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The book would form the basis of an excellent course of lectures. And for more knowledge of the subject of each chapter a bibliography is provided at the end.

The Calendar, the Sabbath, and the Marriage Law in the Geniza-Zadokite Documents.

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III. The Marriage Law.

It is possible that a complete order of the Marriage Law originally stood in the second part¹ of the work contained in these documents. The first part, which is historical and admonitory, and clearly bears the marks of a manifesto, only refers in a casual way to two marriage ordinances. As, however, these two are of paramount importance, full attention must be given to them in this place.

A very interesting passage, which begins on p. 4 and ends on p. 5, opens as follows:—

‘The builders of the hollow partition wall² [are they] who have walked after *Šaw*,³ the *Šaw* being a dropper of [words],⁴ who says, Certainly let them drop [words].⁴ These are ensnared by two [women] in fornication, so as to take two wives in

their lifetimes, whereas the fundamental ordinance of creation [is expressed in the words]: “Male and female created he them.”⁵ Also [regarding those who] entered the Ark [is it written]: “Two and two entered they the Ark.”⁶

In connexion with this ordinance there follows a reference to David, who is declared to have been ignorant of the existence of such a law, the *Séfer hat-Tōrah* (Book of the Law) having been in his day sealed up in the Ark of the Covenant, so that he was not aware of the enactments contained in it. After this are references to matters affecting (a) special regard for the Sanctuary in connexion with married life, and (b) the purity of the married state rather than the Marriage Law in the sense in which it is dealt with in this paper.

The end of the passage reads as follows:—

‘And they⁷ marry the daughter of their brother and the daughter of their sister. But Moses said: “To the sister of thy mother thou shalt not draw near, she is thy mother’s near kin.”⁸

The law of prohibited degrees⁹ is, indeed,

¹ On the two parts of the work see the number of this magazine for May 1912, p. 362, note 4, where also the very fragmentary condition of Part II. is referred to.

² חין (occurring again on p. 8, l. 12) is no doubt a corruption of (or, possibly, only a scribal error for) חין; see Ezk 13¹⁰.

³ The form of the allusion shows that the author or authors had Hos 5¹¹ (‘he was content to walk after *Šaw*’) in their minds. What *Šaw* there means is not certain (the LXX and Pesh. have ‘vanity’=אשׁו); but it is here in all probability to be taken in the sense of ‘command’; comp. Is 28^{10, 12}. In *Bibliotheca Sacra* for July 1912, p. 427, I made the suggestion that it was a nickname given by our sectaries to Rabbi Yohannan b. Zakkai, who, after the destruction of the temple by Titus, transferred the ruling body of Pharisaic Judaism to Yabneh.

⁴ קטן hence denotes a preacher, prophet, orator, in either the approved sense (e.g. the verb, Ezk 21^{2, 7}) or with the connotation of pretence and unreality (Mic 1¹¹).

⁵ Gn 1²⁷ (referred to in Mt 19⁴ and Mk 10⁶).

⁶ Gn 7⁹.

⁷ אִישׁ, though a singular, is here used in a plural sense (‘each man,’ i.e. ‘all,’ whenever they think it expedient); hence the plural וְלוֹקְחִים. It is not necessary, therefore, to read (with Dr. Schechter) אִשָּׁה for אִישׁ.

⁸ The nearest parallel is Lv 18¹².

⁹ אֲרֵיבָהּ, though a plural regularly formed from אֲרֵיבָהּ, is not Biblical; but as it is Mishnaic, its occurrence in the document need cause no surprise.

written with reference to males, but the females are [by analogy] like them, so that if the daughter of the brother uncover the nakedness of the brother of her father, she is a near kin.¹

I. With regard to the first enactment contained in the passage just given, the initial question to answer is whether polygamy (or rather, strictly speaking, bigamy) only is prohibited, or whether the contraction of a second marriage after a divorce is included in the prohibition; incidentally, also, whether divorce was permitted at all by the sectaries addressed in the manifesto.

It must be owned that it is not easy to keep the balance between the two interpretations. There is, on the one hand, the fact that the text as it stands contains no mention of divorce, but significance may, on the other hand, be attached to the employment of the quotation from Gn 1²⁷ in a manner similar to that of Mt 19⁴ and Mk 10⁶. The inference as to the presence in this passage of the idea of divorce that may be drawn from the Scriptural reference just mentioned gains in strength if one considers that such an application of the verse in question has so far not been found elsewhere in Jewish literature (for a fuller statement on this point see *The Expositor* for March 1912, p. 224).

