrusts to his faithful servant the task of securing a suitable partner for his son Isaac(Gen.24,1-4), and Jacob is told by his father to choose a wife only from the family of his mother (28,1), and it is Laban whom Jacob asks for the hand of his daughter(29,18-19.). Shechem, desiring to marry Dinah, persuades his father to make the necessary arrangements(34,4.),and Samson pleads with his parents to secure for him the woman from Timnah. (Jud.14,5.). Judah chose Tamar as a wife for his son Er(Gen.38,6.), Whilst Caleb, anxious that Debir should be captured, made an offer of his daughter's hand to the man who would take the city.(Josh.15, 16-17; Jud.1,12.). A similar offer is made by King Saul for the hand of his daughter.(I Sam.18,17-21.).

Isaeus makes it clear that it was the custom for the Athenian father to select a wife for his son.(Isaeus, 2,18.).

The match was arranged over the head of the bride, between her father or guardian and the bridegroom or his parents. (M.Carry and T.J.Haarhoff, Life and Thought in the Greek and Roman World, London,1942. p.139.).

The Roman method was that while the parties were still no more than children, the betrothal was made, not to suit their own opinions, but in accordance with the judgement of their parents. (H.Last, Family and Social Life in The Legacy of Rome, Oxford, 1951, p.224.).

According to the Laws of Manu, the four Marriages, Brahma, Duava, Araha, and Pragapatya....in which the father gives away his daughters, are blessed marriages....but the remaining four marriages, those effected by purchase, voluntary union, forcible abduction or stealth, are blameable marriages.... (The Laws of Manu, viii, 39-41.).

"It would not be considered proper" writes Wilson,"for a young man or woman to express a preference for one suitor or another or even to have a say in the matter."

The prophet Jeremiah gives the following advice to the Jewish people, "And take wives for your sons, and give your daughters to husbands"(Jer.29,6.), and one of the reasons why the Israelites were not permitted to mix freely with the surrounding nations being, "lest thou take of their daughters unto thy son"(Ex.34,16.), and again in Deuteronomy, "Neither shalt thou make marriages with them; thy daughter thou shalt not give unto his son, nor his daughter shalt thou take unto thy son."(Deut.7,3.). From the verse, "My daughter have I given to this man"(Deut.22,16.), the Rabbis derived the principle that a father has the right to contract marriage for his daughter.(2).

In fact, the Rabbis enumerated five duties that a father has towards his son, and one of them being to find a wife for him(3). Similarly, in the case of a daughter, the Mishna states that the father has the full right to contract marriage for her, provided she is still a minor(i.e. during the six months after she had reached

(C.T.Wilson, Peasant Life in the Holy Land, London,1906. p.107.).

"It is the father" writes Granqvist, "who procures a bride for his son; it is the father who sees to it that his daughter is married."

(H.Granqvist, Marriage Conditions in a Palestinian Village, Helsingfors,1931. vol.I. p.46.).

2). Keth. 46b.

3). Kidd.29a; Tos.Kidd.1,8.

the age of twelve years and one day). (4). Moreover, the father has the exclusive right of giving his minor daughter in marriage, and consequently, her acceptance of marriage without the consent of her father, would be immediately annulled.

Although Resh Lakish expressed an opinion that a minor should have the right to contract her own marriage(5), he ultimately agreed that such a marriage cannot be recognised by law(6). There is, however, a means by which a minor could receive her instrument of marriage, namely, by becoming her father's agent(7). But it must be clearly understood that in reality, it is the father who is the second party to the contract and that she acts only just as any other stranger might act as her father's agent.(8).

As to a minor receiving marriage without her father's knowledge, there is a dispute between Samuel and Ulla. Since there is no indication to prove that the father was in favour of such an act on the part of his daughter(9), Samuel decided that the marriage must be dissolved by a bill of divorce and Miun(10). A bill of divorce is necessary because there is a possibility that the father may have consented to the marriage. Miun is required in

4). Kidd.41a.

Rashi maintains that although the Rabbis give the right of marriage to a father, during the period of six months after his daughter reaches the age of twelve years and one day, the father certainly has that right when his daughter is under that age.

5). Kidd.43b.

order to remove the impression that the marriage was valid, an impression that may be produced by the fact that a bill of divorce was necessary to absolve her from the marriage ties. Ulla, however, maintains that the marriage is of no effect and consequently, there is no need for either a bill of divorce or Miun.(11).

The Rabbis, however, were very careful in considering the possibility of a father having agreed to the marriage of his minor daughter, when she had accepted marriage without her father's knowledge.(12). Only in such cases where there was no doubt that the father could never have agreed to such a marriage, did the Rabbis invalidate the marriage. Thus we are told, that Rabina invalidated a marriage because the bridegroom betrothed the minor girl with a bundle of herbs in a market-place. Said Rabina, "Even on the view that we fear lest her father consented, that is only when it is done in an honourable manner, but not contemptuously" When Rabina was asked, "What displayed contempt; the bundle of herbs or the market-place?" he replied, "both are contemptuous."(13).

6). Jer.Kidd.2.1.

7). Kidd.19a.

8). That a minor should become an agent and perform the recipient act of the marriage performance, is a matter that called forth comment from post-Talmudic scholars.

(See Tosafoth on Kidd.19a. See also "The Minor in Jewish Law" by Israel Lebediger, in J.Q.R. N.S. vol.vii. pp.93 ff.).

9). i.e. in cases where the father died soon after she had accepted marriage and there was no possibility of ascertaining his view on the matter.

daughter?" and the first replies, "such and such a sum", and on this basis a betrothal was effected, the betrothal is valid and binding, even if no documents have been signed.(15).

That a father exercised his right of betrothing his minor son or daughter, even without their consent, is shown by the following incident. Two men were drinking wine in Babylon, when one of them took a goblet of wine and gave it to the other and said, "let your daughter be betrothed to my son."(16). On the other hand, Rabina maintained that a father has the right to contract a marriage for his minor daughter without her consent, but has no right to contract a marriage for his son without the son's consent.(17). In another case, a certain pious man by the name of Rabin, was called a "cheater" since he went to betroth a woman for his son and married her himself."(18).

Commenting on the verse, "Take ye wives for your sons and give your daughters to husbands,"(Jer.29,6.), the Rabbis remarked that the advice to take wives for one's sons is intelligible, as such marriages are within a father's power(19), but to give daughters to husbands, does this depend on him?⁽²⁰⁾ This, therefore, say

13). ibid.45b.

14) To betroth with a bundle of herbs is contemptuous treatment; likewise, it is undignified to betroth in a market-place.

14) Ned.23a; Ber.56a; Kidd.45b.

The feast was prepared for the wife's relative and it would be necessary to prepare another feast, if he consented to the

the Rabbis, is the meaning of the verse, "A father must provide for his daughter clothing and covering and must also give her a dowry, so that people would be anxious to marry her." When the question was asked, "To what extent must a father go on assigning ^{for} a dowry ~~to~~ his daughter?", both Abaye and Raba agreed, "upto a tenth of his wealth." (21).

The advice was given that a father should use care and discretion in the choice of partners for his children. (22). That there must have been cases when fathers acted in a careless manner in arranging marriage for their children, is obvious from the Mishna that speaks of a father who had accepted a proposal of marriage on behalf of his daughter, but does not remember from whom (23), or the case of a father who has several daughters, but cannot remember for which of his daughters the proposal of marriage ^{was} ~~he had~~ accepted, or a father who has daughters from two wives and had accepted marriage for his eldest daughter, but cannot remember whether it was the eldest daughter from his first or second wife. (24).

betrothal of his daughter to one of his relations.

15). Keth. 102a; Kidd. 9b; M.K. 18b.

16). Kidd. 45a.

17). ibid.

18). Kidd. 99a.

Granqvist relates the story of a father of sixty-five years old who chose a girl of seven as a bride for one of his sons.

Any such carelessness on the part of a father was, however, stopped in Babylon in the third century, C.E. when the powers of a father were restricted by the following legislation

1. It is forbidden for a father to give his daughter in marriage whilst she is yet a minor (25)
2. A man must not marry a woman unless he had already seen her (26).

Apparently Rab, who introduced these restrictions to the powers of a father, must have found the Babylonian Jews rather lax and inconsiderate in matters of marriage. By his legislation, Rab, therefore, introduced a new attitude towards marriage.

When the Khateeb was going to tie the nuptial knot, the father came and was himself married to the girl.
(Granqvist, op.cit., vol.I. p.146.).

- 19). One can always find a bride for his son.
(See Soncino Kiddushin, p.147,note 11.).
- 20). One cannot easily obtain a husband for his daughter. How then does Jeremiah say, "Ang give your daughters to husbands."
- 21). Keth.52b; Kidd.30a.
- 22). See Pes.49; Sanh.76a etc.
- 23). Kidd.3,7.
- 24). ibid.3,10.
- 25). ibid. 41a.
- 26). ibid. 41a; 81b.

II. BY THE MAN HIMSELF.

Although as previously stated, it was not till the third century, C.E. that in Babylon, the powers of a father in connection with the marriage of his children were limited by the restrictions of Rab, it would appear that in Palestine, already in the first century, C.E., it was an accepted fact that a man must arrange marriage for himself. Thus, when R. Joshua was asked, "Why is it that in matters of marriage, it is the man who takes the initiative by proposing to the woman and not the woman to the man?" his reply was, "It is similar to a person who lost an article; it is not the article that goes in search for its owner, but the owner who searches for his article." (27).

27). Gen.R.17,13.

It is not known whether this question was asked by the pupils of R. Joshua, thus implying that although they knew of the existence of the custom for a man to arrange marriage for himself, they merely wanted to know whether this custom could be derived from some Biblical text.

It is, however, possible that this question was asked by the Emperor Hadrian or his daughter, who seem to have had many discussions with R. Joshua, according to the Midrash and Talmud, on religious matters. (See Hag.5a; Hul.60a; Bek.8a; Ta'an.7a; etc.etc.)

Prof. Graetz suggests that it was during Hadrian's visit to Palestine in the year 130 C.E., that many interviews between the Emperor and R. Joshua took place. (History of the Jews, vol.ii. p.406).

If, therefore, it was the Emperor who asked this question, it may only refer to the custom prevailing in Rome but not in Palestine. For according to Prof. Maine, in Rome in later times,

The custom for the man to look for a wife, is therefore, attributed by R. Joshua to the fact that woman is man's lost part, since Eve was made of Adam's rib, and consequently, man is in search of his missing part.

Similarly, R. Simeon of the second century C.E., derived this custom from the text in Deuteronomy 24,1. When the question was asked, why does the verse state, "When a man hath taken a woman" and does not state "When a woman be taken to man"? and the answer given, "because it is the custom for man to look for a wife and not for woman to look for a husband." (28).

That the attitude of Rab had prevailed in Babylon, is clear from the statement of R. Joseph, a Babylonian scholar of the fourth century, who states that it is more meritorious for a man to contract marriage for himself, rather than ask someone to do it for him. (29).

the father's privilege of dictating marriage for his sons, declined into a conditional veto, and it seems as if daughters also at length gained a certain amount of freedom in the choice of a husband. (H. J. S. Maine, Ancient Law, London, 1906. p. 138).

According to all Mohammedan schools, a son is at liberty to contract a marriage without his father's consent, after he has completed his fifteenth year. A Mohammedan father has the right to impose the status of marriage on his children during their minority, sons and daughters alike, but the law takes particular care that this right shall not be exercised to the prejudice of the child. Any act of the father which is likely to injure the interests of the minor, is considered illegal and entitles the judge to interfere in order to prevent the completion of such an act, or if complete, to annul it.

28). Kidd. 2a; Nidd. 6b.

29). Kidd. 41a.

III. THROUGH AN AGENT.

According to Leventhal, it is safe to presume that the whole law of Agency developed from the law of marriage and divorce. (30). In Rabbinic literature, the theory of Agency is founded upon the oft-declared principle, "A man's agent is like himself" (31), which means that one who acts through an agent is regarded by the law as if he does the act himself; and also, what a man may do in person, he may in most instances, do through a representative. Consequently, it would be within the law for a man to employ an agent to effect a marriage on his behalf (32), and such a marriage was considered legal and binding. (33).

Any person, man or woman, maybe a principal or agent, and even a married woman may be an agent. There are, however, two important exceptions to this rule.

a) One who is deaf and dumb, insane or a minor cannot be either a principal or an agent

b) An idol-worshipper (34).

30). I.H. Leventhal, The Jewish Law of Agency, J.Q.R., N.S. XIII, p.157.

31). Kidd. 41b; Ber. 34b; etc.

32). Kidd. 2, 1.

33). It seems that in Ugaritic society, the bridegroom in spe did not address the father of his future bride directly, but made use of a matchmaker.
(A van Selms, op.cit., p.22.).

It is possible that the bridegroom's father is acting merely as his son's agent when he offers another man gifts to obtain

Whether a certain act can be performed by an agent, will depend upon the validity of the act at the time of appointment and not at the time of performance. A man cannot appoint an agent to do that which he himself cannot do at the time of the appointment of the agent, although he might have been able to do it afterwards.

Thus, A appoints B as an agent to marry C, whom he believes to be divorced. C, however, was not divorced at the time of B's appointment as agent, but is divorced at the time when B approaches her. B cannot effect marriage with C for A. The fact that C. was a married woman at the time of B's appointment, invalidates his agency.

The general maxim on this point is thus expressed, "A man can only be appointed to do an act, which may be performed at the time of appointment." (35). In cases, where the agent decides to act for himself, and not on behalf of his principal, the act of the agent was regarded as valid, although not honourable. Thus, A appoints B as agent to effect marriage with C, and the agent decides to marry C himself; if B had fulfilled the necessary conditions of

his daughter in marriage for his son.
(C.R.Driver and J.C.Miles, The Assyrian Laws, Oxford, 1935
p.161.).

34). B.H. 51a; K166.42b.

35). Nazir, 12b.

marriage, C is now married to him and A has no claim on him. (36).

The agent is called שליח (37) or שליח (38). According to Leventhal, the term שליח is used when we speak of rules applying to both the paid and the gratuitous agent. The term שליח is used when we speak of the rules applying to the paid agent alone. (39). A שליח or שליח may be appointed by oral communication alone. The appointment does not require קריאה (40), nor does it have to be in writing or in the presence of witnesses; for according to R. Ashi, "Witnesses were only created against liars." (41).

In cases of marriage, the Mishna clearly states that not only the man could employ an agent to effect marriage for him, but a woman could employ an agent to accept marriage on her behalf. (42). This principle of agency was deduced from a verse in Deuteronomy. The Rabbis ask, "Why does the verse employ the term שליח , when it states, 'And he shall send her out of the house' (Deut. 24, 1.), and the reply is given, "To teach us that a man may appoint an agent." In fact, the term שליח is also used in vv. 3 & 4, and from this the Rabbis derived two other principles, namely, that a woman

36). Kidd. 59a.

37). From the root שלח to send; i.e. a messenger.

38). Jastrow compares the word to the Arabic "sursur", going around, examination. In Talmudic literature, the term is employed to mean, "middleman"; "broker".
(See B.B. 5, 8.).

39). Leventhal, op.cit., p.129.

40). A special symbolic form making an agreement binding, usually

too may appoint an agent and that an agent may appoint another agent to act on behalf of the principal.(43).

There were, however, certain opinions expressed that since the verse in Deuteronomy speaks of divorce, the principle of agency may only apply in cases of divorce; but how do we know that an agent may be employed in case of marriage? But v.2 states "Then she shall depart....and she shall be another man's wife" thus assimilating marriage to divorce; just as an agent may be appointed for divorce, so may one be appointed for marriage.(44).

called קנין סוד (lit. acquisition of a scarf); a legal form of acquisitions of objects or of confirming agreements, executed by the handing of a scarf(or any other article) on the part of one of the contracting parties to the other, or on that of the witnesses to the agreement, as a symbol that the object itself has been transferred or the obligation assumed.

41). Kidd.65b.

i.e. witnesses are not necessary to legalise the appointment of the agent but only as a guarantee against a faithless person who might deny the transaction.

42). Kidd.2,1.

43). ibid.41a.

Rashi points out that these deductions were made, because Scripture should have written, "then he shall divorce." "Send" intimates that the husband or wife can send, i.e. appoint a person to act on their behalf.

44). Kidd.41a.

Israel greater days of joy than the fifteenth of Ab and the Day of Atonement(47), for on these days the daughters of Jerusalem used to walk out in white garments, which they borrowed in order not to put to shame those that had none. All these garments were

"At the commencement of a meal, a cloth was spread over the door. As long as the cloth was spread, guests entered; when the cloth was removed(a sign that the meal has terminated), no guests entered."

(See B.B.93a; Tos.Ber.4,9.)

- 47). The Rabbis agreed to accept the Day of Atonement as a day of joy, since it is a day of pardon and forgiveness. In fact, there is a tradition that the Day of Atonement was instituted on the tenth of Tishri, since it was on that day that the Israelites were finally pardoned for their sin in making the Golden Calf. Moses, we are told, spent three periods of forty days and forty nights on Mount Sinai, beginning with the seventh of Sivan and ending on the tenth of Tishri, when he came down with the second Tablets.
(Seder Olam, 6; cf. Rashi on Ta'an.30b.)

But why should the fifteenth of Ab be selected as one of the most joyous days of the year? It is obvious that the day was selected to commemorate some important event that must have occurred in the life of the people in the past, but from the different reasons offered by the Palestinian and Babylonian scholars of the third century, C.E., why the fifteenth of Ab has been declared a most joyous day, it is clear that the real reason had long been forgotten. It is possible that the origin of this custom had been lost at the time of its discontinuation, i.e. at the destruction of the Second Temple in the year 70 C.E. or even at an earlier date.

However, in the third century, when the institution of this custom on the Day of Atonement was accepted by all as the most suitable day for such an occasion, differences of opinion arose as to the reason for establishing the fifteenth of Ab as one of the most joyous days of the year.

Being unaware of the true origin the Rabbis, naturally, would consider the important events that took place on that day in the history of the people, and each offer the most likely event, by which that day would become distinguished.

required to be ritually purified(48). The daughters of Jerusalem came out and danced in the vineyards(49), exclaiming at the same time 'Young man, lift up thine eyes and see what thou choosest for thyself. Do not set thine eyes on beauty, but set thine eyes

The following events are, therefore, cited, all of which are supposed to have taken place on that date.

- a). According to R. Judah in the name of Samuel, it is the day on which permission was granted to the tribes to intermarry. The prohibition for the daughters of one tribe to marry into another tribe(Numb. 36,6-9.), was only applicable to the generation of the daughters of Zelaphad. Subsequent generations were permitted to intermarry, and it was on the fifteenth of Ab that this permission was granted.
(Ta'an. 30b.).
- b). According to R. Joseph in the name of R. Nahman, on that day the tribe of Benjamin was permitted to re-enter the congregation of Israel(Jud. 21,1.).
(ibid. 30b.).
- c). According to Rabba b. b. Rana in the name of R. Johanan, it is the day on which the generation of the Wilderness ceased to die out. For it was stated by R. Levi, "On the eve of the ninth of Ab, Moses used to announce that everybody must go out and dig graves for themselves. The people dug their graves in which they spent the night. In the morning, Moses told those who did not die during the night, to separate themselves from the dead, and that about 15,000 died during that night. This continued for forty years, and in the fortieth year it was found that no one died. Thinking that perhaps they had made a mistake in their calculations of the date, they continued to dig their graves on the 10th, 11th, 12th, 13th and 14th of the month, but when the full moon appeared and no one had died, they realised that the Almighty had annulled the decree against them and they, therefore, proceeded to make the fifteenth of the month a holiday."
(Jer. Ta'an. 4,7; Lam. R. Introd., 33.).
- d). According to Ulla, it is the day on which Hosea the son of Elah removed the guards which Jeroboam the son of Nebat had placed on the roads, in order to prevent Israel from visiting Jerusalem on pilgrimage.
(Ta'an. 30b.).

on good family, for "Grace is deceitful and beauty is vain; but a woman that feareth the Lord, she shall be praised" (Prov. 31, 30.); and it states further, "Give her of the fruit of her hands, and let her work praise her in the gates." (v. 31.). Likewise it says, "Go forth, O ye daughters of Zion and gaze upon King Solomon, even upon

- e). According to R. Mattena, permission was granted on that day for those killed at Bethar (During the Bar Kochba revolt), to be buried. In fact, according to R. Mattena, so important was this event regarded by the Rabbis that a special benediction "Who art kind and dealest kindly", was introduced by them in the Grace after meals, to mark the occasion.

Dr. Marmorstein, however, rightly points out that this must surely be an anachronism, ~~the~~ since there was no room for such festivities after the defeat at Bethar, and moreover, the custom took place in Jerusalem during Temple times, long before the fall of Bethar.

(See A. Marmorstein, Greek and Jewish Customs and Popular Usages; in Occident and Orient, Gaster Anniversary Volume, London, 1936, p. 413. note 28.).

- f). According to Rabba and R. Joseph, it is the day on which every year they discontinued to fell trees for the Altar; for it was taught by R. Eliezer the Elder that from the fifteenth of Ab onwards, the strength of the sun grows less and less and they no longer felled trees for the Altar, because they would not dry sufficiently. (undried wood harbours woodworms which make the wood unfit for the Altar). After the fifteenth of Ab, the rays of the sun are not sufficiently strong to dry the fresh-cut logs, and therefore, the felling of trees for the Altar had to be discontinued.
(Jer. See Soncino Ta'anith, p. 163, note 8.).

On the other hand, R. Jacob b. Aha maintains that the fifteenth of Ab was the only day on which trees for the Altar were felled, "Since trees felled on that day would harbour no worms."

(Jer. Ta'an. 4, 7; Lam. R. Introd., 33.).

- 48). In case they had been worn by a woman in a state of uncleanness and so became unclean.

The crown

wherewith his mother hath crowned him in the day of his espousals, and in the day of the gladness of his heart" (Cant. 3, 11.). "On the day of his espousals" refers to the day of the giving of the Law. "and in the day of the gladness of his heart" refers to the building of the Temple; may it be rebuilt speedily in our days." (50).

The Rabbis tell us that all unmarried men went to these dances with the obvious intention of choosing a wife. (51).

49). These dances, no doubt, originated in Biblical times, where we read of the annual dances of the maidens of Shiloh (Jud. 21, 19.). On that occasion, the maidens were taken for wives by the men of Benjamin, and it is possible that on subsequent occasions, these annual dances were utilised by the girls as a means of attracting husbands. It should be noted that when these dances were held in Shiloh, the Ark of God was stationed there, and it is possible that with the transfer of the Ark to Jerusalem, the dances were moved from Shiloh to Jerusalem.

It has been suggested by Dallmann that these dances were connected with the agricultural life in Palestine. The 15th of Ab would be the full moon of the first month of the vine-gathering, and the tenth of Tishri, the end of the season of vine-gathering and the beginning of the rainy season. (G. Dallmann, Arbeit und Sitte in Palaestina, Gutersloh, 1928. vol. I. p. 256.).

It has also been suggested by Dallmann that the Feast of Mary, as preserved by the Christian Arabs up to the present, may have had its origin in the dances mentioned in the Mishna (Dallmann, p. 592), and Dr. Marmorstein strongly supports this view by stating, "The similarities between the Mishnaic feast and that of the Palestinian Arab Christians are so striking that we cannot fail to see in the latter the continuation of the former."

(A. Marmorstein, Greek and Jewish Customs and Popular Usages, op. cit., p. 414.).

Herodotus gives an account of a custom that existed in his time in Babylon, when all the girls of marriageable age were disposed of in marriage at a public gathering. Thus Herodotus writes, "The wisest of these customs, is a custom of the Eteni in Illyria. Once a year in every village, all the maidens as

The following additional account of the proceedings is given in a Baraitha(52). "The beautiful girls used to say, consider only beauty, for a woman is only for beauty. Those girls who came from noble families used to say, consider the family, for the woman is only for the purpose of bearing children(53). Those who were not beautiful used to say, take your purchase in the name of heaven(54), only on condition that you adorn us with jewels of gold."(55).

they reached marriageable age, were collected and brought together in one place, with a crowd of men standing round. Then a crier would stand up and offer them for sale, one by one, first the fairest of them all, and then when she had fetched a great price, he put up for sale the next comeliest, selling all the maidens as lawful wives. Rich men of Assyria who desired to marry, would outbid each other for the fairest; the common people who desired to marry and cared not for beauty, could take the ill-favoured and the money therewith.... the money came from the sale of the comely damsels and it thus paid the dowry of the ill-favoured and the cripples." (Herodotus, 1,196.).

50). B.B.121a; Ta'an.26b; Lam.R.Introd.33.

51). Ta'an.31a.

In Athens, the public festivals witnessed by men, in which girls took part in dancing and running, were the recognised occasions for proposals of marriage. (G.Thomson, Aeschylus and Athens, London,1941. p.105.).

52). Ta'an. 31a.

53). Rashi explains that children from a good(noble) family, will have many offers for marriage.

54). Compare the statement of R.Johanan, "He who marries a woman in the name of Heaven, will have children who will save Israel." (Der.Er.Zut., 10.).

55). Rashi, "If you will adorn us with ornaments, we too shall look beautiful."

THE BETROTHAL.

From the verse, "And what man is there that hath betrothed a wife and not taken her" (Deut. 20, 7.), it is clear that in ancient Israel the betrothal and marriage did not take place at the same time. In fact, several Biblical passages refer to negotiations requisite for arranging a marriage and yet when the negotiations have been completed, certain formalities are still required before consummation of marriage. (See Gen. ch. 24; Song of Songs, 3, 8; Jud. 14, 2-7.).

The selection of the bride was, therefore, followed by a betrothal; a formal proceeding undertaken by the father or legal representative on the part of the bridegroom, and by the parents on the part of the bride; it was confirmed by oaths and accompanied with presents to the bride. (56).

Thus, Eliezer on behalf of Isaac, propitiates the favour of Rebekah by presenting her with a massive golden nose-ring and two bracelets; he then proceeds to treat with her parents, and having obtained their consent, he brings forth "jewels of silver and jewels of gold and raiment" for the bride, and presents of less value for the mother and brother (Gen. 24, vv. 22, 53.). When an agreement is

56). See W. Smith, Dictionary of the Bible, vol. II. p. 249. "In this respect" writes Dr. Smith, "we may compare the practice of the Athenians, who regarded the formal betrothal as indispensable to the validity of a marriage contract."

had been entered into, it was definite and binding upon groom and bride, who were considered as man and wife in all legal and religious aspects, except that of actual cohabitation. So far as the legal procedure was concerned, it appears that the betrothal marked the completion of the negotiations, whence it follows that even when the marriage awaited consummation, a betrothed woman was treated by law as practically the equivalent of a fully married wife.(57).

The betrothal in Biblical times was, therefore, far more final than our modern "engagement". Thus in the case of adultery on the part of a betrothed woman, the penalty was the same as for a married woman.(Deut.22,24.). Jacob, on the completion of the period of service, boldly demands his "wife", though he is not yet married to her.(Gen. 29,21.). The betrothed of Samson is likewise called his "wife"(Jgd.14, vv.15,16,20; 15,1.). Similarly, in the case of David we are told, "And David sent messengers to Ish-boset, Saul's son saying; deliver me my wife Michal, which I espoused for me for a hundred foreskins of the Philistines."(II Sam. 3,14.). The violation of a damsel betrothed to a man is spoken of

57). See Driver on Deuteronomy (I.C.C.) p.257.

58). In Babylonia and Assyria, from the time of betrothal and presentation of gifts and the payment of the purchase-price, the woman was called a "wife" and the man a "husband" and a mutual obligation of marriage was then in existence. Driver and Miles, speaking of the Babylonian and Assyrian laws with regard to the betrothed, prefer not to speak of betrothal but of inchoate marriage, comparing it to the old English form of marriage in law as "per verba de futuro"... a complete union in all respects except that it awaited physical consummation.

as a crime against the "wife" of his neighbour(Deut.22,23-24.). Hosea uses betrothal in a figurative sense to represent a covenant of a deeply binding and perpetual nature.(Hos.2,19-20.) (58).

It is possible that in the early period of Biblical history, the principal, if not the only ceremonies were connected with the betrothal, and that when these were completed, the consummation of marriage might follow at any time at the option of the parties concerned. This was certainly the case of Isaac and Rebekah, where we find that all formalities were over with at the betrothal, and on the bride's arrival at her new home, she was simply conducted to her tent.(Gen.24,63-7.). Similarly, when David had fulfilled the conditions imposed by King Saul, he receives Michal as wife. (I Sam.18,27.).

The act of betrothal is described in the Bible by three Hebrew words.

a). וָּכַח (Ex.22,16; Deut.22, vv.23,25,27; II Sam.3,14;etc.)

which according to Gesenius can be compared to the Arabic, with the meaning "to pay the price" or to the Assyrian, meaning "tribute". According to Abrahams, the Talmudic abstract וְכִיחָא is derived from this meaning word, meaning "to contract an actual though incomplete marriage" (59).

b). וְיָחַד (Ex.21,8-9.), which may be compared to the Arabic, meaning "to promise". This word is, however,

(See Driver and Miles, The Assyrian Laws, op.cit., pp. 145,167.

used extensively in the Bible to signify "appointment" (See II Sam. 20,5; Jer.47,7; Mic. 6,9; etc.), and it may, therefore, mean "the one appointed for him".

- c). קָנָה only found in Lev.19,20. According to Gesenius, it can be compared to the Arabic, meaning to "acquire" and it has been suggested that it is used to denote marriage by capture rather than marriage by purchase. (See Encyclopedia Biblica, vol.I. p.570.).

When it is agreed that Rebekah should marry Isaac, Eliezer presents gifts to her mother and brother, which the Bible calls כֶּדֶם (Gen.24,53.). Shechem, in negotiating for the hand of Dinah, offers to pay Jacob and his sons "never so much" כֶּדֶם and / כֶּדֶם (Gen.34,12). King Saul, in order to secure the death of David at the hands of the Philistines, sends a message that the king does not desire any כֶּדֶם for the hand of his daughter, but only one hundred foreskins of the Philistines.(I Sam.18,25.). There is no fixed sum mentioned in the Bible for כֶּדֶם, but in cases of seduction of a virgin, the Biblical law prescribes a fine "equal in sum to the כֶּדֶם of virgins."(Ex.22,15-16).

In cases of rape, however, the Bible prescribes a fine of fifty shekels(Deut.22,28-29.), and the Rabbis infer that rape and seduction are equal offences.(60). Consequently, the sum equal

59). See J.E. vol.III. p.125.

60). Keth.29b; 30b; Mehilta on Ex.22,16.

to the כֶּתֹּוֹב of virgins would be fifty shekels. It should, however, be pointed out that the כֶּתֹּוֹב was not necessarily paid in money, but might take the form of services rendered. Thus Jacob gives fourteen years of service for his two wives. (Gen.ch. 29.). Othniel offers military service for the hand of Caleb's daughter, and David offers one hundred foreskins of the Philistines for Saul's daughter. (I.Sam.18,25.).

The word כֶּתֹּוֹב in Hebrew and Aramaic, according to Robertson Smith, is equivalent to the Arabic Mahr, which is a sum of money paid to the bride's parents.(61). In primitive society, it was claimed as compensation for the loss to the family of a valuable member.(62). This would imply that the כֶּתֹּוֹב constituted an integral part of the betrothal arrangements in ancient Israel and that there could be no betrothal without the payment of כֶּתֹּוֹב . In fact, according to Dr.Mace, the principal factor which governed betrothal appears to have been the payment of the Mohar, which according to him, constituted the bride-price.(63).

Similarly, Pedersen regards כֶּתֹּוֹב as a compensation gift(64), "When the young woman passes from her own family into that of her husband, it is thus two family spheres meeting. ~~The~~

61). W.Robertson Smith, Kinship & Marriage in Early Arabia, London, 1903, p.96.

Gesenius connects it with the word כָּוַח , to sell, and evolved the sense of "purchase money." It has also been connected with כָּוַח to hasten, as though it signified a present, hastily produced for the bride when her consent is obtained; and again with the Hebrew word כָּוַח to-morrow, as though

Her family give some of the best they possess, their flesh and blood, and to put things on an equal footing, it is invariable demanded that the family of the bridegroom should give something to the family of the bride. If they do not give a jewel as valuable as a daughter, they must give something of what belongs to them. They give a bridal sum, "Mohar" of their property, not merely as a material compensation but as a mental balancing of what is given by the family of the bride; for in the eyes of the Israelite, property is also a living thing and is part of his soul. Thus, the family of the bride are not wholly givers, that of the bridegroom not wholly takers, and the bond between the two families is strengthened."(65).

The Rabbis, however, translate מוהר by / מוהר, from the Greek *μερμήρη* "dowry".(66). Whether this implies a compensation gift or purchase-price is a matter of conjecture. To Strahan, however, it was quite clear that "to betroth a woman, was simply to acquire possession of her by paying the Mohar, or purchase-money."(67). Similarly, Peterson maintains that the Mohar was "a price or ransom paid to the father or brothers of the bride.(68).

Driver and Miles reject the idea that Mohar was the actual price of the bride and suggest that the Mohar, if it was anything

it were a gift presented to the bride on the morning after the wedding.

(See W. Smith, Dictionary of the Bible, II. p.249, note k.)

On the other hand, Neufeld maintains that the origin of the word is very obscure and it is one of those very ancient

more than a customary complimentary present, was originally the price paid to a father for giving up a daughter to a bridegroom in order that he might beget children from her.(69).

In addition to the Mohar, social usage in antiquity required the groom or his family representative to give presents to the bride at the time of betrothal. These presents were called, מָחָר (pl. מַחָרִים, from the Hebrew verb מָחַ to give.). According to the Midrash, מָחָר is the same as מַחָרִים from the Gk. Πάραφερνον which Jastrow translates as "that which the bride brings over and above her dower."(70).

It should, however be noted that the term מָחָר is used in the Bible for gifts in general. Thus Abraham gives מַחָרִים to the sons of his concubines(Gen.25,6.); and the Feast of Purim was to be celebrated by sending portion to one another and by giving מַחָרִים to the poor.(Esth. 9,22.).

words of which the etymology is almost lost.

(E.Neufeld, Ancient Hebrew Marriage Laws, London,1944,p.94. note 1.).

62). W.Robertson Smith, op.cit., p.63 ff.

Dr.van Selms also maintains that the basic idea of mhr is that of a compensation gift.

(A van Selms, op.cit., p.23.).

According to Granqvist, in Arabic countries the Mohar was regarded as bride-money paid as compensation for lost labour power. Some regard it as merely a sale, like a person selling an article.... a horse,cow,camel etc.

(H.Granqvist, op.cit., I. p.133.).

63). D.R.Mace, op.cit., p.168.

64). ~~Art. Family(Biblical) in E.R.E. vol.V. p.724.~~

The difference between כֶּתוּבָה and מִתְּנָה is explained by Dr. Epstein as follows, "Originally כֶּתוּבָה and מִתְּנָה were both paid in cash, yet were already distinctive from each other. The former was given to the father, the latter to the bride; the former was legal and compulsory, the latter was social and voluntary." (71). On the other hand, it has been suggested by Neufeld that the מִתְּנָה in earlier times remained the property of the husband, the wife having only a life interest. (72).

In addition to כֶּתוּבָה and מִתְּנָה which the bridegroom had to pay to the bride or her family, there is a reference in the Bible to the giving of מַתְּנָה to the bride's family (Gen. 24, 53). (73). These gifts, according to Burrows, should be regarded as merely complimentary presents or as a part of the formality of sealing the alliance between the families. (74). Neufeld would like to suggest that these gifts consisted most probably of chosen fruit of excellent quality. (75).

It is obvious that כֶּתוּבָה , מִתְּנָה and מַתְּנָה constituted payment of gifts to the parents of the bride or to the bride by the bridegroom or his family. There is no doubt that in ancient Israel they formed an essential part of the marriage negotiations, and were

65). Pederson, op.cit., p.68.

66) Gen.R. 80.7.

67). Art. Family (Biblical), in E.R.E. vol.V. p.724.

68). Hasting's Dictionary of the Bible, vol. III. p.270.

probably accepted as part of the betrothal ceremonial.

But what of the bride's family? Were they expected to offer gifts to the bridegroom or his family? Was it customary in Biblical times for the father of the bride ^{to provide} his daughter with a dowry? In the Book of Kings we are told that King Pharaoh had captured the city of Gezer, which he gave as a dowry to his daughter, the wife of King Solomon. (I Kings, 9,16), and according to Neufeld it consisted of a parting gift which the daughter received from her father on the occasion of her marriage. (76).

That a bride brought with her a number of gifts into her husband's home, we find reported in the Bible. Rebekah brings female slaves with her (Gen. 24, 61), and Jacob receives two female slaves from Laban (29, 27). Caleb gives his daughter a field (Josh. 15, 18.), and in post-Biblical times we are told that Tobit receives half of his father-in-law's property as a wedding gift. (Tob. 10, 10-11). (77).

69). Driver and Miles, The Assyrian Laws, op.cit., p.159.

70). Gen.R. 80,7.

71). L.M.Epstein, The Jewish Marriage Contract, New York, 1927.

72). Neufeld, op.cit., p.114.

73). Derived from נָדָב, meaning "noble" "of high value".

74). See Neufeld, op.cit., p. 115.

75). ibid. p.115.

76). ibid. p. 111.

77). This custom for a bride's father to give a "dowry" to his

THE BETROTHAL IN TALMUDIC TIMES.

Although no details are available in the Bible as to the means and manner of effecting a betrothal, in Talmudic times, both Mishnaic and post-Mishnaic, much literature has been devoted to this subject. The terms used for the act of betrothal are קידושין and $\text{קניין$ (78). The term קידושין signifies that by performing the act of betrothal, the man imposes upon the woman the character of a sanctified object. Whereas, prior to her acceptance of betrothal, the woman is regarded as a free person, i.e. free to marry any one she wishes, her status is immediately changed after the act of betrothal. She assumes the status of a married woman and thus becomes forbidden to other men, like sacred property. (79). In case of adultery her penalty would be death, and to annul a betrothal a bill of divorce would be required. (80).

The act of betrothal, however, does not imply that the woman is already permitted to the man for marital connections. (81). The betrothal was only an agreement that at some later date the two parties

daughter is already mentioned in Babylonian records. The early Babylonians call it *seriktum*, whilst the Assyrian writers denominate it by the term *sirku*.

(Driver and Miles, *The Babylonian Laws*, op.cit., p.271 ff.
The Assyrian Laws, op.cit., pp. 205 ff.

"It is very probable", writes van Selms, "that in Ugaritic society an analogy existed with the Babylonian *siruktum* or the Assyrian *sirku*."

(A.van Selms, *Marriage and Family life in Ugaritic Literature*, London, 1954. p.33.).

would be permitted to enter into the state of matrimony, although it carried with it all the legal consequences of marriage, excepting some modifications mostly of a civil(pecuniary) character.

According to the Mishna, the act of betrothal could be effected in three ways. Thus the Mishna states, "A woman is acquired in three ways.....by money, by writ or by intercourse.(82).

a). BY MONEY.

According to the school of Shammai, in order to effect a betrothal, a man or his representative would have to give the woman a dinar(83), or an article to the value of a dinar; it being clearly understood that the money was given to her for the purpose of betrothal. On the other hand, the school of Hillel maintained that any coin, even a coin to the value of a Perutah(84), or its value in goods, given to a woman for the purpose of betrothal, would be effective.

It was, however, understood that the mere handing of money to a woman would effect no betrothal unless it was given to her in the presence of at least two witnesses and clearly stipulated that it is given to her for the specific purpose of effecting a betrothal.(85).

78). According to Hirschberg, the verb וּרְכַשׁ is-derive can be compared to the Assyrian "Arriassa", a gardner, a person who rents a field. The same as a person who hires a field, has no right to the actual field(he has only the right to the produce of the field), so a person who betrothes a woman has no right to her body.

(A.S.Hirschberg, Betrothal and Marriage in the Talmud, Hebid, vol.V. Berlin, 1923, p.84. note 7.).

It was also understood that instead of money, any article provided it is of some value could be used, and we are told of a number of people who performed the act of betrothal with certain articles, and the Rabbis declared the betrothals to be valid provided those articles had the minimum value of a Perutah.(86).

At the time of giving the money or article, it was necessary for the man to repeat the formula, "Behold thou art betrothed unto me with this money(or article).(87). Consequently, if it was the woman who gave the money or article to the man, and she repeated the formula, the betrothal is not valid. If the money or article belonged to the man, but it was the woman who repeated the formula; or if the money or article belonged to the woman and with it the man repeated the formula, the betrothal is not valid.(88).

79). Kidd.2b.

80). Keth.4,2.

81). According to Prof.Krauss, the term לְפָנָיו refers to the husband, i.e. she is forbidden to him till after the marriage.

82). Kidd.1,1.

83). Denarius, a silver or gold coin; the former being worth one twenty-fourth(according to others one twenty-fifth) of the latter.

84). The smallest copper coin, equal to one eighth of an issar, or one sixteenth of a dupondium.

85). Kidd.5b.

86). Kidd. 12a&b.

Thus we are told that a certain man betrothed a woman with a bundle of tow cotton. The Rabbis, in discussing the validity

It was also essential that prior to the act of betrothal, a man should first negotiate with the woman (or her father, in case of a minor) as to his intention of betrothal. These preliminary discussions prior to the betrothal, were introduced by Rab in the third century C.E., and consequently, anyone betrothing a woman without any previous discussion would receive a number of lashes.(89).

It was also understood by the Rabbis that it was not necessary ~~for~~ that the money or the article be handed to the woman. Thus the Rabbis taught, "If a man says to a woman, 'Be thou betrothed unto me with a Maneh(90), and she replies, 'Place it on a rock', if the rock belongs to her, the betrothal is valid." Similarly, if a man says to a woman, "Be thou betrothed unto me for a loaf of bread" and

of the betrothal decided, that if the bundle of tow cotton was worth a Perutah, the betrothal was valid. On the other hand, even in cases where the article was not worth a Perutah, Samuel was prepared to declare the betrothal valid on the ground that the article may be worth a Perutah in another part of the country or in a different country.

Another case is reported of a man who betrothed a woman with a mat of myrtle twigs. When people said to him "But this is not worth a Perutah" he replied "then let her be betrothed with the four Zuz it contains" (the money was wrapped in the mat). Having accepted the mat of myrtle-twigs, the woman remained silent. According to Raba, the betrothal is not valid; for when she took the matting, she knew that it was not worth a Perutah and, therefore it was not necessary for her to reject the proposal. Her subsequent silence made no difference, for when she was told that it contained four zuz, there was no declaration of betrothal.

- 87). According to Samuel, if at the time of handing her the money or the article, the man states, "Behold thou consecrated", "Behold thou art betrothed", or, "Behold thou art a wife", the betrothal is valid. If he declares, "Behold I am thy husband", "Behold I am thy master" or "Behold I am thy betrothed", the betrothal is not valid. Consequently, if subsequently she receives an offer

she replies, "give it to the dog"; if the dog belongs to her, the betrothal is valid. If, however, she tells him to give it to the poor man (who was probably standing near them), she is not betrothed, even if the poor man relies on her for support, since she can claim that just as she has a duty towards the poor, so has he. (91).

On the other hand, a man could not betroth a woman with money or an article that did not belong to him. Thus R. Johanan stated that if one stole an article and the owner did not abandon hope for its return, both cannot consecrate it (92); the thief, because it is not his; and the owner, because it is not in his possession (93), and Rab maintains that if a man betrothes a woman with an article of robbery, violence or theft, the woman is not betrothed. (94). The story is told of a man, a tenant-farmer, who betrothed a woman with a handful of onions. When the matter came before Raba, he asked the man, "Who renounced it in your favour?" (95).

of betrothal from another man, she is at liberty to accept it. (Kidd. 5b.).

88). Kidd. 12a; 13a.

A case is reported of a certain woman who was selling silk skeins, when a man came and snatched one away from her. "Give it back to me" she demanded. "If I give it back to you", he asked, "will you become betrothed unto me?" The woman took the article and was silent. According to R. Nahman, the betrothal is not valid, since she can claim that what she took belonged to her.

89). Kidd. 12b; Yeb. 52b.

That Rab found the Jews of Babylon very lax in matters of betrothal, is clear from the many cases cited by the Rabbis. Thus we are told that a man was selling glass beads, when a

As previously stated, a man was expected at the time of betrothal to hand the woman some money or an article. The mere recital of the formula "Be thou betrothed unto me" is not sufficient to effect a betrothal. Similarly, if a man says to a woman, "Be thou betrothed unto me with the debt that you owe me," the betrothal is not valid.(96). The betrothal is also considered invalid when a man says to a woman, "Be thou betrothed unto me with the money that I am giving you on condition that you return it to me."(97).

On the other hand, the Rabbis were prepared to declare a betrothal valid, provided the woman derived some benefit from the man's action on her behalf. Thus, Raba stated, "If a woman says, give me a Maneh to so-and-so and I will become betrothed unto thee" and the man gives the money unto so-and-so, the woman is betrothed, provided at the time of giving the money to so-and-so, the man states, "Behold thou art betrothed unto me with the money that I am giving to so-and-so."(98).

woman came and asked for a string of beads. "If I give it to you" the man asked "will you become betrothed unto me?" "Oh, indeed give it to me" the woman replied. According to R.Huna, such an expression, "Oh, give it to me" means nothing; it merely emphasises her request for the article, but does not imply consent for betrothal.

Another case is reported of a man who was throwing down dates from a palm-tree, when a woman passed by and asked for some dates. "If I throw some down to you, will you become betrothed unto me?" the man asked. "Oh, indeed, do throw them down," the woman replied. In the opinion of the Rabbis, such cases of betrothal are not valid.

90). One hundred zuz. The Maneh was a weight in gold equal to one hundred shekels.

According to the Mishna, "If one says to a woman, behold thou art betrothed unto me on condition that I speak to the governor on your behalf, or that I work for thee as a labourer; if he speaks to the governor on her behalf, or works for her as a labourer, she is betrothed."(99). The Mishna, therefore, was prepared to declare a betrothal valid, even when no money or article was handed to the woman at the time of betrothal. Resh Lakish, however, explains the Mishna to imply that such a betrothal is valid, provided at the time of betrothal the man gives her the value of a Perutah.(100).

91). Kidd.8b.

The Rabbis accepted the principle that only in cases where the woman has clearly implied her consent, is a betrothal valid. Considering the fact that a betrothal changes the status of a woman, i.e. she cannot accept marriage from another man without a divorce from the person who betrothed her, or if she lives with another man without a divorce her penalty would be death, the Rabbis had to be very careful in deciding the validity of a betrothal. The first consideration was the consent of the woman. There could be no betrothal without her consent. If, therefore, she acts in a manner whereby her consent to the betrothal is in doubt, the betrothal is invalid. Thus, if she accepts money for the purpose of betrothal but throws the money into the sea or into the fire or anywhere, where the money cannot be recovered, the betrothal is not valid; although we might say that since she is liable for the money, she might have consented to the betrothal, and the reason she threw it away was to test the man whether he is hot-tempered. (Kidd.8b.).

92). The same applies to betrothals.

93). Kidd.52a.

94). ibid.

There is an opinion expressed that betrothal with a stolen article is valid, since the owner of the article has probably abandoned hope of ever recovering it.

Similarly, if a woman says to a man, "Sit with me as a companion and I will become betrothed unto thee; jest with me; dance with me; do as was done in the public games" according to Resh Lakish, if in addition he gives her the value of a Perutah, the betrothal is valid.(101). On the other hand, some Rabbis maintain that there was no need to give any money to the woman. If his services for her are assessed to be worth at least a Perutah, the betrothal is valid. (102).

- 95). Since the onions belong partly to the landlord, it cannot be used by the tenant for the purpose of effecting a betrothal.
- 96). Kidd.6b.
- 97). ibid.
- 98). ibid.7a.
- 99). Kidd. 3,6.
- 100). ibid. 63a.
- 101). ibid.
- 102). ibid.

B. BY WRIT.

If a man wished to perform the act of betrothal by a written document, the Rabbis stated that the betrothal would be effective if he wrote on a piece of paper or on a shard, "Behold thou art betrothed unto me", or "Behold thou art my wife", and handed it to her in the presence of two witnesses. In the case of a minor, the written document which would be accepted by the father on behalf of his daughter, must contain the wording, "Behold thy daughter be consecrated to me" or "thy daughter be betrothed to me" or "thy daughter be my wife." (103).

The question was asked whether such a document had to be written expressly for that woman whom he wishes to betroth, and the reply was given that in the case of a betrothal, just as in the case of divorce, the document must be written expressly for her sake. (104). This clearly implies that a man, possessing a document on which were written the words, "Behold thou art betrothed unto me" could not effect a betrothal by this document. If the document was written for that particular woman, but it was written without her knowledge, it cannot be used to effect a betrothal. (105). It was also understood that it was not necessary for the paper on which the wording "Behold thou art betrothed unto me" was written, to have any value. (106).

103). Kidd. 9a; 9b.

104). ibid. 9a.

C. BY INTERCOURSE.

This, no doubt, was the earliest and most primitive mode of effecting a betrothal. According to Maimonides and Bartinero, the intercourse had to be done in the presence of witnesses, but Tif. Israel rightly points out that this cannot be taken literally. The betrothal would be effective if there were witnesses to their being alone in a private chamber and the witnesses overheard the man reciting the formula, "Behold thou art betrothed unto me by this intercourse." (107).

Whether such an act would constitute betrothal or marriage, is discussed by the Rabbis. Both Abaye and Raba maintain that even by intercourse, the woman does not receive the status of a married woman until she enters the קַדֻּשׁ (108). It was, however, characteristic of Rab that he prohibited this mode of effecting a betrothal. Thus we are told that Rab used to flog anyone betrothing a woman by intercourse. (109).

105). Kidd. 9b.

106). ibid. 9a.

107). See Bartinero and Tif. Israel on Kidd. 1, 1.

108). Kidd. 10a; 10b.

קַדֻּשׁ lit. canopy, the bridal-chamber; the entrance of a bride into the bridal-chamber, whereby the marriage was completed.

109). Kidd. 12b.

THE KETHUBAH. (110).

In Talmudic and post-Talmudic literature, the Kethubah formed an essential part of the betrothal and marriage. In fact, already in the second century, C.E., it was stated by R.Meir that it is forbidden for a man to live with his wife without a Kethubah.(111). This may refer to a Kethubah written at the time of marriage, although several scholars maintain that the Kethubah was usually written at the betrothal. Thus, Dr.Buchler points out that when a Kethubah was written, it was usually written at the time of the betrothal. (112). Similarly, in the Otzar Hageonim on Kethuboth, it is stated, "After he has recited the formula for the betrothal, he hands her the Kethubah".(113).

On the other hand, J.d'Trani states that in the whole of Babylon, the recital of the marriage formula and the Kethubah were both done at the marriage and not at the betrothal.(114).

From many references to the Kethubah in the Talmud, it is clear that the writing of the Kethubah took place at the betrothal. Thus, in connection with a certain incidents that took place in Alexandria in the first century, B.C.E., we read as follows, "When the men of Alexandria used to betroth women, strangers came and carried them off. When the matter was brought to the notice of the

110). Lit. "A written document". It is also known in rabbinic literature as כְּתוּבָה (Yeb.15,3; Tos.Ed.1,6; Ed.1,12.) or כְּתוּבָה (Keth.104b.).

Rabbis, they wanted to declare their children bastards(115); Hillel the Elder, however, ordered the children to produce the Kethubah of their mothers. When these were produced, it was found that they contained the stipulation, 'When you enter my house, you will be my wife according to the Law of Moses ~~of~~ and of Israel.'"(116).

That a betrothed woman had a Kethubah, is clear from the following ~~Kethuba~~ Mishna, "A woman that is betrothed.... may not drink the bitter waters(117) or receive the payment of her Kethubah, since the Bible states, 'When a wife being under her husband goeth aside'(Numb.5,29.), thus excluding the betrothed woman"(who is not yet under her husband).(118).

Another Mishna makes a distinction between a betrothed and a married woman and in each case we are told that the woman possessed a Kethubah. "If she was left a widow or was divorced, whether after the betrothal or marriage, she may lay claim to the whole of her Kethubah"(119).

111). Keth.57a; B.K.89a.

112). Studies in Jewish History, The Buchler Memorial Volume, Oxford, 1956. p.145.

113). Otzar Hageonim on Kethuboth, Jerusalem, 1939. p. 17.

114). Tosafoth of J.d'Trani on Keth.7a.

115). Since the betrothed woman was considered as married, any children from another man would be regarded as bastards.

116). B.M.104a; Tos.Keth.4,5; Jer.Keth.4,9; Jer.Yeb.15,3.

According to this stipulation the woman was not considered married until after the marriage ceremony.

The same fact emerges from another Mishna. "If a man betrothed to himself one of five women and does not know which, and each one of the five says that he has betrothed her, he gives a bill of divorce to each one and deposits a Kethubah before all five and is quit. This is the view of R. Tarfon. R. Akiba says, 'In this way he does not remain free from sin, unless he gives each of them a Kethubah besides the bill of divorce.'" (120).

An anonymous Baraitha belonging probably to the beginning of the third century, C.E. shows that the Kethubah of the betrothed woman continued to be in vogue. Thus, a Baraitha states, "The priest does not need to mourn for his deceased betrothed before the burial, nor may he make himself levitically unclean through her corpse; the same applies to the betrothed woman when her betrothed dies. When she dies he is not her heir; when he dies, she receives her Kethubah" (121).

In the case of a minor, i.e. a girl under the age of twelve years and a half, the question was asked whether she or her father

116). That such a document was written in Alexandria at the betrothal can be inferred from Philo's explanation of the law in Deut. 22 on the violation of a betrothed woman, where he describes the betrothal as follows, "The written agreements of the betrothal, which are to lead to marriage and to have the same force as marriage, contain the names of the man and the woman and other points concerning the marriage. (De specialibus legibus, iii.12.311.).

117). If a husband suspects his wife of unfaithfulness, he may bring her to the Sanctuary for an oath of purgation and the drinking of "the water of bitterness." If she is innocent, no injuries result; if guilty, the combined oath and ordeal produce physical

were entitled to the Kethubah, and the answer is given by the Mishna, "If a man gave his daughter in betrothal and she was divorced, or if he gave her in betrothal and she was left a widow, her Kethubah belongs to her father. If he gave her in marriage and she was divorced or was left a widow, her Kethubah belongs to her." (122).

In view of the fact that the Rabbis of the Mishna and the Talmud have attached so much importance to the Kethubah, it may seem strange that no reference to such a document is found in the Bible. In Deuteronomy we read, "When a man hath taken a wife and married her, and it came to pass that she find no favour in his eyes because he hath found some uncleanness in her, then let him write her a bill of divorcement and give it ⁱⁿ ~~to~~ her hand and send her out of his house" (24,1.).

If, therefore, a writ of divorce is mentioned in the Bible, how is it that no mention is made of a writ of betrothal or marriage? Is it possible that in biblical times no such documents were known or considered necessary? (123). Dr. Epstein, in discussing this matter, makes the following observation: "There is decidedly

effects that proclaim her guilt to the world.
(See Numb.5,11-31.).

118). Sota,4,1.

119). B.M.17b; Keth.5,1; Jer.Keth.5,1.

120). Yeb.15,7.

121). Keth.53a; 89b.

no evidence in the Bible of the existence of a writ in connection with marriage. On the contrary, the evidence is against it.

Dramatic effort is much sought in the narrative of the marriage of Isaac and Rebekah. Many a detail finds place in the biblical record of that marriage. Not a word about a writ.

Jacob's marriage, first to Leah and thereafter to Rachel, involves misrepresentation and deception. Why not refer to the stipulation of a writ? Laban and Jacob have a heated controversy between them, when the latter leaves the house of the former. Questions of dowry are involved. The Kethubah is not brought into testimony. They conclude by an oath covenant...which is recorded on a heap of stones and not on a writ. The Book of Ruth takes all the pains necessary to describe in full the consequence of Ruth and Boaz, without admitting any writing into the ceremony. Nor is a writ recorded in the marriages of Samson and of David, nor does any Prophet use the marriage-writ in any of the similes of Israel's betrothal to God.

We must, therefore, conclude that the writ in general and the marriage-writ in particular, are not originally Jewish institutions. Originally, they belong to Babylonia(124), the mother of

122). Keth. 4, 2.

123). According to Code Hammurabi, a marriage acquired legal validity at the moment of signing the marriage contract, after which the woman became a legal wife. (par. 128):

124). According to the Babylonian Laws, if a man marries a woman,

commerce and commercial deeds in antiquity. Jewish contact with Babylonia was necessary in order to introduce the writ in Judea. This contact came about in a political and commercial way during the last century of the first Commonwealth, and with it came the adoption of the Kethubah, among other writs, by the Jews.(125).

There were, however, a number of Tannaim who maintained that the Kethubah has its origin in the Bible and is, therefore, a biblical enactment. According to R.Ishmael, the Mohar mentioned in the Bible refers to the Kethubah.(126). Although R.Simeon b. Gamliel maintained that the Kethubah was a rabbinic institution, he subsequently agreed that the Kethubah of a virgin is a biblical enactment. Only in the case of a widow ~~th~~ did the Rabbis institute a Kethubah.(127). In fact, several Palestinian Rabbis seem to have accepted the biblical origin of the Kethubah without any hesitation.(128).

In the mind of R.Meir there was no doubt that the Kethubah was a biblical enactment.(129). In discussing the difference in status between a "wife" and a "concubine" in biblical times, R.Meir maintained that a "wife" had a Kethubah, whereas a "concubine" did not (130); and according to R.Judah in the name of Rab, in

but has not executed a contract for her, she is no wife.
(See Driver and Miles, The Babylonian Laws,op.cit., p.245.).

125). See L.M.Epstein, The Jewish Marriage Contract, op.cit., pp. 30-31.

126). Jer.Keth.3,5.

biblical times a "wife" was acquired by a Kethubah together with a declaration of betrothal; whereas a "concubine" would have neither a Kethubah nor was it necessary to make a declaration of betrothal in order to acquire her.(131).

Whether the Kethubah is a biblical or rabbinic institution, there is no doubt that it was used in Palestine before the destruction of the Temple. The earliest reference to a written document in connection with marriage is found in the Book of Tobit. "Then he called his daughter Sarah and she came to her father and he took her by the hand and gave her to be wife to Tobias saying, 'Behold take her after the law of Moses, and lead her away to thy father.' And he blessed them and called Edna his wife, and took paper and did write an instrument of covenant and sealed it."(Tobit,7,13-14.). According to Tobit, the incident took place in the time of Shalman-esser king of Assyria, about 720 B.C.E. But scholars maintain that the Book of Tobit was written about 200 B.C.E. (132).

The Elephantine papyri contain a marriage contract of a couple married according to Jewish rites, dated about 440 B.C.E., which reads as follows: "On the 25th of Tishri, that is the sixth

127). Keth.10a.

128). Yer.Keth.4,8,11; Jer.Yeb.15,3.

129). Keth.10a; 56a; etc.

130). Jer.Keth.5,2.

131). Sanh.21a.

day of the month.....of Artaxerxes the king, said Ashor b.Zeho, builder to the king, to Mahseiah Aramean of the detachment of Warizalh as follows. I came to your house that you might give me your daughter Miphtahiah in marriage. She is my wife and I her husband from this day for ever. I have given you as the price of your daughter Miphtahiah, the sum of five shekels royal weight. It has been received by you and your heart is content therewith. I have delivered to your daughter Miphtahiah into her hand for the cost of furniture... (sum).....I received and my heart is content therewith.(133).

It should be noted that in accordance with Jewish law, the document is signed by witnesses.

In another document, the marriage writ is referred to as "Shtar Intu".(134). It can, therefore, be stated that the Kethubah with some of its clauses as known to the Rabbis, was already used in marriages by the Jews in Egypt as early as the fifth century, B.C.E.

Dr.Gaster, in his conviction of the antiquity of the Kethubah, makes the following observation: "Another proof of the extreme antiquity of the Kethubah, going back to the time before the destruction of the Temple, is the fact that the Samaritans

132). See Charles, R.H., Apocrypha and Pseudepigrapha of the Old Testament, London, 1913.

133). A.Cowley, Aramaic Papyri of the 5th Century, B.C. Oxford 1923. No.15.

134). ibid. No.14.

have a fully elaborated Kethubah for marriage, as the marriage contract. A close examination of the documents goes a long way to prove that the Kethubah in its actual form at least, as far as the general outline is concerned, and the fundamental principle of being a safeguard for the women of Israel in their married life, is of very high antiquity, and we cannot, therefore, be surprised to find such close similarity between the Samaritan and Jewish documents." (135).

On the other hand, we find in Babylon in the third century C.E., places where it was not customary to write a Kethubah, either at the betrothal or marriage. (136).

According to a Baraitha, it was Simeon b. Shatah, of the first century, B.C.E., who instituted the Kethubah. (137). This, however, cannot be accepted since the Tosefta states that the Kethubah had already existed in Palestine before the time of Simeon b. Shatah. Thus, the Tosefta states, "At first, when the Kethubah was with her father (138), it was a simple matter for her husband to divorce her. Simeon b. Shatah, therefore, instituted that the Kethubah should be deposited with her husband and that all his property be security in payment for her Kethubah." (139).

135). M. Gaster, *The Kethubah*, Berlin-London, 1923. p. 18.

136). Keth. 89a.

137). Shabb. 14b; 16b.

138). i.e. the amount of her Kethubah was deposited with her father.

That the Rabbis were trying to find ways and means of making it more difficult for a man to divorce his wife, is already stated in another Baraitha: "At first they used to give merely a written undertaking in respect of a Kethubah of a virgin for two hundred zuz and in respect of a widow for one hundred zuz, and consequently they grew old and could not take any wives. (140). It was then ordained that the amount for the Kethubah should be deposited in the wife's father's house. At any time, however, when the husband was angry with her he used to tell her, 'Go to your Kethubah' (141). It was, therefore, ordained that the amount for the Kethubah should be deposited in the house of her father-in-law. Wealthy women (142) converted it into silver or gold baskets, whilst poor women converted it into brass tubs. Still, whenever the husband had occasion to be angry with his wife, he would say to her, 'Take your Kethubah and go'. It was then that Simeon b. Shatah ordained that the husband must insert in the Kethubah the pledging-clause, "All my property is mortgaged for your Kethubah." (143).

139). Tos. Keth. 12, 1.

When a woman married, she brought a dowry to her husband, which was returnable if he divorced her. Originally, the security for the return of her dowry was deposited with her father. This went through a number of changes until Simeon b. Shatah enacted that the husband should trade with the dowry and mortgage all his effect for its repayment; the purpose being to make divorce more difficult.
(See Soncino Shabbath, p. 59. note 6.).

140). As there was no clause in the Kethubah pledging the husband's landed property in case of divorce, women refused to marry under such precarious conditions.

It is, therefore, clear that even before the first century, B.C.E., the Kethubah formed an integral part of the Betrothal. It was a written document containing a number of clauses, safeguarding the interests of the wife in case of her divorce or her husband's death. It would appear, however, that the women were not quite satisfied with these clauses, which gave them no protection against divorce. They, therefore, took matters in hand and refused to marry unless better conditions for their security were inserted in their Kethubah. It was R. Simeon b. Shatah who inserted the special clause in the Kethubah to meet their demands.

As a result of this clause, we find a number of people who were unable to divorce their wives because they could not raise the amount of the Kethubah. (144). When R. Jose Hagelili was asked by his disciples why he did not divorce his wicked wife, his reply was, "Her Kethubah is large and I have not ~~xx~~ the means to give it to her." In fact, in order to enable him to divorce his wife, his disciples collected the money for her Kethubah. (145).

- 141). i.e. he could easily get rid of her since the amount of her Kethubah was at hand and there was no need for him to make any efforts to find the money.
- 142). The amount of whose Kethubah was high. In addition to the statutory sum of two hundred zuz in the case of a virgin and one hundred zuz in case of a ~~widow~~ widow, the Kethubah also contained additional obligations on the part of the husband corresponding to the amount the wife brought to him on marriage, usually in the form of a dowry.
- 143). Keth. 82b.

The Rabbis were indeed sorry for a man who was married to a wicked woman that could not be divorced on account of the Kethubah settlement. Thus R.Nahman applied to such a man the verse, "Behold I will bring evil upon them which they shall not be able to escape" (Jer.11,11.), and R.Hisda applied the verse, "The Lord had delivered me into the hands from whom I was not able to escape, rise up.(Lam.1,14.). (146).

144). According to Babylonian law, a wife on being divorced receives back her seriktum and is assigned certain other properties, described as a half-share of field, garden and chattels of her husband. This fact that the man has to give up a large proportion of his property, protects such a wife from capricious divorce.
(See Driver & Miles, The Babylonian Laws, op.cit., vol.I.p.293.).

145). Gen.R.17,2; Lev.R.34,14.

146). Yeb.63a.

THE CONSTRUCTION OF THE KETHUBAH.

From the many references to the Kethubah found in the Talmud, it is clear that the document consisted of a number of clauses, inserted to protect the interests of the wife. The earliest marriage contract discovered among the Elephantine papyri, dated about 440 B.C.E. already contains the following clauses.

1. The purchase price which the bridegroom is paying to the bride's father.
2. A detailed list of the mutual gifts with their values.
3. Terms of succession in case the marriage is dissolved at the request of either the husband or the wife.
4. Terms of succession if the husband dies childless
5. Consequences for the husband, should he compel her to leave him.
6. Covenant by the husband not to take another wife or to have children otherwise than by his wife.
7. Covenant by the husband to pay a specific sum in case of breach of contract. (147).

In Talmudic times, the following clauses were considered essential and had to be inserted in the Kethubah.

1. THE MAIN CLAUSE.

According to the Mishna, the Kethubah must contain the clause that if at the time of marriage the bride was a virgin, on the death of her husband or on being divorced, she is entitled to the sum of two hundred zuz. If at the time of marriage she was a widow

147). See A. Cowley, Aramaic Papyri, op.cit., pp.44;47-50.

she is only entitled to one hundred zuz.(148). There was, however, a Court consisting of priests who ordained that a daughter of a priest should be able to collect the sum of four hundred zuz as her marriage settlement.(149), and according to R.Judah in the name of Samuel, distinguished families in Israel could also insist that their daughters should receive the sum of four hundred zuz as their Kethubah settlement.(150).

If, however, the husband on his own accord wishes to increase the sum, he is at liberty to do so. Thus the Mishna states, "Although the sages have enacted that a virgin collects two hundred zuz and a widow one hundred zuz, if the husband wishes to add even one hundred maneh(i.e. ten thousand zuz) he may do so."(151).

On the other hand, there are cases reported where the wife agreed to accept less than the usual two hundred zuz, and the Rabbis maintained that she could only claim the sum stated in the Kethubah(152), although R.Meir stated that the intercourse of any man, who undertakes to give a virgin less than two hundred zuz, or a widow less than one hundred zuz, is an act of prostitution.(153).

In cases where no Kethubah has been written at the time of betrothal or marriage, the Mishna states that the woman may still claim two hundred zuz if she was a virgin at the time of marriage,

148). Keth.1,2.

149). ibid.1,5.

150). Keth.12b.

There was an opinion expressed that a man need not insert the maintenance clause in a Kethubah. On the contrary, he may insert a clause to the effect that he will not support his wife, and may even stipulate that she should support him. This clause was actually inserted by R. Joshua, the son of R. Akiba, who stipulated that the wife should support him and give him the opportunity of continuing with his studies. (166).

159). Keth. 48a.

160). ibid. 4, 12.

According to Babylonian Laws, it was usual for a husband to settle a share of his property by deed on his wife for her maintenance during widowhood, and in one document we read that the husband, who had sons from a previous marriage, laid on them the duty of maintaining their step-mother after his death.
(Driver & Miles, Babylonian Laws, op.cit., vol.I. pp.247 and 265.).

161). Keth. 54a.

162). Keth. 4, 12.

163). A town on the Euphrates, situated at its junction with the Royal Canal, about seventy miles north of Sura, and famous for its great academy.

164). Keth. 54a.

165). Jer. Keth. 4, 14.

The people of Galilee maintained that it would not be to the honour of the man, if after his death the widow would have to seek for means of a livelihood.

According to R. Hananiah bar Abahu, only the city of Caesaria followed the practice of Judea, whilst all other countries followed the practice of Jerusalem.
(ibid.).

III. MEDICAL SERVICE CLAUSE.

The Mishna states that if the wife sustains an injury, it is the duty of her husband to provide for her medical treatment. (167). Some Rabbis, however, did not require this clause to be inserted as they regarded medical treatment as part of her maintenance. R.Simeon b.Gamliel ruled that medical treatment of a limited liability may be deducted from her Kethubah, i.e. from the two hundred zuz to which she is entitled; but one which has no limited liability is regarded as maintenance and cannot be deducted from her Kethubah. Thus, blood-letting in Palestine was regarded as medical treatment of no limited liability, and it would be the husband's duty to pay the expense.(168).

It is related that R.Johanan's relatives had to maintain their father's wife, who required daily medical treatment. When they asked R.Johanan for his advice, he suggested to them that they should arrange her treatment with a medical man at an inclusive fee.(169).

166). Tos.Keth. 4.7; Jer.Keth.5.2.

167). Keth.4.9.

168). Keth.52b.

169). ibid. Since their liability would thereby become limited, they would be entitled to deduct it from her Kethubah.

IV. THE RANSOM CLAUSE.

The Mishna states that if a woman is taken captive, it is the duty of her husband to ransom her.(170). Consequently, a man was expected to insert the clause, "If you are taken captive I will ransom you and take you again as my wife.(171). In the case of a priest's wife, with whom her husband the priest may not live again after she had been a captive(172), the clause "and take you again as wife" cannot be inserted, and therefore, the words, "I will restore you to your paternal home" were inserted.(173).

There was, however, a difference of opinion among the Rabbis as to what financial extent a husband must go in order to ransom his wife. According to some, if the demand for her ransom is as much as ten times her value, her husband is duty-bound to ransom her, but only for the first time. Subsequently, there is no need for him to ransom her, unless he himself wishes to do so.

However, in the interests of the public, i.e. in order not to encourage captors to demand exorbitant prices for the ransom of captives, R. Simeon b. Gamliel ruled that captives must not be ransomed for more than their value.(174). The Tosefta stipulates that this clause only applies to the ransom of a woman taken captive by robbers. If the woman was taken captive in war, there is no obligation for her husband to ransom her.(175).

170). Keth.4.9.

V. THE BURIAL CLAUSE.

Since the Mishna states that the husband is liable for her burial(176), it is possible that the Kethubah contained the clause, "If thou shalt die, I shall be responsible for thy burial." The husband was required to prepare burial for his wife in accordance with local custom and as befits his or her status. (177). "Even the poorest man in Israel" states R.Judah, "must provide for his wife's funeral no less than two flutes and one lamenting woman."(178).

VI. THE CHILDREN'S MAINTENANCE CLAUSE.

In addition to the clauses in the Kethubah, safeguarding the interests of the wife, the man was expected to insert a clause that he was prepared to support and maintain the children, born to him by his wife. Thus the Mishna states, "A husband who did not give his wife in writing an undertaking that the male children born from our marriage, shall inherit the money of thy Kethubah in addition to their shares with their brothers(who may be born from another wife), is nevertheless liable, because this clause is a condition laid down by the Beth Din.(179).

171). Keth.4,8.

172). A priest is not permitted to live with a woman suspected of having been ravaged during her captivity.

"If he did not write the undertaking that the female children that will be born from our marriage shall dwell in my house and be maintained out of my estate until they shall be taken in marriage, he is nevertheless liable, because this clause is a condition laid down by the Beth Din." (180). It was later disputed by the Rabbis whether daughters are to be maintained until they are married, or until they reach the age of marriage, i.e. soon after puberty. The Rabbis, however, agreed that when a daughter had attained adolescence, though she was not yet married; or when she was married though she had not yet attained adolescence, she is not entitled to maintenance. The Rabbis only differed on the question of a daughter who was betrothed but did not yet attain adolescence. According to Rab, she is maintained only until betrothal, although she may still be under age, and according to Levi, either adolescence or marriage deprives her of her rights to maintenance. (181).

173). Keth.4,8.

174). ibid.52a-b.

175). Tos.Keth.4,5.

176). Keth.4,4; Tos.Keth.4,2.

177). Keth.48a; Tos.Keth.4,2.

178). Keth.46b.

179). Keth.4,8.

This clause is known as כְּתוּבָה בְּיַד בָּנִים דְּכָרִים, the Kethubah of male children.

180). Keth.4,8. This clause is designated as כְּתוּבָה בְּיַד בָּנֵי אִשָּׁה, the Kethubah of female children.

VII. ADDITIONAL CLAUSES.

1). If a woman undertakes to give her husband on marriage a certain sum of money, he would have to insert a clause in the Kethubah to the effect that he obligates himself to assign to her one and a half times as much as she gives him. Thus the Mishna states, "If a woman undertook to bring her husband one thousand denarii, he must assign to her a sum of fifteen hundred denarii." (182).

If, however, instead of cash, she brings him goods, we assess the value of the goods and he has to insert a clause that he obligates himself to the value of the goods, less one-fifth. (183). In Jerusalem, an additional sum of money was granted to the woman and inserted in the Kethubah for the purpose of buying perfume. (184). This additional sum, according to Simeon b. Gamliel, depended on local usage. (185).

2). Besides any money or goods that a wife may give her husband on marriage, the Rabbis speak of a wife bringing her husband property, which remains hers, and must be restored to her on divorce or her husband's death. This property was called by the Rabbis 'סבב 'סבב, i.e. property with an iron-security; for which the husband is responsible to her, for its full money value. There is another kind of property, of which the husband has only the usufruct without any rights to the property or responsibility for its loss or deterioration. This property was called, 'סבב 'סבב or 'סבב (186).

181). Keth. 53b.

3). According to the Tosefta, a husband undertakes all the obligations of his wife prior to the marriage, and consequently, a husband should insert the clause, "The obligations which thou hast borne to this day, shall fall upon me."(187). According to R.Judah, these obligations only apply to the period between betrothal and marriage, but not to any obligations prior to the betrothal.(188).

4). According to the School of Shammai, the Kethubah contained the clause "If thou be married to another (after my death), thou shalt take what is proscribed for thee."(189).

5). According to R.Jose, the Kethubah contained the clause, "If after marriage, I hate you or you hate me, I shall pay you so much and so much."(190).

182). Keth.6,2.

This addition of fifty per cent to the amount brought in by the wife, was instituted by the Rabbis in return for the profits he will be able to derive from trading with her money.

183). ibid.

This refers to an appraisal made during the wedding festivities when the tendency is to over-assess whatever goods the bride brings to her husband. According to some Rabbis, a fifth is allowed for wear and tear of the goods, since the husband is held responsible for them.

(See Soncino Kethuboth, p.401. note 12.).

184). Keth.6,4.

185). ibid.

186). Yeb.7,1.

יִלְקָח, lit. plucking or milking, i.e. the husband has the

As a postscript to the Kethubah, written at the betrothal, a clause was inserted to the effect that if for any reason the marriage cannot take place, the Kethubah would become invalid and the husband freed from all obligations. This postscript was called ן'דוּו (191). The formula of the ן'דוּו was as follows: "I, so-and-so, the son of so-and-so, betroth thee so-and-so, the daughter of so-and-so.....on condition that I marry you on such and such a day. If that day arrives and I do not marry you, I shall have no claim on you." (192). Consequently, until the consummation of marriage, there was always the possibility of a Kethubah becoming annulled. This possibility was given by the Rabbis as a reason why an Israelite girl betrothed to a priest is not permitted to eat of the priestly portions till after the marriage. (193).

right to pluck the produce of the property. According to the Midrash, Hagar was a handmaid of the ן'דוּו of Sarah, whom Abraham had to support but could not sell (Gen.R.45,2.), and van Selms suggests that the same could certainly be applied to Bilhah and Zilpah. (A. van Selms, op.cit., p.34.).

The Rabbis speak of ן'דוּו in the form of bondwomen or cattle and several Rabbis maintain that the young of the ן'דוּו beast belongs to the husband, whilst the child of the ן'דוּו bondwoman belongs to the wife; but Hananiah, the nephew of Joshua ruled that both belong to the husband. (Keth.79b.).

The Assyrian \check{s} irku and the Babylonian \check{s} eriktum, which the father of the bride gives to her as a kind of dowry, is managed by the husband and is returned to her if she is divorced or after her husband's death. The husband cannot sell it or dispose of it. (See Driver and Miles, Assyrian Laws, p.206. Babylonian Laws, p.272.)

In Ugaritic society, an analogy existed with the Babylonian

In addition to the Kethubah written at the betrothal, references are found to another document, called $\times \wedge \gamma \delta \epsilon \zeta \eta \iota \kappa \lambda$ (194), also written at the time of the betrothal. Whereas the Kethubah was written by the husband in the interests of the wife, the $\times \wedge \gamma \delta \epsilon \zeta \eta \iota \kappa \lambda$ was written by the wife or her father in the interests of the husband, or by the parents of the bride and bridegroom in the interest of the bride and groom.

Originally, Rab laid down a ruling that when two fathers agree to give a certain sum to their children and on the basis of this agreement a betrothal was effected, there was no need to record this agreement in writing. (195). There, therefore, existed the possibility that one of the parents may deny his promise and consequently, it was found advisable to enter the terms, that were agreed upon between the parties, in writing. That this possibility existed, we see from the following Mishna, "If a man promised a sum of money to his son-in-law and then defaulted (and there was no written undertaking to pay that sum of money), let his daughter remain single until her hair grows grey" (196). It was, therefore, in order to avoid any arguments with regard to promises made that the $\times \wedge \gamma \delta \epsilon \zeta \eta \iota \kappa \lambda$ was instituted.

seriktum and the Assyrian sirku which could serve to alleviate the onera matrimonii and at the same time was a kind of guarantee for the bride against a rash divorce. (A. Van Selms, op.cit., p.33).

187). Tos. Keth. 4, 11.

188). Nazir, 24a; B.M. 104a.

An instance of such a document is mentioned in the Mishna, although it should be noted that the document was not written in the interests of the husband. Thus the Mishna states, "If a man married a woman and she stipulated that he should maintain her daughter (from a previous husband) for five years, he is bound to maintain the daughter for five years" (197), and according to a Baraita, this stipulation was made in writing by אגרת כותב (198).

That the אגרת כותב did not form part of the Kethubah and that it was written as a separate document, is obvious from several statements made by the Rabbis. According to a Baraita, whereas the Kethubah need not be written with the consent of the bride and groom, i.e. their parents may act on their behalf, the אגרת כותב required the knowledge and consent of the bride and bridegroom. (199). Although one is not permitted to write a betrothal or marriage document during the Festival week, the writing of אגרת כותב is permitted. (200).

189). Yeb. 15, 2; Ed. 1, 12.

190). Jer. Keth. 5, 8.

191). From the Gk.

192). Jer. Erub. 3, 5.

193). Keth. 57b; Kidd. 10b.

194). From גזר to apportion. כותב means deed or document, and the document may be translated by "Deed of Apportionment."

195). Kidd. 9b; Keth. 102b; M.K. 18b.

196). Keth. 13, 5.

THE BETROTHAL-FEAST

Already in Mishnaic days, we find reference to a Feast in a connection with a betrothal, held at the house of the bride's father. Thus the Mishna states, "If one is on his way to dine at a betrothal feast at the house of his father-in-law and recollects that he has "leaven" at home; if he is able to go back, remove it, and then return to his religious duty(i.e. to attend the feast), he must go back and remove it; but if not, he annuls(the leaven) in his heart."(201).

In fact, several Rabbis expressed their opinion that it is more important to attend a betrothal-feast than a marriage-feast since, "In the case of a marriage without a feast, there is still sufficient rejoicing, but in the case of a betrothal, can there be any rejoicing without a feast ?"(202). Whether the betrothal feast is optional or obligatory, is disputed among the Rabbis, but the final decision was accepted that it is obligatory.(203).

Since the Rabbis connected the act of betrothal with a feast, we are told that no act of betrothal can take place on the Sabbath eve, for such an act would necessitate the preparation for the feast, which

197). Keth.12.1.

198). ibid. 102a.

199) Kidd.9b.

200). M.K.18b.

one is not permitted to do on the Sabbath eve.(204). The Rabbis enumerate a number of things, one is not permitted to do during the first thirty days of mourning, and one of these being the betrothal of a woman, since this would necessitate the holding of a feast, and no festivities are permitted during that period of mourning. (205).

During the feast it was customary to light candles(206). We are told that during the Hadrianic persecutions, when the practice of Jewish ^{wish} rites and customs were strictly forbidden, the people had to practice their religion in secret. In case of a betrothal, in order to notify the people that a ceremony was being held, they used to whisper to each other that candles are lit at so-and-so's house; this being a sign that a betrothal was taking place at that house.(207).

Couches were spread on which the women used to sit and spin.(208). To give the betrothal a religious character, a benediction

201). Pes. 3, 7.

202). Yeb. 43b.

203). Pes. 49a.

204). Jer. Beza, 5, 2.

205). Semah. 7.

206). Gitt. 89a.

207). Sanh. 32b.

208). Gitt. 89a.

was introduced, to be recited during the ceremony. Thus we were told that both R. Papa and Rabina recited benedictions at the betrothals of their respective sons. (209). According to Samuel, the benediction recited was as follows: "Blessed art Thou, O Lord our God, King of the Universe, who hath sanctified us by His commandments and commanded us concerning the forbidden relations, and hath forbidden unto us the betrothed and hath allowed us the wedded through the marriage canopy and sanctification" (210). The conclusion of the benediction, according to R. Aha in the name of R. Judah, was as follows: "Blessed art Thou, O Lord, Who sanctified Thy people Israel through the canopy and the sacred covenant of wedlock." (211).

On the morning after the betrothal, it was customary for the bridegroom to send to the house of his father-in-law, in honour of the bride, jewels and various kinds of wine or oil. These gifts were known as מנחה (212), and the question was asked whether these gifts were returnable in case the marriage did not subsequently take place. Thus the Mishna states, "If a person had sent wedding presents to the house of his father-in-law, even if he sent a hundred maneh and ate there a meal, even if it were only of the value of

Spinning was a symbol of industry. It was considered the wife's duty to spin for her husband, even if she had many servants. Thus R. Eliezer stated, "Even if she brought him a hundred bondswomen, the husband may compel her to work in wool, for idleness leads to unchastity."
(Keth. 5 $\frac{1}{2}$ 5.).

The amount of spinning required from the wife is stipulated. "She must spin for her husband every week five Selah's weight of warp in Judea (which is ten Selahs in Galilee), or ten Selahs weight of wool, which is twenty Selahs in Galilee."
(Keth. 5, 8.)

one denar, the presents cannot be reclaimed"(213). Here it is assumed that the bridegroom, thanks to his joy and satisfaction with the company and the meal, however small the latter might have been, has definitely determined to present his gifts wholeheartedly and permanently. "If however, he did not eat at the meal, the presents may be reclaimed"(214).

That these gifts were sent after the betrothal is clear from the following Mishna, "If a man betrothes two women with the value of a Perutah or one woman with less than a Perutah's worth, even if subsequently he sends her הוֹרָה she is not betrothed, since at the time of betrothal, he did not give her the minimum sum(a Perutah) required to effect a betrothal."(215).

According to R.Papa, however, there were places where it was customary to send these gifts prior to a betrothal. This custom of sending הוֹרָה prior to a betrothal gave rise to an apprehension whether they were intended as a means of effecting the betrothal. Several Rabbis, therefore, expressed their opinion that if הוֹרָה were sent in the presence of witnesses, it is possible that they were meant as a means of effecting the betrothal. Consequently should another man then betroth her, both must divorce her.(216).

209). Keth.8a.

210). ibid.7b.

This clearly implies that the betrothed woman is not yet permitted to her husband.

211). Keth.7b.

According to R. Jose, these gifts were obligatory. (217). The value of these gifts would, naturally, depend on the financial position of the bridegroom. Thus we are told that in a certain case, a bridegroom sent gifts to his bride, consisting of one hundred wagons containing jars of wine and jars of oil and vessels of silver and gold and silk garments. (218). Of another case it is reported that between the period of Passover and Pentecost (seven weeks), a man sent to his bride gifts consisting of twenty four wagons containing new wine and new oil and garments made of new linen. (219).

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- 212). According to Maimonides, the word is derived from לָקַח to carry, i.e. the bridegroom himself probably carried these gifts to the house of the bride. Kohut compares it to the Gk. $\sigma\upsilon\mu\beta\omicron\rho\lambda\lambda$.
- 213). B.B. 9,5.
- 214). ibid.
- 215). Kidd. 2,6.
- 216). Kidd. 50b.
- 217). Pes. 49a.
- 218). B.B. 146a.
- 219). ibid. 17a.
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CHAPTER V.THE WEDDING.

It would appear that in Mishnaic times, there was an interval of twelve months between the betrothal and marriage in the case of a virgin, and an interval of one month in the case of a widow. Thus, the Mishna states, "A virgin is allowed twelve months, from the time ~~of~~ her intended husband claimed her, in which to prepare her marriage outfit. A similar period is granted to the man to provide himself with an outfit, i.e. to make the necessary preparations for the wedding dinner and the bridal chamber. In the case of a widow, who is presumed to be in possession of some trinkets and jewellery from her first marriage, she is granted only thirty days. If the respective periods have expired and they were not married, they are entitled to maintenance out of the man's estate." (1).

This period of twelve months was derived by R.Hisda from the verse, "And her brother and her mother said; let the damsel abide with us a few days, at least ten."(2). Although the Mishna makes no distinction between a minor, i.e. a girl ^{under} ~~from~~ the age of twelve years and a half, and a ~~שתי~~, i.e. a girl over the age of twelve and a half, the Tosefta clearly states that the interval of twelve

1). Keth.5.2.

2). Keth.57b.

months is granted only to a נדה (3), and consequently, it was stated by Zeira that in the case of a minor, who is claimed by her intended husband, either she herself or her father has the right to postpone the wedding beyond the period of twelve months. (4).

It was, however, made clear that the twelve months granted to a virgin, began from the moment her intended husband made the suggestion that the marriage should take place. Consequently, a longer period between betrothal and marriage would elapse. Thus it was taught, "If a man betrothed a virgin, whether he claimed her and she held back, or whether she claimed him and he held back, she is allowed twelve months from the time of the claim and not from the time of betrothal." (5).

Several incidents are reported when the interval between betrothal and marriage lasted for many years. This was the case of several Rabbis who were betrothed prior to their departure for continuing their studies and married their betrothed many years later on their return. This was the case of R. Akiba, who secretly betrothed the daughter of Kalba Sabua, and then departed for his studies. It was only after an absence of twenty-four years that he returned to marry his betrothed. (6).

It is related that Rabbi was engaged in the preparations for the betrothal of his son. It was agreed that the son should spend

3). Tos. Keth. 5, 1.

4). Keth. 57b.

~~should spend~~ twelve years at the academy and that the marriage should take place on his return, at the end of this period. When the son saw the girl, he asked that the period of study before marriage, should be reduced to six years. When he saw her again, he said, "I would marry her now and then proceed to the academy." (7).

It would seem, however, that the Rabbis were not in favour of too long an interval between betrothal and marriage. Commenting on the verse, "Hope deferred maketh the heart sick" (Prov. 13, 12.), the Rabbis applied it to a man who betrothes a woman and marries her after a long interval; whilst "When the desire cometh, it is a tree of life" (ibid.), was applied to a man who marries the woman soon after the betrothal. (8).

DAYS ON WHICH MARRIAGE COULD BE SOLEMNISED.

According to the Mishna, virgins are to be married on Wednesdays, and widows on Thursdays; and the Mishna explains that the reason why virgins should marry on Wednesdays is being that on Mondays and Thursdays Courts of Justice sit, so that if the husband

5). Keth. 57b.

6). ibid. 63a.

It is reported that she sold her beautiful hair in order to maintain him during his studies.
(Jer. Shabb. 6, 1; Jer. Sota, 9, 15.

had a claim as to the virginity of his bride, he could go early on Thursday morning to the Court of Justice and submit his claim (9). When the question was asked why she should not be married on a Sunday, seeing that the Court of Justice sit on Mondays, the answer was given that it takes three days to make the necessary preparations for the wedding, and a wedding on Sunday would not give them the necessary three days, as no preparation is permitted to be done on the Sabbath.(10).

It is obvious that the selection of the day for marriage, depended on the meeting of the Courts. If, therefore, the Courts were to meet on other days of the week, the day for marriages would be changed accordingly. In fact, we are told that before the time of Ezra, when the Courts of Justice met daily, marriages were solemnised on each day of the week.(11).

It seems, however, that in the third century C.E., the dependence of marriage on a day previous to the sitting of the Courts, was no longer applicable. But the Rabbis, in trying to maintain the tradition of the Mishna that marriages should be held only on Wednesdays, offered other explanations for the choice of that day.

7). Keth.62b.

8). Pesik.Rabb.15,29.

9). Keth.1,1.

10). Keth.2a; 3a; 5H.

11) Keth. 3a.

Thus, Bar Kappara explains that the reason why Wednesday was selected as a day for weddings, because on that day of the week God blessed the fishes "Be fruitful and multiply and fill the waters in the seas"(Gen.1,22.), and consequently, it would be a propitious day for marriage.(12).

That marriages were held on Wednesdays, we see from the following incident. An important man from Kabul(13) was holding a marriage feast for his son on a Wednesday, to which many guests were invited. During the feast, he asked his son to fetch a barrâ of wine from the attic. Whilst the son was in the attic, he was bitten by a snake and died. After a while, the father went to look for his son and found him dead. The father waited till everybody had finished the meal, when he told them that instead of reciting the marriage benedictions, they will now have to recite the mourner's benedictions.(14).

12). Keth.5a; Gen.R.8,13.

It was actually on the fifth day of Creation that the fishes were blessed, but Bar Kappara explained that if marriage takes place on a Wednesday, intercourse would take place in the evening, which is regarded as part of the fifth day.

With regard to the marriage of a widow on Thursdays, Bar Kappara explained that since intercourse would not take place till the evening, which is already part of the sixth day and it was on that day that God said to them(Adam & Eve), "Be fruitful and multiply and replenish the earth."(Gen.1,28.).

Since both blessings refer to progeny, Bar Kappara regarded Wednesdays and Thursdays as propitious for the propagation of the species.

In the case of a widow marrying on Thursdays, the Rabbis offered the explanation that this would give the man three full days

During periods of persecution, we find that the day for marriage was changed from Wednesday to Tuesday. Thus, Rabba stated, "A decree was issued that a maiden who marries on the fourth day of the week, shall have the first sexual intercourse (jus primae noctis) (15) with the Prefect. The day for marriage was, therefore, changed from Wednesday to Tuesday." When Rabba was asked, "but, surely the Prefect would get to know that marriages take place on Tuesdays and no benefit would be derived from the change of day?" Rabba replied that the change was not known to the Prefect and that he would not take the trouble to find out whether marriages take place on any other day. (16). According to R. Laizer, the day of marriage could also be changed on account of sorcery, since sorcerers were wont to practice witchcraft on a day when weddings are held. (17).

to enjoy the company of his wife, i.e., Thursday, the day of marriage; Friday, when a man ceases work early and Saturday the day of rest.
(See Keth. 5a.).

13). A city in Galilee, inhabited by priests in rabbinic times.

14). Lev. R. 20, 3.

In Ecc. R. 2, 4., we are told of an identical incident in the case of a great man in Babylon.

15). See J. E. vol. vii. p. 395.

16). Keth. 3b.

According to Megillath Ta'anith, this decree was issued during the persecutions under Antiochus Epiphanes. "And how did the Greeks oppress the Jews? They appointed Prefects in the cities to afflict the brides; and consequently marriages had to be solemnised in secret. When people saw the light of a candle

In selecting a day for marriage, the Mishna ruled that no marriage should be held on a Sabbath or any major Festival.(18). Similarly, we are told that no marriage should take place on half-holydays(19), and the reason being that we should not mix joy with joy (20), i.e., the joy and happiness of marriage would detract from ~~joy~~ the joy and happiness of the Festival.

Although the main marriage celebration would be held at the house of the bridegroom or his father, several references are found to a feast taking place in the house of the bride's father, prior to the consummation of marriage. This feast was called כְּרִיטוּת אִימָה and according to Jastrow, it is derived from the Gk. $\pi\rho\omega\tau\omicron\gamma\alpha\mu\acute{\iota}\alpha$ "being just married" or by confusion with $\pi\rho\omicron\gamma\alpha\mu\acute{\iota}\alpha$ "sacrifice before the wedding." It has been suggested by Hirschberg that since no reference to this feast is found in the Babylonian Talmud, it was probably unknown among the Babylonian Jews; but was only kept in Palestine as a custom borrowed from the Greeks.(21).

That the כְּרִיטוּת אִימָה formed part of the marriage preliminaries, and that no marriage would take place without it, is clear from the following Midrash: "It is similar to a king's son who betrothed

at Beror Hail (a place near Jabneh), they knew that a marriage was being celebrated at the house. Mattathias, the son of Johanan the High Priest had a daughter and when, on the day of her marriage, the Prefect came to defile her, the Jews rose in revolt against the Greeks.
(Meg.Ta'an. ch.vi.).

A reference to the burning of a candle as a sign that a marriage was taking place, is found in the following Baraita: "The noise of grindstones at Burni(a place near Lydda), announced

a king's daughter and they arranged that the *כריטונמיא* should be held on such and such a day. The king's son was looking forward to the marriage and the king's daughter was looking forward to the marriage. And yet, what was delaying the marriage? the *כריטונמיא*. (22).

During the week when the *כריטונמיא* was held, an intended son-in-law was permitted to eat at the house of his intended father-in-law, the latter being suspected of not giving tithes. This concession was granted in order not to cause any strife between the son-in-law and the father-in-law. (23). According to the Midrash, the seven years preceding the coming of the Messiah, will be a *כריטונמיא* for the righteous. Only those who will take part in the *כריטונמיא*, i.e., who will make the necessary arrangements, will participate in the great feast when the Messiah comes. (24).

that a circumcision was being performed" (The noise of grindstones was an indication that some ingredients were being ground for the purpose of treating the circumcision wound), and "the light of a candle by day and many candles by night at Beror Hall, showed that a wedding feast was being held there." (See Sanh. 32b.).

That this barbarous custom was introduced by the Greeks in the reign of Antiochus, may be implied from the statement of the Rabbis that the kindling of the Hanukkah lights are obligatory upon the women, "since they too were affected by this miracle" (Shabb. 23a; Pes. 103b.).

In the First Book of Maccabees we read, "And the rulers and the elders groaned, the virgins and the young men were made feeble and the beauty of the women changed. Every bridegroom took up lamentation and she that sat in the marriage chamber, was in heaviness. (I Macc. 1, 26-27.).

THE BRIDAL PROCESSION.

In Talmudic times, the induction of the bride into the home of her husband, constituted the final act in the consummation of marriage(25), and Hirschberg suggests that the Hebrew term /'x'v'v for marriage, is derived from the root 'x'v'v to carry, since it was customary to carry the bride from her home to the home of her husband in a litter(26).

A reference to the bridal procession is found in the Book of Maccabees. "After this came word to Jonathan and Simon his brother that the children of Jambri made a great marriage and were bringing the bride from Medaba with a great train, as being the daughter of one of the great princes of Canaan. Therefore they remembered John their brother, and went up and hid themselves under the covert of the mountain. And they lifted up their eyes and looked, and behold,

It has, however, been suggested that these persecutions refer to the time of the Emperor Hadrian.
(See Soncino Sanh. p.204, note 5.).

Prof. Krauss suggests that the decree of jus primae noctis was issued by the Praetor Lucius Quietus, about the year 117 C.E.
(See R.E.J. vol. xxx.).

- 17). Jer. Keth. 1, 1.
- 18). Bez. 5, 2.
- 19). M. K. 1, 7.
- 20). M. K. 8b.

there was much ado and also great carriage; and the bridegroom came forth and his friends and brethren to meet them with timbrels and instruments of music and many weapons. Then Jonathan and they that were with him rose up against them from the place where they lay in ambush, and made a slaughter of them in such sort, as many fell down dead, and the remnant fled into the mountain, and they took all their spoil. Thus was the marriage turned into mourning and the noise of their melody into lamentation." (I Macc.9,37-41.).

It was the custom for the bride to be carried in a litter from the house of her father to the home of her husband. This custom prevailed in Palestine till the second century, C.E., when it was discontinued as a result of the Hadrianic persecutions. Thus the Mishna states: "During the final war(27) they decreed that a bride should not go out in a litter in the midst of the city"(28); and the reason for this prohibition being the danger to chastity, i.e., there was danger of being attacked by Roman soldiers.(29).

21). Mirschberg, A.S., Betrothal and Marriage in the Talmud, in Heald, vol.V. Warsaw, 1923. p.88.

22). Midrash to Psalms 16.

23). Jer.Dem. 1.1.

24). Lev. R. 11,2.

25). One of the principal acts of the wedding proper in Ugarit, is the entry of the bride into the house of the bridegroom. (A van Selms, op.cit., p.35.).

The usual form of marriage in the Assyrian Laws is the ordinary

This custom of carrying a bride in a litter must have been widely known, as many references to it are found throughout the Midrashic literature.(30). In fact, according to several Rabbis, this custom already existed in biblical times. Interpreting the verse, "which executeth judgement for the oppressed"(Ps.146,7.), an anonymous Babbi stated that it refers to Rachel. Rachel was placed in a litter and was brought in by her father; then the father extinguished the lights, took her out of the litter and placed Leah in her stead.(31). According to R.Judah b.Zabinah, Amram^{re-} married Jochabad his wife by placing her in a bridal-litter whilst Aaron and Miriam danced before her.(32).

The carrying of the bridal-litter was usually done by people of importance. This we see from the following illustration: "It is similar to a king who married his daughter. When one of the Prefects offered to help in carrying the bridal-litter, some people objected. Let him do so, the king remarked, to-morrow he is marrying his daughter and I shall reciprocate this honour by carrying the bridal-litter of his daughter."(33).

patriarchal type, in which the wife leaves her own family to enter the house of her husband.
(Driver & Miles, Assyrian Laws, op.cit., p. 135.).

- 26). Hirschberg, op.cit., p.88.
- 27). Bar Kochbah's revolt, 132-135 C.E.
- 28). Sota, 9, 14.
- 29). Sota, 49b.

In order to add dignity to the procession, the wealthier classes and probably the nobility, placed the bridal-litter on a horse or even on an elephant. This is apparent from the following: "It is similar to a king who was marrying his daughter. One of the principal men said to the king, 'It is becoming for a king's daughter that her litter should be placed on an elephant and thus raise her above all the nobles of the kingdom'. Thereupon, another of his principal men replied, 'An elephant is too high and no one will be able to see her beauty and comeliness. Let the princess be placed on a horse, so that all the nobles of the kingdom could see her beauty'. Thereupon, a third person remarked, 'It is true that an elephant is tall; and it is becoming to ride on a horse, but these animals have no mouths to speak, no hands to clap, no feet to dance. It would be better to carry her on shoulders in order to display her beauty.'"(34).

It seems, however, that in Mishnaic times, it was customary to hire carriers for the bridal-litter. Thus the Mishna states, "If one hires an ass-driver or a waggoner to bring litter-carriers and pipers for a bride....and they break their engagement; if it is in a place where no others are available for the same wage, the man may hire others at a higher wage, and claim the difference (from the first)."(35).

30). Ex.R.1,21; Numb.R.20,35; Cant.R.3,16. etc.etc.

31). Tanh.on Vayetze.

It once happened in Naresh (36) that a man betrothed a girl, who was still a minor, and when she had attained her majority and was placed on a bridal-litter, another man came and snatched her away. The Rabbis ruled that her marriage to the man who had snatched her away was invalid, as she was already married to the first man; and R.Papa explained that this ruling only applied to Naresh as there, cohabitation between the bride and groom usually takes place before the bride is placed in the bridal-litter.

(37).

It was customary for the bride to be dressed in beautiful clothes and to be decked with ornaments and perfumed, prior to her being placed in the litter.(38). Thus R.Levi states,"It is customary to adorn the bride and perfume her before leading her to the bridal-chamber."(39). In fact, the Rabbis considered it a religious duty and as an act of kindness to attend to the bride's requirements on her wedding-day. This religious duty, the Rabbis maintain, was performed by the Almighty Himself, when he decked Eve with twenty four articles of adornment and brought her to Adam.(40).

It was, therefore, this consideration which prompted R.Tarfon to interrupt his study of the Law and to order his wife and mother

32). Ex.R.1,23; Sota,12a.

According to a Baraitha, Amram divorced his wife when Pharaoh issued his decree that every male child should be thrown into the river. His daughter, thereupon, remarked, "Father, your decree is harsher than that of Pharaoh. Pharaoh decreed only against the males, whereas your decree is against all children. As a result of this argument, Amram re-married his wife."
(ibid.).

to bathe, anoint and adorn a poor bride, and to dance before her until she reached the home of her husband.(41).

It is reported that when R.Ishmael heard of a vow, made by a certain man that he would derive no benefit from his sister's daughter(i.e. he would not marry her), he brought the girl into his house and ordered his family to adorn her and make her beautiful. R.Ishmael then called for the man and asked him whether this was the girl from whom he vowed not to derive any benefit. No, the man replied. Whereupon, R; Ishmael permitted the man to marry his niece and at that moment, R.Ishmael wept and said,"The daughters of Israel are beautiful, but poverty disfigures them"(42).

Although it was customary for a bride to be perfumed on her wedding-day, we are told that in Jerusalem during Temple times, there was no need for a bride to perfume herself because of the odour of the incense, which was very strong in the city, and according to one Rabbi the odour was so strong that it even reached the city of Jericho. Consequently, even in the city of Jericho there was no need for brides to perfume themselves.(43).

33). Jer.Sota, 1,10.

34). Pesik.R. ed.H.Friedman, Ch.20, 95a.

35). B.M.6,1.

36). A city in Babylon.

37). Yeb.110a.

38). Describing a wedding scene in the Yemen, Dr.Fayein states that the bride was dressed in a long gown of cloth of gold with wide

It seems that in Babylon there was a special vessel called a bride's bath, from which the brides used to bathe on their wedding-day.(44). This bath, however, did not exempt the bride from taking her ritual bath prior to the consummation of marriage. There was an opinion expressed that there was no need for a bride to perform ritual ablution, since the water was bound to spoil her make up, which, according to Rashi, consisted of paint and powder, which the bride used for her face and eye-lids.(45).

In Mishnaic times, it was customary for the bride, if she was a virgin, to be led to her husband's home with a $\chi \nu \nu \nu$ (46), and an uncovered head; or with loosened hair(47). In fact, if on the death of her husband, or on being divorced, she claims that at the time of marriage she was a virgin and, therefore, entitled to two hundred zuz, the Mishna is prepared to accept her claim, provided that there are witnesses that at the time of marriage she left her father's house in an $\chi \nu \nu \nu$ or with her head uncovered. (48).

sleeves and as many necklaces as possible.

(C.Fayein, A French Doctor in the Yemen, London, 1957. p.190.)

39). Ex.R.23,6.

40). Ecc.R.7,7. See also Gen.R.18,2; A.d'R.Nathan, 4,3.

This reference to the twenty-four articles of ornaments with which a bride was decked, is based on the verses in Isaiah, 3,18-24. It was taken for granted that every bride would be adorned with all these ornaments; for according to R.Levi, "Just as a bride is decked in twenty-four kinds of ornaments, so should a scholar be proficient in all the twenty-four Books of the Bible."
(Cant.R. 41,6.).

The Mishna states that during the war of Titus(49), the Rabbis decreed against the use of crowns worn by brides.(50). When the question was asked, "What means crowns worn by brides?" the reply was given, "A miniature golden city"(51), which is explained as a golden crown in the form of the city of Jerusalem. (52). Although brides were no longer permitted to wear such crowns, they were permitted to wear a cap made of fine wool(53).

Because of the destruction of the Temple, as a sign of mourning, a bride was advised not to put on all her ornaments but to leave off one or two. When the question was asked what ornaments a bride should leave out, Rab replied that she should not remove the hair on the temple, which was usually removed as a mark of elegance(54). Hirschberg, however, explains that it was customary for the brides to curl their hair; but since the destruction of

41). A.d'R.Nathan, 41, 13.

42). Ned. 9, 10.

R. Ishmael lived during the latter part of the first century and the early part of the second century, C.E. This period, falling roughly between the destruction of the Temple and the Bar Kochba revolt, and extending some time beyond the fall of Bethar in the year 135 C.E., must have been one of hardship and poverty for many Jews.

43). Yoma, 39b.

44). Shabb. 77b.

Greek brides used to bathe before marriage in the river or in water brought from the river. This was a purification, but at the same time it was believed to promote brides' fertility, as the waters of the nuptial bath are expressly described as

the Temple, as a sign of mourning, one lock of the bride's hair was left uncurled.(55).

Great publicity was accorded the bridal procession. Thus we are told that trumpeters used to announce the bridal-procession (56) and bells (57) were rung to attract attention.(58). According to R.Hisda, every woman, both young and old used to run at the sound of the bell, in order to witness the procession.(59). In fact, a case is recorded when a trustee was summoned before Rab and charged with negligence during a wedding procession. There were certain gardeners who used to deposit their spades with a particular old woman. One day, however, they deposited the spades with one of themselves. On hearing the sounds of bells, announcing a bridal-procession, the man, in order to watch the procession, entrusted the spades to that old woman. On his return, he found that the spades were stolen. The matter was brought before Rab, who ruled that the man was not liable, considering the fact that they themselves used to deposit their spades with that old woman.(60).

"life-giving".

(G.Thomson, Aeschylus and Athens, London, 1941. p.145.).

45). Yeb.34b. See Rashi, id.loc.

46). It seems that in the third and fourth centuries,C.E., the meaning of the term כִּינור was already forgotten, since several interpretations to the meaning of the word, are offered by several Rabbis.

When the question was asked in Palestine, "What is כִּינור?" the reply was given, "In Babylon they call it a slumbering couch, whilst here(in Palestine) they call it כִּינור i.e., a

It was indeed considered a religious duty to accompany a bridal-procession and the Baraita states that one should interrupt the study of the Law for that purpose. (61). Both R. Tarfon (62) and his disciple R. Judah b. Ilai interrupted their study of the Law in order to participate in a bridal-procession. It once happened that R. Judah b. Ilai was teaching, when a bridal-procession passed his house. He interrupted his teaching and told his disciples to take part in the procession. (63), for according to him, the practice of the Law, i.e., to take part in a bridal-procession which is a religious duty, takes precedence over the study of the Law. (64).

kind of a shoal round the shoulders.

When the question was asked in Babylon, "What is $\chi\mu\mu$?" the reply was given "a myrtle-canopy" i.e., a covering made of ~~myrtles~~ myrtles under which the bride sat in the litter. (See Pnei Moshe on Jer. Keth. 2, 1.).

R. Johanan maintained that it was a veil under which the bride was carried, and very often fell asleep under it. (Keth. 17b; Jer. Keth. 2, 1.).

Dr. Buchler suggests that the $\chi\mu\mu$ was a marriage song, and translates the Mishna, "If there are witnesses to the fact that she went out accompanied by a marriage song". (A. Buchler, The Induction of the Bride and Bridegroom into the $\chi\mu\mu$, in the First and Second centuries in Palestine, Warsaw, 1927. p. 22.).

According to Buchler, the word is derived from the Lat. "Hymenaus". Hirschberg, on the other hand, found this translation unacceptable. He mentions the fact that this translation of the word was suggested by Levy in Magazine, XIX, p. 133., but cannot accept it on the ground that the Mishna clearly implies by $\chi\mu\mu$ that the bride wore something on her when she was carried in the litter. (See Hirschberg, op. cit., p. 89, note 2.).

47). See Numb. 5, 18, where the term is used for loosened hair.

It was, however, understood that the interruption of the study of the Law should only take place when there are not sufficient people to accompany the procession. (65) Similarly, two bridal-processions should not be arranged to take place on the same day, unless there are sufficient people to take part in both. On the other hand, R. Simcon b. Eleazar ruled that even if there are sufficient people for both processions, they should not be held on the same day, as this might lead to jealousy. (66).

48). Keth. 2.1; B. B. 92a.

49). Some suggest that this refers to Quietus, A Moorish prince, appointed by Trajan to command the army which overran Babylon in 116, C.E.
(See Soncino Sota, p. 265, note 5.).

50). Sota, 9. 14.

51). Sota, 49b; Jer. Shabb. 6. 1.

52). Shabb. 59a; Jer. Shabb. 6. 1.

It is reported that when R. Akiba was married, he and his wife slept on straw and he picked out the straw from her hair. "If I could afford it" he said to her, "I would present you with a golden Jerusalem" i.e., a golden ornament with Jerusalem engraved on it.

(See Ned. 50a.).

When, subsequently, R. Akiba presented his wife with such an ornament, the wife of R. Gamliel became very jealous and demanded that her husband should present her with such an ornament. "If you would have done for me what the wife of R. Akiba had done for her husband" R. Gamliel replied, "I would have presented you with one. The wife of R. Akiba sold her hair in order to enable her husband to study."

(See Jer. Shabb. 6. 1.)

53). Sota, 49b.

54). B. B. 60b.

So important was the bridal-procession regarded by the Rabbis, that it took precedence over any other procession. Thus we are told that if a funeral procession and a bridal procession happen to meet, the funeral procession must make way for the bridal-procession.(67), and although it has been taught that both processions must give way for the King of Israel, it once happened that King Agrippa gave way for a bridal-procession, and the Sages praised him for this act.(68). When the king was asked why he gave way to a bridal-procession, he replied, "I wear a crown every day, but the bride wears it only for one day."(69).

55). Hirschberg, op.cit., p.90.

56). Keth.17a.

57). Hebrew $\times\zeta\cup$ is translated by some as an instrument from which bells are suspended. Others translate it by "drum" or "tambourine" implying that a drum was sounded to attract attention.

58). B.B.145b.

59). M.K. 9b.

As the saying goes: "At sixty as at six, the sound of a timbrel makes her nimble"

60). B.M.36a.

61). Keth 17a.

62). A.d'R.Nathan, 41,13

63). Keth 17a; Meg.29a.

64). Sem. 11.

65). Keth.17a; Meg.29a.

When the question was asked, "How many are sufficient?" one Rabbi

Round the litter, people carried candles (70), played castanets (71) and on flutes(72) and probably on other instruments of music. These players were probably hired.(73). Dancing and singing praises of the bride accompanied the litter.(74). In front of the bride, a cup of wine, called "A cup of good tidings(75) was carried, and the cloth of virginity.(76). From a Baraitha it appears that only in the case of a virgin were the cup of wine and the cloth of virginity carried. For ~~thus~~ the Baraitha states:"If she lost her

Replied, "twelve thousand men, including the trumpeters." Another Rabbi replied, "twelve thousand men and six thousand trumpeters."

66). Sem.11.

Hatred and jealousy will, no doubt, be caused if one bride has a larger following than the other.

In a city of non-Jews the Rabbis declared that for the sake of maintaining peace, Jews must participate in a non-Jewish bridal-procession.
(Jer.Gitt.5,9; Jer.Dem.4,3.).

67). Keth.17a.

68). ibid.

69) Sem.11.

70). Sanh.32b; Pes.Rabb.43.

71). Pes.Rabb. 43.

72). ~~xxxxx~~ B.M. 75a.

73). B.M. 75a.

74). Keth.16b; Jer.Hag.1,7.

When R.Dimi came to Babylon from Palestine, he reported that in Palestine they used to sing before a bride, "No powder and

Kethubah, or she hid it and it cannot be found, or it was burnt; if they danced before her played before her, passed before her the cup of glad tidings, or the cloth of virginity(at the time of marriage), and if she has witnesses with regard to one of these things, her Kethubah is two hundred zuz."(77).

According to R.Judah, it was customary to pass before the bride a cask of wine; and according to R.Adda, if she was a virgin they passed before her a closed cask, but in the case of a widow or divorced woman, an open cask was passed.(78).

no paint and no waving of the hair and yet as graceful as a gazelle."

It is reported that R.Judah b.ilai used to take a myrtle twig and dance before the bride, whilst reciting, "Beautiful and graceful bride."

R.Samuel b.R.Isaac danced with three twigs.(i.e., he used to throw up three twigs one after the other and catch them in turn.

(See Keth.17a, and Rashi id.loc.).

75). When the question was asked, "What is the cup of glad tidings ?" R.Adda b.Ahaba replied, "A cup of wine of Terumah"(the levy of produce given to the priest. See Numb.18,8 ff.), since

Terumah is called in the Bible "first"(Numb.15,20-21; Deut. 18,4.),so is this bride"first", i.e., she is a virgin and for the first time dedicated to married life.

76). Keth.16b.

77). ibid.

78). ibid.

When the verse states "And they found among the inhabitants of Jabesh-gilead four hundred young maidens that hath not known man by lying with him"(Judg.21,12.), the Rabbis asked the question, "whence did they know that they were virgins?" and R.Kahana replied, "They made them sit upon the mouth of

From the rabbinic statement, "When the bridegroom goes forth to meet his bride"(79), it seems that it was customary for the bridegroom to meet the bridal-procession on the way towards his home(80) and that the bridegroom was dressed in white.(81). On the verse, "God came from Sinai"(Deut.33,2.), the Rabbis state that God came like a bridegroom to meet his bride(Israel).(82). Sometimes, the bridegroom even went as far as the bride's house in order to accompany the bride all the way. "It is similar to the case of a bridegroom who brought a litter to the entrance of the bride's house, in order that she should enter his house immediately(83); or "It is like a king who married a woman from another country. He placed her in a litter and carried her into his own country."(84).

This procedure, however, was unusual as normally the bride would set out in a litter of her own, and only meet the bridegroom on the way. It is possible that in cases where the bridegroom was of royal or noble family, a special litter was sent to fetch the bride.

From the Mishna, "During the war with Vespasian, the Rabbis decreed against the use of crowns worn by bridegrooms"(85), it is

a wine-cask. When a woman, who previously has had intercourse with a man, sat on it, the odour of the wine penetrated. In the case of a virgin, the odour of the wine did not penetrate. (See Yeb.60b.).

79). Ber.59b; Ta'an.6b.

This expression is used in connection with the benediction for rain. When the question was asked, "When do we begin to recite the benediction for rain?" the answer was given, "When the bridegroom goes out to meet his bride", which means, when the

clear that before the destruction of the Temple, it was customary for the bridegroom to wear some crown on his head. What this crown consisted of, is not stated. According to Rab, the prohibition of the Rabbis, was against crowns made of salt and brimstone(86), but there was no prohibition against the wearing of crowns made from myrtle and roses. According to Samuel, even crowns made from myrtle and roses were prohibited by the Rabbis; only those made from reeds and rushes were permitted. R. Levi, however maintained that even those made from reeds or rushes were prohibited.(87).

In Palestine, other explanations were offered for the type of crown worn by bridegrooms. Interpreting the verse, "The crown is fallen from our head"(Lam.5,16.), the Rabbis state that this refers to the bridegroom's crown, which was made of cloth, plated with gold; whilst others say that it was made of olive twigs or of willow rods.(88).

In spite of the prohibition to wear a crown, we are told of one Rabbi who made for himself a crown ~~made~~ of myrtle. When Samuel heard of this, he remarked that the Rabbi deserves to have his head cut off. It so happened that the Rabbi was later executed, by having his head cut off by a sword.(89).

accumulated rain water rebounds to meet every additional drop of rain as it falls.

(See Soncino Ta'anith, p.24. note 3.).

- 80). Dr. Fayin records that in Yemen, the men of the bridegroom's family accompany the bridegroom...The eldest of the husband's relatives leads the procession.
(C.Fayin, A French Doctor in the Yemen, London, 1957. p.190.).

From the question, "If members of a company were reclining to drink, and they precipitately arose to go out to meet the bridegroom or the bride....."(90), it is clear that friends or relations used to go out to meet the bride or bridegroom, after they had set out to meet each other. In fact, in the N.T. we read of ten virgins who went out with lamps to meet the bridegroom (91), and the Tosefta speaks of friends of the bridegroom who went out to meet the bride. (92).

It is related that a certain wealthy man, by the name of Bar Lufeini from Sephoris, gave his daughter in marriage to a man from Acco; and on the road from Sephoris to Acco, a distance of about thirty miles, he set up booths, serving wine; and on both sides of the road he placed golden candle-sticks.(93). This would be in accordance with the ruling of the Tosefta that we may let wine and oil run through pipes before a bride or bridegroom, and this is not regarded as a heathen custom.(94).

81). We are told that R. Jannai made the following request to his sons. "My sons, bury me neither in white shrouds, nor in black shrouds. White, lest I do not merit to be among the righteous, ~~white~~ and shall be like a bridegroom among mourners; black, ~~black~~ in case I have merit and shall be like a mourner among bridegrooms."
(Shabb.114a; Nidd.20a.).

82). Mehil. Ex.19,17.

From the epic of Krt, we get the impression that the bridegroom did not wait till the bride actually entered his house. He took over from her companions and attendances somewhere outside the ~~house~~ building and its precincts and brought her inside.
(A.van Selms, op.cit., p. 37.).

Similarly, a Baraitha states, "We may let wine run through pipes before a bridegroom and before a bride and we may throw before them parched corn and nuts in the dry season, but not in the rainy season. But, one must not throw rolled olives, neither in the dry season nor in the rainy season."(95). The season of the year must be taken in consideration when articles of food are thrown at the bride or groom during the procession, as no food is permitted by law to be spoilt, and the rule has been laid down that any perishable food must not be thrown.(96). Consequently, we are told that we may distribute before the bride and groom, strips of fish and pieces of meat in the summer but not in the rainy season; but we may not distribute pieces of boiled fish nor mushrooms, truffles or sesame seed in the summer or in the rainy season. On the other hand, one may throw parched corn and nuts in their shells, in all seasons.(97).

It would, however, appear that the distribution or throwing of parched corn, took place only during the bridal-procession of a virgin, for according to R.Johanan b.Beroka, the distribution of parched corn was conclusive evidence that the bride, at the time of her marriage, was a virgin(98), and R.Joseph maintained that at the procession of a widow, no parched corn was distributed.(99).

83). ibid.12,37.

84). Ex.R.20,10.

85). Sota,9,14; Tos.Sota, 15,4; Jer.Sota, 9,15.

86). Rashi explains that it was a crown cut out of a block of salt, upon which figures were traced with brimstone.

This distinction, however, was not applicable in Babylon. For, according to a Baraita, only in Judea was there a distinction made between a virgin and a widow, with regard to the throwing of parched corn.(100). On the other hand, in Babylon there was a custom of pouring oil on the heads of scholars during a marriage-ceremony. This was only done in the case of the marriage of a virgin.(101). Consequently, if witnesses stated that at the time of marriage, oil was poured on the head of scholars, it was accepted as proof that the bride was a virgin.(102).

In Palestine, there was a custom to carry a cock and hen before the bride and groom, as if to say, "Be fruitful and multiply like fowls." In fact, we are told that this custom was responsible for the destruction of Tur Malka(103), during the war 66-70 C.E. One day,

87). Sota, 49b.

88). Jer.Sota, 9,15.

89). ibid.

90). Pes.101b.

91). Matt.15,1.

92). Tos.Ber.4,19.

93). Esther R.2,3.

94). Tos.Shabb.8,8.

95). Ber.50b.

96). Sem.8.

97). ibid.

98). Keth.2,2.

during a wedding-procession, the Roman soldiers took away the birds, whereupon the Jews fell on them and beat them. The soldiers reported to the Emperor that the Jews were rebelling, and he marched against ~~the~~ them. According to R. Asi, three hundred thousand soldiers with drawn swords were sent against the city, and the slaughter of the people continued for three days and three nights. (104).

As previously stated, the goal of the bride was the home of her husband. According to the Midrash, as soon as the bride reached the house of her husband, she was conducted into his house by friends of her husband, who were probably waiting for her arrival. (105).

A great feast was held at the house of the bridegroom, which probably began on the arrival of the bride. The preparations for the feast must have taken about a month, for, according to the Mishna, "It is not right to breed small cattle in Palestine", as these usually spoil the crops of the field; yet the Rabbis permitted the keeping of small cattle for a period of thirty days, prior to the marriage of one's son. (106).

- 99). Keth. 17a.
- 100). ibid.
- 101). ibid.
- 102). For the custom of pouring oil on the head of scholars or great men, see Matt. 26, 7; John, 11, 2.
- 103). Lit. "The mountain of the king". According to Horowitz, it denotes the whole mountainous region, stretching from the valley of Jezreel to the south of Judah, including the mountains of

That this feast was prepared on an elaborate scale, we see ~~in~~ from the wedding-feast prepared by Rabbi for his son Simeon, at which Bar Kappara was not invited. In his disappointment at not being invited, Bar Kappara wrote on the doors of the banqueting-hall, "twenty-four thousand myriad denarii have been expended on this festivity, and yet Bar Kappara was not invited."(107).

Although it was not usual to prepare a wedding-feast on such an elaborate scale, we are told that the family of the bridegroom take more trouble in preparing the feast in their home, than the family of the bride in preparing their feast.(108).

According to biblical law, it is not permitted to kill the mother and its young on the same day(Lev.22,28.). Consequently, if a butcher sells the mother to the bridegroom and its young to the bride, according to R.Judah, it is the responsibility of the butcher to inform both parties that the animals are mother and young, since it is obvious that both animals would be killed on the same day. When the question was asked, "Why did R.Judah specify that the mother is sold to the bridegroom and its young to the bride?" the reply was given that it was usual for the bridegroom to spend more on the wedding-feast than the bride.(109).

Judah. (See Horowitz, Palestine, p.240.).

104). Gitt. 57a.

105). Tanh. on Deut.31,14.

106). B.K.79b.

The animals, however, must not be let loose but tied to the legs of a bed.(See Tos.B.K. 8,4.).

That it was customary to buy an animal for the feast, we are told by R.Akiba, who related that he once met R.Gamliel and R. Joshua in a butcher-shop, buying an animal for the feast connected with the marriage of the son of R.Gamliel.(110).

It was customary for the father of the bridegroom to serve his guests with drinks; and even if the father was a person holding an important position, he would be expected to pour out himself the drinks for his guests. Thus we are told that R.Elizezer, R.Joshua and R.Zadok were reclining at the banquet of the marriage of R.Gamliel's son. Although R.Gamliel was the Nasi (The Patriarch, the Head of the Great Sanhedrin in Jerusalem), he was standing over them and serving them with drinks. On his offering a cup to R.Elizezer, the latter did not accept it; but when he offered it to R.Joshua, he accepted it. "What is this Joshua?" R.Elizezer remarked, "we are sitting and R.Gamliel is standing, serving us with drinks?" "Yes!" replied R.Joshua, "we find even greater men than R.Gamliel acting as servitors. Abraham was the greatest man of his age and yet it is written, "And he stood over them."(Gen.18,8.). (111).

That a great deal of food and wine was consumed at a wedding-feast, is clear from the following incident: "It happened at the wedding-feast of the son of R.Joshua b.Levi that a company

107). Ned. 50b.

108). Null. 83a.

109). ibid.

of Rabbis got drunk and fell asleep....."(112). At any rate, these feasts used to last till late after midnight, for we are told that the two sons of Rabban Gamliel, once returned after midnight from a wedding-feast and asked their father whether there was yet time to recite the evening Shema. Rabban Gamliel said to them, "If the dawn has not yet risen, you are bound to recite it."(113).

At the feast, the seating ~~was~~ was arranged according to the importance of the guests.(114). The bridegroom was placed at the head of the table(115), whilst the bride was placed next to him, with her face turned away from the guests, because of modesty.(116). Candles were lit(117) and whilst the feast was proceeding, the bridal couple were entertained with songs, dances, etc.(118). It is interesting to note that R.Aha used to place the bride on his shoulders and dance with her; and when he was asked by the Rabbis whether they too were permitted to do likewise, he replied, "If the bride is on your shoulder like a beam,(119), you are permitted to do likewise." (120).

At such a feast, the praises of the bride and groom were sung, often exaggerating their beauty and importance.(121). According to R.Huna, "anyone who partakes of the feast of a bridegroom and does not entertain him, is considered a transgressor." (122). Consequently, many of the Rabbis placed on their heads crowns

110). Hull.91b.

111). Kidd.32b.

112). Ber.9a.

made of olive branches, and covered themselves with myrtle as part of the entertainment. Thus it is reported that R. Jeremiah put on myrtle leaves and a crown of olive branches on his head (123) and that R. Simeon b. Johai used to dance with branches before a bride. (124). In fact, it was customary to bring myrtles and palm-branches to a wedding-feast. (125).

When, however, Rab died (126), R. Isaac b. Bisna decreed that no one should bring myrtles and palm-branches to a wedding feast. (127).

That the dancing and the reciting of praises of the bride took place at the same time, is clear from the question of the Rabbis, "How does one dance before the bride?" and the answer was given that according to Beth Shammai we are only permitted to sing her praises as she is, without exaggerating her beauty or importance, but according to Beth Hillel, every bride may be described and praised as "beautiful and graceful" (128).

113). Ber. 1. 1.

114). Tos. Sanh. 7. 5.

115). M. K. 28b.

116). Pes. 7. 12; 86b.

117). Ter. 11. 10.

118). Hagg. 14b.

119). i. e. she would not awaken any sensual desire in you.

120). Keth. 17a.

That it was customary to recite songs during a wedding-feast, we see from the following Mishna, "When the Sanhedrin ceased to function, singing ceased at wedding-feast, as it is written, 'They shall not drink wine with song...' (Is.24,9.) (129). It seems, however, that the singing of songs continued long after the authority of the Sanhedrin was ended, for according to R.Hisda, a Babylonian scholar of the third century, C.E., "At first, when the fear of the Sanhedrin were upon them, people never used obscene words in their songs during a wedding-feast; but now that the fear of the Sanhedrin is no longer upon them, people use obscene words in their songs", and R.Hisda continues, "At first, when anyone used obscene words in a wedding-song, he was punished by the Sanhedrin; but now, anyone using obscene words, he and his family would be punished by God." (130).

One of the songs recited at a wedding-feast, was the Song of Songs. Objections, however, were raised to its recital as a secular song. Thus, R.Akiba stated, "Anyone reciting the Song of Songs at a wedding-feast as a secular song and not with its traditional cantillation will have no share in the world to come." (131).

121). Keth.17a.

122). Ber.6b.

123). Jer.Sota,9,15; Lam.R.5,17.

124). Jer.Pe'ah,1,1.

125). It is interesting to note that Dr.Laszlo regards leafed branches as a symbol of fertility.
(A.E.Laszlo, Doctors, Drums and Dances, New York, 1955. p.45.).

Apart from the dances, music and songs, there were people who entertained the guests with stories. Thus we are told that Rabbi made a wedding feast for his son and invited all the scholars, but forgot to invite Bar Kappara. Bar Kappara, therefore, wrote on the entrance to the house, "The end of all joy is death, so what is the purpose of your joy?". When Rabbi saw the inscription, he asked, "Who did this unto us?" When he was told that it was Bar Kappara whom he forgot to invite, he held another feast on the following day and invited all the scholars including Bar Kappara. As soon as they all sat down to the meal, Bar Kappara began to tell fables about foxes. At every course that was served, he related three hundred fables, and his stories were so interesting that the guests listened attentively and forgot to eat the food that was placed before them. The food got cold and nobody tasted anything. When Rabbi (probably in the kitchen, supervising the serving of meals) asked the waiters why the food is being brought back, they replied that there was in the hall an old man, telling the guests three hundred fables at each course. Rabbi, therefore, entered the room and said to Bar Kappara, "Why do you do this to me? why do you not allow my guests to partake of the food?" "You should not say", replied Bar Kappara,

126). In the year 247 C.E.

127). Shabb. 110a.

128). Keth. 17a.

When Beth Shammai asked Beth Hillel whether it would be permitted to describe a lame or blind bride as "beautiful and graceful" seeing that the Bible states, "Keep thee far from a false matter" (Ex. 23, 7.) Beth Hillel replied, "If one has made a bad

"that I wanted to be here for the sake of the food. I only wanted to be here in order to be with my friends."(132).

When R.Ashi, a Babylonian scholar of the 4th century,C.E. made the statement that "The meritorious act in attending a wedding-feast consists in words"(133), he was probably referring to addresses, speeches or halachic discourses delivered at the feast. Thus we are told that Bar Kappara once said to Rabbi's daughter, "To-morrow I shall drink wine(at the wedding), to your father's dancing and your mother's singing." At the wedding, Bar Kappara asked Rabbi, "What is meant by בְּיָמֵינוּ ?"(134). Every explanation offered by Rabbi was refuted by him; so Rabbi said to him, "Explain it yourself." Bar Kappara then said to him, "Let your wife come and fill me a cup". The wife came and filled him a cup of wine. Then he said to Rabbi, " Arise and dance for me that I may tell it to you." After Rabbi did so, he explained to him the meaning of the word. During the evening, Bar Kappara asked Rabbi other words in the Bible, and the same performance was repeated before Bar Kappara was prepared to offer his explanation.(135).

purchase in the market, should one praise it or depreciate it?"

129). Sota, 9, 11.

The authority of the Sanhedrin was ended by the Roman General Gabinus in the middle of the first century,B.C.E.
(Cf. Josephus, Antiq., 14,5,4.).

130). Jer.Sota, 9,12; Lam.R.5,16.

131). Tos.Sanh.12,5.

After the destruction of the Temple, a note of sadness and sorrow was introduced into the marriage ceremony. Commenting on the verse, "If I forget thee, O Jerusalem, let my right hand forget her cunning; If I do not remember thee, let my tongue cleave to the roof of my mouth; if I prefer not Jerusalem above my chief joy." (Ps. 137, 5-6.), the question was asked, "What is meant by 'My chief joy' and R. Isaac replied, "This is symbolised by the burnt ashes which we place on the head of the bridegroom." When R. Papa asked, "Where should the ashes be placed?" Abaye replied, "Just where the phylactery is worn." (136).

Similarly, the Rabbis stated that as a sign of mourning for Jerusalem, a bride in putting on her ornaments, should leave off one or two. At the banquet, one or two courses should be left out, and according to R. Papa, the hors d'oeuvre consisting of salted fish, should be omitted. (137). When at the wedding of Mar, the son of Rabina, the Rabbis asked Hamnuna to sing for them, he began instead to lament, crying, "Woe to us that we must die, woe to us that we must die." (138).

132). Lev. R. 23, 2; Ecc. R. 1, 4.

133). Ber. 6b.

134). 'Abomination' (Lev. 20, 13.), referring to unnatural vice.

135). Ned. 51a.

136). B. B. 60b.

137). ibid.

138). Ber. 31a.

That the Rabbis of the fourth century introduced a note of sorrow and sadness into the marriage celebration, is clear from the two following incidents. "Mar, son of Rabina made the wedding-feast for his son. When he noticed that the Rabbis were very gay, he took a precious cup, worth four hundred zuz, and broke it before them and they immediately became sad. R. Ashi made the wedding-feast for his son. When he noticed that the Rabbis were very gay, he took a cup of white glass and broke it before them and immediately they became sad." (139).

No express comment is made in the Talmud about this strange performance on the part of these two Rabbis, and no direct explanation of its significance is given. Even the great commentator of the Talmud, Rashi, who usually indulges in explaining fully difficult and obscure passages in the Talmud, has no explanation to offer, or remark on this strange act of the two Rabbis. Tosafoth merely states that from these two incidents, the custom was derived to break a glass at a marriage ceremony. (140).

As to the significance of this custom, there seem to be no agreement among the commentators of the Talmud. In the Mahzor Vitri, (141), the reason for breaking a glass at a marriage ceremony is

139). Ber. 31a.

140). Tosafoth, 31a, top.

141). A ritual Compendium, composed by Simha b. Samuel, a disciple of Rashi.

given "for the purpose of making the people mindful of the great tragedy of the destruction of the Temple."(142). This explanation was unacceptable to R.Eliezer of Mayence(143), who writes, "I wonder whether it was really for this reason, i.e. to make the people sad that the teachers instituted the custom of breaking a glass at weddings; for what sadness is there in breaking a glass which is not worth a penny.(144).

The Maharsah, the great commentator of the Talmud of the seventeenth century, has this explanation to offer: "The two Rabbis by breaking a glass at a wedding, wished to impress upon the minds of all present, that human lives are as brittle as glass. No matter how great the happiness of man, it cannot last for ever."(145). In his opinion, therefore, the broken glass would symbolise the ultimate fate of a human being. It is possible that this idea was conveyed to the Maharsah by the statement in our liturgy for the Solemn Days, "Man is like a fragile potsherd."

It is interesting to note that in the twelfth century, the glass broken was the one from which the bride and groom were made to drink. Thus, in the Mahzor Vitri, the custom is described as follows: "He should refill the glass with wine, recite over it the seven benedictions, drink from it and give the bride and groom to drink from it, pour out the rest and then throw the empty glass

142). Par. 592.

143). Known as RABAH, who lived in the first half of the twelfth century.

against the wall and break it!"(146). Two actions are clearly indicated...the pouring of the wine and the throwing of the empty glass against the wall.

Another interesting description of this custom, is given by R.Jacob of Moellin(died in 1427). "After he had finished the benediction he gave the bridegroom to drink and afterwards to the bride, still holding the cup in his hand. Then he gave the cup into the hand of the bridegroom. The latter then turned around and facing northside, threw the cup against the wall so that it got broke. Immediately thereupon, they hasten to run away with the bridegroom in a joyous manner, in order to bring him into the wedding-chamber before the bride gets there."(147).

"The express requirement", writes Dr.Lauterbach, "that the bridegroom turn around and throw the glass against the northern wall is significant, since it was believed that the demons came from the northside and hence were to be found in their usual haunt along the wall of the northside."(148). Dr.Lauterbach was convinced that the original meaning of the ceremony, at least in the popular ~~and~~ belief, was to conciliate the envious evil spirits.(149).

It would appear, according to Lauterbach, that the Rabbis were afraid that hilarity at weddings might provoke the envy of demons and consequently there was a tendency to deceive the demons

144). In the twelfth century, an ordinary glass was broken.

145). Maharsah on Ber.31a.

146). Mahzor Vitri, par.589.

by subduing the hilarity of the people and making them appear sad for the moment.(150). At the same time, the Midrash maintains that noise would drive evil spirits away. Thus we are told that once a demon settled in a well. In order to drive it away, the people were advised to bring spades and shovels and any iron tools, and make as much noise as possible at the well. When this was done, the demon had departed.(151). It is, therefore, possible that the noise, as a result of breaking the glass, was intended to drive any evil spirits away, who ^{are} ever ready to disturb the happiness of human beings. "Noises", writes Lauterbach, "were believed to be effective weapons against the demons."(152).

In the Jerusalem Year Book of the year 1882, an interesting custom in connection with the breaking of glass, is reported. "The Palestinian Jews also wrap the glass in handkerchiefs and whilst it is being broken, the guests recite the verse 'The snare is broken and we are escaped' (Ps.124,7.). The wrapping of the glass in a handkerchief also serves the purpose of preventing any of the broken glass from getting lost. It is a popular belief among the Palestinian Jews that if one, familiar with witchcraft got hold of

147). Sefer Maharil, Warsaw, 1874. p. 64b-65a.

148). See Pirke d'R, Eliezer, ch.3.

149). J.Z.Lauterbach, "The Ceremony of Breaking a Glass at Weddings", in Hebrew Union College Annual. vol.ii. Cincinnati, 1925. p.363.

150). *ibid.*

151). Lev.R.24,3; Mid.on Ps.20,7.

152). Lauterbach, *op.cit.*, p.337.

the broken glass, he could by means of it, bewitch the groom, making him sick and preventing him joining the bride. Hence they are very careful to gather up all the pieces of the broken glass and bury them."(153).

Another interpretation of this custom was offered by R. Eleazar b. Judah of the thirteenth century, who writes, "According to the Midrash, the marriage between Israel and the Torah, took place at Mount Sinai; Israel being the bridegroom and the Torah the bride. But Israel became faithless to his bride by worshipping the Golden Calf, and consequently, The Tablets of Stone (The Torah) the bride, was broken. The breaking of the glass, therefore, was to serve as an object lesson to all bridal pairs. The Tablets of Stone were broken because Israel was faithless to its bride; similarly, faithlessness and disloyalty can break any marriage like the broken glass. Only by fidelity, love and devotion can a union between man and woman be kept together."(154).

153). Luncz, A.M., Jerusalem, Vienna, 1882, vol.1. Hebrew Section, pp. 7-8.

154). Quoted by Shemtob Gaguine in Keter Shem Tob, London, 1934. p. 617.

When considering the principles underlying this ceremonial, it is important to bear in mind that similar ceremonials connected with marriage are found among many races and tribes. Prof. Westermarck quotes many examples where this custom of breaking glass or earthenware vessels, forms part of the marriage ceremony. Thus, among many of the Slovenes, when the bridegroom and his friends come to fetch the bride, she appears, holding in her hand a beaker of wine. She drinks a little of the wine and gives him the beaker, which he empties at once and throws at the wall; and it is considered a great shame if the beaker is not broken.

During the wedding-feast it was customary to recite a number of benedictions. Thus it was taught, "The benediction of the bridegroom is recited in the house of the bridegroom," i. e., where the wedding-feast is held. (155). This custom of reciting benedictions at a wedding, is derived by R. Simlai from the verse "And God blessed them." (Gen. 1, 28.). (156). Others derive it from the story of Rebekah, where we are told "And they blessed Rebekah" (Gen. 24, 60.). (157). On the verse, "For He shall give His angels charge over thee to keep thee in all thy ways" (Ps. 91, 11.), the Rabbis state that "thy ways" refer to the ways of a bridegroom. The Almighty blessed Adam and Eve, "Like a Reader who blesses the bride and groom under the Canopy." (158).

The benedictions were recited over a cup of wine. Thus R. Abahu states that when God blessed Adam and Eve, He took a cup of wine and recited the blessing over it. (159).

In Sardinia, it is the custom while a marriage procession is passing, to cast on it grain from windows and doors and then to throw on the pavement the vessels in which the grain was kept, so that they break. In Armenia, a plate is offered to the bridegroom, who throws it on the ground and tramples it to pieces, and Prof. Westermarck mentions that the breaking of an earthenware vessel or an object of glass, is a marriage custom among the Gypsies in Turkey, Moldavia, Spain and Germany.

There are many countries, however, where instead of breaking an object made of glass, the breaking of an egg has become an important ceremonial in connection with marriage. In France, in the seventeenth century, a bride in order to be happy in her marriage, trod upon and broke an egg when she entered her new home on her wedding day.

In Sicily, on the bride's arrival at her new home, the groom breaks with his foot two eggs. In Bali, an egg and cocoanut

It was understood by the Rabbis that the benedictions could only be recited in the presence of ten persons. When the question was asked, "Whence is it derived that the benediction of the bridegroom has to be recited in the presence of ten persons?" the reply was given "From Boaz", since it states, "And he took ten men of the elders of the city..."(160).

It would appear that originally benedictions were only recited at the marriage of a virgin, for according to R.Huna "A widow does not require a benediction"(161). Other Rabbis, however, felt that a widow is also entitled to benedictions, and consequently, in order to make a distinction between the marriage of a virgin and that of a widow, it was suggested that in the case of a virgin, the benedictions should be recited every day for seven days; whilst in the case of a widow it should be recited once only, at the wedding feast. Others suggested, that even in the case of a widow, it should be recited for seven days, provided she marries a bachelor. If, however, the widow marries a widower, the benedictions should be

are offered to the bride and groom, who throw them on the ground, so that they break. In Persia, the bride throws an egg against the wall in order to break it. Among certain Berber tribes, the bridegroom's mother places a mug upside down, on which an egg is placed and the bridegroom is expected to break both the egg and the mug with one kick.
(E.Westermarck, The History of Human Marriage, II. London, 1921, pp.458-463.).

Dr.Fayein records that in the Yemen, the bride halts before her new home, while an egg, the symbol of fecundity, is broken on the threshold.
(C.Fayein, op.cit. p.191.).

recited only once. This suggestion was unacceptable to some Rabbis, who amended the wording "once only" to "at least one day"(162).

Commenting on the verse "As a lily among thorns"(Cant.2,2) R.Hanan of Sephoris stated, "It usually happens that ten people attend a marriage feast and not one of them is able to recite the benediction for the bridegroom. Another person then enters and he recites the benediction; is he not like a lily among thorns?"(163). In fact, we are told that a Palestinian Rabbi of the fourth century made it his practice to teach his disciples the benedictions for bridegrooms and the benedictions for mourners, so that they should be trained in all things.(164)

So important was the benediction for the bridegroom regarded that the Rabbis stated, "A bride without the benediction is prohibited to her husband."(165).

According to Westermarck, the breaking of glass or eggs at a marriage ceremony, is regarded as a symbol of the soon happening loss of virginity.
(Westermarck, op.cit., pp.458 ff.).

155). Keth. 7b.

156). Gen.R. 8,15.

In Ugaritic literature, references are found to the recital of blessings at a wedding.
(A.van Selms, op.cit., pp. 39-41.).

157). Kallah, 1.1.

The Rabbis state that the mother and brother blessed Rebekah "Like a Reader who recites the benedictions for a bride under the Canopy."
(See Pirke d'R, Eliezer, ch.16.).

158). Pirke d'R.Elizezer, ch.12.

and brotherhood and peace and friendship. Speedily, O Lord our God, may be heard in the cities of Judah and in the streets of Jerusalem, the voice of joy and the voice of gladness, the voice of the bridegroom and the voice of the bride, the voice of singing of bridegrooms from their canopies and of youths from their feasts of song. Blessed art Thou, O Lord, who maketh the bridegroom to rejoice with his bride."(166).

From the fact that these benedictions were recited for seven, ^{days} it is clear that the wedding celebrations lasted for that period. According to R. Jose, "Whence do we know that a wedding feast should last for seven days? from Jacob, for we are told that when Jacob married Leah, Laban said to him, 'Fulfil her week' (Gen.29,27.). (167). According to others, it was Moses who instituted that the wedding-feast should last seven days,(168), and according to R. Judah, since we are told that the wedding feast of Samson lasted for seven days(Judg.14,12.), the Rabbis instituted that all wedding feasts should last for seven days.(169).

166). Keth.7b-8a.

There are six benedictions mentioned. The first three are based on Gen.chs. 1 & 2. In the first benediction, God is praised for the creation of the world. In the second, God is praised for the creation of man. In the third, He is praised for fashioning man in His image, and for creating a perpetual building out of man himself, i.e. Eve. The fourth benediction deals with the rebuilding of Zion and the ingathering of the exiles. The last two benedictions deal with the joy and happiness of the bridal couple, and expresses the hope that once again there shall be heard in the cities of Judah and in the streets of Jerusalem, the voice of song, joy and gladness. To these six benedictions was added the benediction over wine, thus making a ~~total~~ total of seven benedictions,

In fact, we are told that during these seven days, a bridegroom is like a king. Just as a king is not permitted to go out on his own, so should a bridegroom not go out on his own. Just as a king wears special garments of honour, so should the bridegroom be dressed in special garments of honour. Just as a king is always praised, so should a bridegroom be praised during the seven days of his festivity.(170).

According to R.Jonathan, "It is permitted to look intently at the face of the bride all the seven days of the wedding-week, in order to make her beloved to her husband"(171), and Rashi explains that when the bridegroom sees everybody admiring the beauty of his bride, his heart is filled with love for her.(172).

It was, however, understood, that during the seven days of festivity, different guests were invited each day; for according to R.Judah, the benedictions may only be recited if new guests are present.(173). R.Ashi attended a wedding feast held in the house of R.Kahana. On the first day he recited all the benedictions. From the second day to the end of the seven days, if there were new guests, he recited all the benedictions; but if not, he only recited one benediction.(174).

167). Pirke d'R.Eliezer, ch.16 & 36.

168). Jer.Keth.1,1.

169). Pirke d'R.Eliezer, ch.16 end.

170). ibid.

171). Keth.17a.

It seems that sometimes the festivities were continued beyond the usual seven days. When the question was asked, "What benediction should be recited in the house of a bridegroom after the seven days?" it was explained that from the seventh to the thirteenth day after the wedding, "whether he invited the guests because of the wedding, or whether he invited them without stating that it is because of the wedding, a benediction should be recited. After thirty days till the end of the twelve months, if he invited the guests because of the wedding, a benediction should be recited." (175).

When the Bible states, "Let the bridegroom go forth of his chamber and the bride out of her pavilion" (Joel, 2, 16.), or "As a bridegroom coming out of his chamber" (Ps. 19, 6.), it seems that both bride and bridegroom were assigned rooms for their private use during the days of festivity. Similarly, when the Bible states that a man who hath betrothed a woman and hath not taken her, is exempt from military service (Deut. 20, 7.); this exemption, according to the Mishna only applied to voluntary wars, but in the wars commanded by the Torah, i.e., the conquest of Canaan and the annihilation of the Amalekites (Deut. 25, 19.), "All must go forth, even a bridegroom from his chamber and the bride from her canopy." On the other hand, R. Judah maintains that even in the wars commanded

172). See Rashi on Keth. 17a.

173). Keth. 7b.

174). ibid. 8a.

by the Torah, a bridegroom is exempt. Only in obligatory wars, i.e., in defence against attack, "All go forth, even a bridegroom from his chamber and a bride from her canopy."(176).

That the bridegroom was provided with a special room, which probably contained a canopy, is clear from the following statement. "A Tanna taught, they also decreed against the use of the canopy of bridegrooms. What means "Canopy of bridegrooms?" crimson silk embroidered with gold. There is a teaching to the same effect. The canopy of bridegrooms is crimson silk embroidered with gold. But we may make a framework of laths and hang on it anything one desires."(177).

That the canopy was placed in a room, set apart for the use of the bridegroom, we see from the following illustration. "This is similar to the case of a king who took a wife for his son and made for him a canopy which he plastered, panelled and painted; when in his anger he killed his son, he entered the room, and began to break the poles, pulled down the partitions and tore the curtains, and said, "My son has perished; should they continue?"(178). According to Dr. Buchler, it is obvious that in this case the canopy must have been placed in a room or more probably, a temporary wooden or stone building may have been erected for that purpose.(179).

175). Keth. 5a. The sixth benediction was recited.

176). Sota, 44b; Mid. Sam. 22, 2.

177). Sota, 49b.

178). Gen. R. 28, 6.

When R.Haggai asked R.Jose, "If the son's canopy is in the bedroom and the father made the marriage feast in the hall, does the son acquire thereby the two rooms as his property?"(180), he was, no doubt, referring to the statement made by R.Hanina, "If a person marries his adult son in a house of his, the son acquires its ownership."(181). But this statement of R.Hanina only refers to the marriage of an adult son to a virgin; and only when she is his first wife; and only when it is ~~only~~ the first son who marries. In such a case, the father's joy is so great that he willingly and wholeheartedly gives away the house to his son.

It was, however, understood that even in such a case, if the house contains furniture, the son can only acquire the furniture and not the house. Consequently, we are told that when Mar Zutra married his son, he hung up in the house where the marriage took place, a sandal; and when R.Ashi married his son, he hung up a jug of oil.(182).

R.Haggai, therefore, wanted to know whether the two rooms; one in which the canopy was put up and the other in which the wedding feast took place, would now become the property of the son.

179). A. Buchler, The Induction of the Bride and Bridegroom into the ^{הבית} in the First and Second centuries in Palestine. Warsaw, 1927. p.3.

180). Jer.B.B.9,3.

181). B.B.114a.

182). ibid.

According to the Midrash, when Adam was in the Garden of Eden, the Almighty had erected for him ten canopies made out of precious stones, diamonds and gold.(183). In the third century, the Rabbis differed as to the number of these canopies; some suggesting that it was nine, others that it was thirteen.(184). According to R.Aha b.Hanina, these canopies were constructed in the following manner: "The walls were made of gold and the beams of precious stones and pearls; even the hooks were made of gold"(185).

That the bride was allotted a special room in which a canopy was placed, may be inferred from the following Midrashic statement: "During the ninety years of her barren state, Sarah was as a bride in her canopy and noble ladies came to greet her"(186), and Dr.Buchler is of the opinion that it must have been a large room or structure which could receive a considerable number of visitors.(187). This is obvious from the following incident. "Some young men were conducting the bride to bring her into the canopy and danced before her. When the procession reached the place of her canopy, those in the rear pushed aside those in front and succeeded in entering with the bride; they sat down, ate and drank, whilst those who were pushed aside, had to leave disappointed."(188),

183). Pirke d'R.Elizer, ch.12.

184). Gen.R.18.1.

185). ibid.

186). Gen.R.45.4.

187). A.Buchler,op.cit., p.10.

as probably there was not sufficient room to accommodate them all.

It is possible that the two separate rooms provided for the bride and bridegroom, were to serve as sleeping accommodation for them during the seven days of festivity. For, according to Rabbinic law, if the bride is a virgin, she enters the state of נדה (189), immediately after the first sexual intercourse. (190).

It is interesting to note that in Judea, it was customary for the friends of the bridegroom to sleep with the bridegroom during the seven days of festivity; and for the bride to sleep with her friends during that period. (191). According to R. Hiska, a Babylonian scholar of the third century, "If his bread was baked and his meat prepared and his wine mixed and water had been put on the meat (192); and the father of the bridegroom or the mother of the bride died, they bring the dead body into a room, and the bridegroom and the bride into the bridal chamber, where the marital act is performed, and then they are separated from each other. The bridegroom keeps the seven days of the wedding feast and after that he keeps the seven days of mourning. All these days, he sleeps among the men and she among the women. And so also, if his wife became menstruous does he sleep among the men and she sleeps among the women." (193).

188). Tanh. on Deut. 31, 14.

189). i.e. a woman during the period of menstruation when she is prohibited to her husband.

190). Niddah, 65b.

The friends of the bride and bridegroom, who kept them company and slept with them during the period of festivity, are called חַוְּשָׁבִיט . Prof. Krauss connects the word with חַוְּבָט , a twig or branch, alluding to the myrtles which formed a feature of marriage ceremonies and which were entrusted to the חַוְּשָׁבִיט (194). Jastrow translates the word by "the bridegroom's friend or best man." In the case of the bride, the חַוְּשָׁבִיט would be her best friend or her agent. (195). That a person should appoint a חַוְּשָׁבִיט is clearly indicated by the Rabbis when they state that originally, it was God Himself who acted as חַוְּשָׁבִיט for Adam, but after that, each bridegroom must select his own חַוְּשָׁבִיט . (196). In selecting a חַוְּשָׁבִיט , the following advice was given, "Go up a step in selecting your חַוְּשָׁבִיט (197), and from the fact that God acted as חַוְּשָׁבִיט for Adam, the Rabbis stated that a great and important man should act as a חַוְּשָׁבִיט for an inferior person, and feel no regret about it. (198).

That it was customary to appoint חַוְּשָׁבִיט for the bride and groom, we see from the many illustrations found in the Midrash. Thus the Midrash states, "It is similar to a king who married a woman, and appointed a חַוְּשָׁבִיט for her. Whenever the king was angry with his ^{with} ~~bride~~, the חַוְּשָׁבִיט used to plead on her behalf and ask the king to forgive her. When the חַוְּשָׁבִיט was about to die, he asked

After the marriage, if the bride is a virgin, she enters the state of נִדּוּף immediately after the first sexual intercourse, even if no blood whatever has appeared. Bride and bridegroom must then separate, and she must comply with all regulations governing a נִדּוּף , with the exception that instead of the regular

of the king to be considerate to his wife."(199). "It is similar to a king who married a woman and handed the Kethubah to her *קֵטוּבָה*. After a while, there was a rumour that she misbehaved herself. What did the *קֵטוּבָה* do? He tore up the Kethubah and said that it would be better for her to be convicted as an unmarried woman rather than as a married one."(200).

Sometimes it happened that the *קֵטוּבָה* was accused of immorality with the bride. It once happened that a man wanted to divorce his wife, but could not do so because her marriage settlement was large. He, therefore, invited his *קֵטוּבָה*, gave them a good feast, made them ~~xxxxxxx~~ drunk and put them in one bed. He then brought the white of an egg and scattered it on the bed and then brought witnesses to prove that they had abused his wife, and appealed to the Beth Din for a divorce. However, one of the disciples of Shammai was able to prove that the white substance was the egg white of an egg.(201).

According to R. Jussah, the function of the *שְׂמֵרֵי הַבְּרִית* was as follows: "In Judea they used, formerly, to put up two *שְׂמֵרֵי הַבְּרִית*, one for the bridegroom and one for the bride, in order to examine the bridegroom and the bride when they enter the bridal-chamber(202), but in Galilee they did not do so. In Judea, formerly, the *שְׂמֵרֵי הַבְּרִית* used to sleep in the house in which the bridegroom and the bride slept, but in Galilee they did not do so."(203). It was the duty of

minimum of five days for the unclean period, she need allow only four days.

(Miller, D., The Secret of the Jew, Oakland, 1930. pp.325-6.).

the באור to supervise the marriage feast during the seven days of festivity(204), and they were expected to send presents to the bride and groom.(205).

It was also understood that at the marriage of the באור, the bridegroom would have to reciprocate the services rendered to him at his marriage. Thus the Rabbis taught, "Five things were said in respect of reciprocation of a wedding-gift of a באור. It may be claimed through a court of law; it is to be reciprocated at the proper time(206); it is not subject to the restrictions of usury, (207), the Sabbatical year does not cause its cancellation(208), and the first born does not receive of it a double portion."(209).

Similarly, the Rabbis taught that a person has rendered service to a bridegroom ^{at a} ~~in~~ public wedding, and now desires the latter to reciprocate his services at a private wedding; the latter may refuse with the excuse "I will only act for you as you have acted for me." If the person has rendered service to a bridegroom, who has married a virgin, and he now desires the latter to reciprocate on the occasion of his marriage, the latter may refuse with the excuse, "At your marriage with a ~~an~~ virgin I will act for you as you acted for me."(210).

191). Jer. Keth. 1.1.

192). i.e. all the preparations have been made for the wedding festivities.

193). Keth. 4a.

194). S. Krsuss, Talmudische Archäologie, 1910-12. vol. II. p. 458.

So important were the services of the פלוני regarded by the Rabbis, that they were exempted from the obligations of reciting prayers and putting on their פרי during the seven days of festivity. This is in accordance with the ruling of R. Jose the Galilean, who stated, "He who is occupied with the performance of a religious duty is at the same time freed from the fulfilment of other religious duties." (211).

It is of interest to note that the פלוני, who was regarded as a friend of the family of the bridegroom, was declared by the Mishna to be ineligible to act as a witness in a law suit in which the bridegroom was involved. (212). This declaration of the Mishna was, however, qualified by Rab who stated that it was only during the seven days of festivity that the פלוני cannot act as a witness. (213).

195). M. Jastrow, Dictionary, p. 1543.

196). Aboth d'R. Nathan, ch. 4.

197). Yeb. 63a. i. e. select someone superior to yourself.

198). Erub. 18b.

199). Numb. R. 21, 5.

200). Ex. R. 46, 1.

201). Gitt. 57a.

202). So that they should not deceive each other regarding the tokens of virginity.
(See Rashi on Keth. 12a.).

203). Keth. 12a.

The final act of all the marriage ceremonials, was the induction of the bride into the bridal-chamber. It was there that the consummation of marriage took place. Although, as previously stated, from the time of betrothal a woman was already regarded as married, and was not free to marry a stranger, without first obtaining a divorce from her bridegroom, there were occasions when the woman was not regarded as fully married until she had been inducted into the bridal-chamber.

Thus, when the question was asked whether the daughter of a non-priest is permitted to eat the priestly heave-offering after she becomes betrothed to a priest, the majority of scholars decided that she is only permitted to do so after her induction into the marriage-chamber. (214).

In the case of the betrothal of a בִּתּוּלָה , i.e. a girl between the age of twelve years and a day and twelve years and a half plus a day, the Mishna states that she remains under the authority of her

204). B.B. 145a.

205). B.B. 9,4.

206). i.e. at the marriage of the בִּתּוּלָה and not earlier.

207). i.e. if the reciprocated present is of a higher value than the original.

208). See Deut. 15, 2 ff. where we read that the Sabbatical year cancels all debts.

209). Where the presents revert to the common estate of the heirs. (See B.B. 145a.).

210). B.B. 145b.

father until she enters under the authority of her husband, which was understood to mean, "until she enters the bridal-chamber." (215). Consequently, if the bride happens to die prior to her entry into the marriage-chamber, the bridegroom could not lay any claim to her possessions. (216).

The bridal-chamber, called חַיָּוִת (217), consisted of one of the bedrooms with a canopy round the beds (218). The canopy itself was made of the branches of a cedar tree and of a pine tree. "It was the custom when a boy was born to plant a cedar tree, and when a girl was born to plant a pine tree, and when they were married, the trees were cut down and a canopy made of their branches. (219). According to the Rabbis, this custom was responsible in the destruction of the city of Bethar during the revolt of Bar Kochba, in the year 135 C.E. One day, the daughter of the Emperor was passing when the shaft of her litter broke, so they lopped some branches of a cedar tree and brought it to her. The Jews, thereupon, fell upon them and beat them. The matter was reported to the Emperor, who marched against the city (and destroyed it). (220).

211). Sukr. 25b; Tos. Ber. 2, 10.

212). Sanh. 3, 4.

213). Sanh. 29a.

214). Kidd. 30b; Jer. Keth. 5, 4.

215). Keth. 48a, b.

216). Tos. Keth. 4, 4.

The canopy consisted of a framework of laths(221), from which were suspended articles of clothing, jewelry and food. Thus we are told that during the Hadrianic persecutions, it was prohibited to hang on the canopy coloured material with gold embroidered materials hanging thereon.(222). According to R.Meir, one may suspend from the canopy any kind of fruit, whether ripe or unripe; but according to R.Judah, only unripe fruit may be suspended. One may suspend nuts in their shells, unripe pomegranates and unripe cloves, straps of purple-wool, bottles of spiced oil, but one may not suspend nuts without their shells, ripe pomagranates, ripe olives and bottles containing sweet oil. The principle was laid down that one may not derive any benefit from any of the things suspended from the canopy(223), and Hirschberg maintains that these were subsequently distributed among the poor.(224).

That the canopy was covered with wreathes, we see from ~~from~~ the following story. R.Amai and R.Ashi were wreathing the bridal-chamber for R.Eleazar, when the latter said to them, "while you are engaged in making the necessary preparations, let me go to the ~~xx~~ academy, and I shall tell you afterwards what I have heard."(225). In fact, the Rabbis permitted to cut down branches from a myrtle tree on the Second day of the Festival, for the purpose of decorating the canopy.(226).

217). Lit. canopy, from the Hebrew 'to cover'.

218). Jer.B.B. 9,1.

219). Gitt.57a.

That the consummation of marriage took place in the bridal-chamber under the canopy, is clear from the distinction made between the fines imposed upon one, who seduces a virgin and one, who violates her. According to the Mishna, the seducer pays three forms of compensation and the violator four. The seducer pays compensation for indignity and blemish and the statutory fine(227), whilst the violator pays an additional form of compensation in that he pays for the pain. (228). When the question was asked why the violator should pay the additional form of compensation, the reply was given, "You cannot compare intercourse that takes place on a dunghill to an intercourse taking place under a canopy."(229).

The bride was inducted first into the bridal-chamber. It was only after she was ready to receive her groom, that he entered the chamber. On the verse, "Let my beloved come into his garden and eat his pleasant fruit"(Cant.4,16.), R.Johanan stated that this teaches us the proper conduct in life. "The bridegroom should not enter the bride-chamber until the bride gives him permission to do so."(230).

220). Gitt.57a.

221). Sota,49b.

222). Jer.Sota,9,15.

223). Sem. 8.

224). Hirschberg, op.cit.,p. 92.

225). Ber.16a.

226). Erub.40a. See Rashi id.loc.

227). Fifty Shekels (Deut.22,29).

228). Keth.3,4.

229). Jer.Keth.3,5.

230). Cant.R.4,31; Numb.R.13,4.

BIBLIOGRAPHY.

- Abrahams, I., By-Paths of Hebraic Bookland, Philadelphia, 1920.
 _____ Jewish Life in the Middle Ages, London, 1932.
- Agus, Irving I., Marriage Laws in the Bible and Talmud, J.Q.R. 34.
 1943-1944.
- Allegro, J.M., The Dead Sea Scrolls, London, 1957.
- Armstrong, H.C., Lord of Arabia, London, 1934.
- Bailey, C., The Legacy of Rome, Oxford, 1951.
- Baron, S.W., The Jewish Community, (3 vols.), Philadelphia, 1948.
- Bathelemy, D. and Milik, J.T., Discoveries in the Judaean Desert.
 Qumran Cave, 1. Oxford, 1955.
- Barton, G.A., A Sketch of Semitic Origins, New York, 1902.
 _____ Archaeology of the Bible, London, 1925.
- Bauer, L., Volksleben in Lande der Bibel, Leipzig, 1903.
- Berdyayev, H., Spirit and Reality, trans. by G. Reavey, London, 1939.
- Bertholet, A., A History of Hebrew Civilisation, London, 1926.
- Briffault, R., The Mothers: The Matriarchal Theory of Social Origins,
 New York, 1931.
- Buchler, A., Studies in Jewish History, The Buchler Memorial
 Volume, Oxford, 1956.
 _____ The Induction of the Bride and Bridegroom into the
 חתונה in the First and Second Centuries in Palestine,
 Warsaw, 1927.
 _____ Types of Jewish Palestinian Piety from 70 B.C.E. to
 70 C.E., London, 1922.
- Burrows, J., Levirate Marriage in Ancient Israel, London, 1940.
 _____ M., The Dead Sea Scrolls, London, 1956.
- Cary, M., and Haarhoff, T.J., Life and Thought in the Greek and Roman
 World, London, 1942.

Catholic Encyclopedia.

- Charles, R.H., *The Apocrypha and Pseudepigrapha of the Old Testament*, (2 vols.), Oxford, 1913.
- Cohen, M., *Everyman's Talmud*, London, 1937.
- Cook, Stanley A., *Laws of Moses and the Code of Hammurabi*, London, 1903.
- Cowley, A., *Aramaic Papyri of the 5th cent. B.C.*, Oxford, 1925.
- Dallmann, G., *Arbeit und Sitte in Palaestina*, Gutersloh, 1928.
- Danby, H., *The Mishnah*, Oxford, 1933.
- Davis, A.P., *The Meaning of the Dead Sea Scrolls*, London, 1957.
- Donaldson, J., *Woman; Her Position and Influence in Ancient Greece and Rome, and among the Early Christians*, London, 1917.
- Driver, C.R. and Miles, J.C., *The Assyrian Laws*, Oxford, 1935.
-
- The Babylonian Laws, 2 vols. Oxford, 1952.
- Driver, S.R., *A Critical and Exegetical Commentary on Deuteronomy*, (I.C.C.), Edinburgh, 1895.
- Dupont-Sommer, A., *The Dead Sea Scrolls*, London, 1952.
-
- The Jewish Sect of Qumran and the Essenes,
London, 1955.
- Duchesne, L., *Early History of the Christian Church*, 3 vols., London, 1951.
- Epstein, L.M., *The Jewish Marriage Contract*, New York, 1927.
-
- Marriage Laws in the Bible and Talmud, Cambridge,
Mass., 1942.
- Evans-Pritchard, E.E., *Some Aspects of Marriage and the Family among the Nuer*, Livingstone, 1945.
- Fayein, C., *A French Doctor in the Yemen*, London, 1957.
- Foakes Jackson, F.J., *The History of the Christian Church to A.D. 641*. London, 1957.
- Frazer, Sir James G., *Totemism and Exogamy*, London, 1910.

- Frazer, Sir James G., Folk-Lore in the Old Testament, London, 1923.
- Gaster, M., The Kethubah, Berlin-London, 1923.
- _____ Th., A., The Scriptures of the Dead Sea Sect, London, 1957.
- Glanville, S.R.K., The Legacy of Egypt, Oxford, 1953.
- Gomme, A.W., Essays in Greek History and Literature, Oxford, 1937.
- Graetz, H., History of the Jews, (6 vols.), Philadelphia, 1891-8.
- Granqvist, H., Marriage Conditions in a Palestinian Village (2 vols.), Helsingfors, 1931.
- Grant, E., The People of Palestine, London, 1931.
- Guinsburg, C.D., The Essenes; Their History and Doctrines, London, 1955.
- Halevi, I., Doroth Harishonim, Frankfurt, 1922.
- Hardman, O., The Ideals of Asceticism, London, 1924.
- Hastings, J., Encyclopedia of Religion and Ethics, Edinburgh, 1908-22.
- _____ Dictionary of the Bible, Edinburgh, 1898-1904.
- Hecht, J., The Symbolism of the Shoe, J.Q.R. vol. iv.
- Heilpern, J., Seder Hadoroth, Warsaw, 1897.
- Heineman, I., Die Sektenfrommigkeit der Therapeuten, M.G.W.J. 1934.
- Herford, T.R., The Pharisees, London, 1924.
- _____ Judaism in the New Testament Period, 1928.
- Herodotus, trans. by A.D. Godley, London, 1921.
- Hertz, J.H., The Pentateuch and Haftorahs, London, 1950.
- Hirschberg, A.S., Betrothal and Marriage in the Talmud, Hebid, vol. v. Berlin, 1923.
- Hozumi, H., Ancestor Worship in Japanese Law, Tokyo, 1923.
- Jacob, B., The Jewish Woman in the Bible, New York, 1934.
- The Jewish Encyclopedia

Jewish Quarterly Review.

- Josephus, Flavius, Works; trans. by W. Whiston, London, 1906.
- Kennedy, A.R.S., Samuel, (The Century Bible).
- Kennett, R.H., The People and the Book, London, 1930.
- _____ Ancient Hebrew Social Life and Custom, London, 1933.
- Krauss, S., Talmudische Archaologie (3 vols.), Leipzig, 1910-12.
- Landtman, G., The Origin of Priesthood, Eknaes, 1905.
- Langdon-Davis, J., A Short History of Women, London, 1932.
- Laszlo, A.E., Doctors, Drums and Dances, New York, 1955.
- Lazarus, M., Ethics of Judaism, Philadelphia, 1900.
- Lauterbach, J.Z., The Ceremony of Breaking a Glass at Weddings, H.U.C.A., vol. II. Cincinnati, 1925.
- Lebendiger, I., The Minor in Jewish Law, J.Q.R. VII. 1916.
- Leventhal, I.H., The Jewish Law of Agency, J.Q.R. XIII. 1922.
- Licht, H., Sexual Life in Ancient Greece, London, 1932.
- Lods, A., Israel: From its Beginnings to the Middle of the Eighth Century, London, 1932.
- Luncz, A.M., Jerusalem, Vienna, 1882.
- Mace, David R., Hebrew Marriage, A Sociological Study, London, 1953.
- Maine, H.J.S., Ancient Law, London, 1906.
- Marr, G.S., Sex in Religion, London, 1936.
- Mayne, J.D., A Treatise on Hindu Law and Usage, Madras, 1900.
- Marmorstein, A., Studies in Jewish Theology, Oxford, 1950.
- _____ Greek and Jewish Customs and Popular Usages, Gaster Anniversary Volume, London, 1936.
- Mattuck, I.I., The Levirate Marriage in Jewish Law; Studies in Jewish Literature, in honour of Prof. Kohler-Kaufman, Breslau, 1913.

- McLennan, J.F., Studies in Ancient History, London, 1886.
- Mehilta, Wilno, 1927.
- Midrash Rabbah, Wilno, 1925.
- Miller, A., The Secret of the Jew, Oakland, 1930.
- Moore, G.F., Judaism in the First Centuries of the Christian Era, Cambridge, Mass., 1944.
- Neufeld, E., Ancient Hebrew Marriage Laws, London, 1944.
- Pedersen, J., Israel: Its Life and Culture, London, 1925.
- Philo Judaeus, Works; trans. by F.H. Colston and G.H. Whitaker, London, 1929-1935.
- Plato, Works; trans. by B. Jowett, New York, 1937.
- Pomeroy, de R., Marriage: Past, Present and Future, London, 1930.
- Radin, M., The Life of the People in Biblical Times, New York, 1931.
- Radcliff-Brown, A.R. and Daryll Forde, African Systems of Kinship and Marriage, Oxford, 1950.
- Reuter, E.B., and Rumner, J.R., The Family, New York, 1931.
- Risley, Sir Herbert, The People of India, London, 1915.
- Savage, C.A., The Athenian Family, Baltimore, 1917.
- Schechter, S., Studies in Judaism, (3 vols.), Philadelphia, 1943.
- Scholem, G.G., Major Trends in Jewish Mysticism, Jerusalem, 1941.
- Seligman, C.G. and Brenda Z., The Kabahish, A Sudan Arab Tribe, Cambridge, 1918.
- Sifra, Wilno, 1927.
- Sifre, Wilno, 1927.
- Simon, L., Selected Essays of Ahad Ha'am, Philadelphia, 1948.
- Smith, R., Bible Doctrine of Womanhood, London, 1927.
- W., Dictionary of the Bible.

- Smith, R., Bible Doctrine of Womanhood.
- Spencer, H., The Principles of Sociology, London, 1893.
- Starck, S.C., The Primitive Family, London, 1899.
- Strack, H.L., Introduction to the Talmud and Midrash, Philadelphia, 1945.
- Straham, J., Commentary on Deuteronomy.
- Sulzberger, M., The Am-ha-aretz: The Ancient Hebrew Parliament, Philadelphia, 1910.
- Talmud, Babylonian, (22 vols.), Wilno, 1892.
 _____ Eng. trans. Ed. by I. Epstein, (Soncino), London, 1938.
- _____ Jerusalem, (4 vols), Zhitomir, 1867.
- Tanhuma, (2 vols.), Warsaw edition.
- Thomson, G., Aeschylus and Athens, London, 1941.
- Universal Jewish Encyclopedia, New York, 1941.
- Van Selms, A., Marriage and Family Life in Ugaritic Literature, London, 1954.
- Wagenroort, H., Roman Dynamism, Oxford, 1947.
- Westermarck, E., Marriage Ceremonies in Morocco, London, 1914.
 _____ The History of Human Marriage, (3 vols.), London, 1925.
- Wilson, E., The Scrolls from the Dead Sea, London, 1955.
- _____ C.T., Peasant Life in the Holy Land, London, 1906
- _____ Gut Shimoni, (2 vols.), Warsaw edition.
- Witlin, S., The Essenes and Messianic Expectations, J.Q.R. 45, 1954.