There is another argument in favour of this view which can, however, only be introduced hypothetically in the present paper. Kırkışāni, an authoritative Karaite teacher writing about the year 937,² records in his *Kitāb al-Anwār w'al-Mārākīb* (The Book of Lights and High Beacons) that the Zadokites 'absolutely forbade divorce, which the Scriptures permitted.'³ If, therefore (as the present writer, in company with others, thinks), the manifesto before us issued from a section of the same Zadokites, as originally constituted in pre-Christian times, the passage regarding the taking of 'two wives during their lifetimes' would have to be interpreted in the light of Kırkışāni's report relative to the marriage law of that ancient sect, an interpretation which both strengthens, and is strengthened by, the reference to Gn 1²⁷, which, as has been remarked, is in that special application only found elsewhere in Mt 19⁴ and Mk 10⁶.

As, however, the controversial element is, in accordance with the plan adopted, to be eliminated from these papers, the result that might thus be obtained cannot be insisted on. All that one is in this place entitled to say is that there is at least as much ground for including the prohibition of divorce in the passage quoted as for excluding it. In the comparison, therefore, with other marriage codes, on which we must now enter, both these possible views will have to be taken into account.

So far as the prohibition of divorce, or of re-marriage after it, is concerned, our sectaries would be found at variance, not only with both the Rabbanite and Karaite Jews, but also with the Samaritans, the codes of all of whom contain divorce regulations, it being clearly understood by all that re-marriage is permitted in such a case. The affinities of the manifesto in this matter would be first of all (as has already been indicated) with the New Testament, and in the second place with the sect founded by Obadiah of Ispahan (684-705), who, as both Kırkışāni and Hadāsi⁴ inform us, agreed with the Zadokites and the Christians on the subject of divorce.

Another point to be considered is whether the Book of Jubilees takes up any special attitude with regard to divorce. Dr. Schechter refers (p. xxxvi) to Bachrach, who in his *Yoreach Lemoadim*,⁵ p. 49a, 'perceives in the wording of Jubilees 3⁷ also a prohibition against divorce,' which, however, the learned editor of our documents regards as 'questionable.'

There, indeed, seems to be in the verse from Jubilees just referred to a clear intention to emphasize the conditions of oneness that exist between man and wife, for there are in it, in addition to the clause, 'and they shall be one flesh,' as in Gn 2²⁴, also the words, 'therefore shall man and wife be one'⁶; and it is possible that this doubling of the declaration was connected in the author's mind with certain negative tenets regarding divorce which later on found full expression in the Gospels. If, instead of being merely possible, certainty could be claimed for

¹ See § 97 of משנה הכפר, composed 1148 A. D.

² I have, so far, not succeeded in tracing the work of Bachrach here referred to by Dr. Schechter.

³ See the fuller treatment of this point, in connexion with the entire passage (3³⁻⁷), in Dr. L. Blau's important treatise, *The Jüdische Ehescheidung, etc.* (Strassburg, 1911).

¹ i.e. within the line of prohibited degrees.

² In Dr. Schechter's Introduction, p. xviii, the date 637 is given by a misprint.

³ For the reference see Dr. Schechter's Introduction, p. xix.

this view of the passage, there would also be established an important fresh point of contact between our manifesto (on the supposition that divorce is prohibited in it) and the Book of Jubilees.

It is, however, undoubtedly too hazardous to build up such a theory on so slight a foundation. It might be argued that the emphasis laid on the condition of marital unity was only intended to strengthen the ordinary Jewish view of the matter, and need, therefore, not take us beyond the general Pentateuchal law regarding divorce; and there is, besides, the fact that the marriage law as codified in portions of the *Torah* following the Book of Genesis must necessarily, in their very nature, lie outside the scope of Leptogenesis, as Jubilees is sometimes called.

The remark just made might be balanced by the possibility that the ordinances contained in the canonical Books of Moses were regarded by the author of Jubilees in quite a different light from that in which they appeared to the bulk of the Jewish nation. Much might, indeed, be said in favour of such an assumption, but it would in any case take us too far afield to investigate the matter with a sufficient degree of fulness in the present paper.

With regard to the prohibition of bigamy, which is so emphatically enforced in our manifesto, the affinities with the New Testament are as marked as they well could be, the prohibition to re-marry after divorce (Mt 19⁴, Mk 10⁶) of course implying the general doctrine of monogamy, for apart from such a rule there would be no reason why a man should not marry another woman after having divorced—or separated from—a former wife.¹

It is very likely that the sect founded by Obadiah of Ispahan, to which reference has already been made, also forbade bigamy besides divorce. It is true that divorce only is expressly mentioned in our authorities; but the form of Kirķisāni's statement (Obadiah 'forbade divorce as the Zadokites

¹ If 1 Ti 3^{2, 12} are not taken as an injunction that bishops and deacons must be married men, but is a prohibition of bigamy in respect of these officers of the Church, a relaxation of the rule of monogamy would seem to be implied in the case of laymen. As a commentary on the meaning of 1 Ti. should probably be regarded *Constitutiones Apostolorum*, ii. 2. 2 (p. 15. ed. Lagarde), where μονόγαμον follows δεῖ εἶναι τὸν ἐπίσκοπον μίᾳ γυναϊκὸς ἄνδρα γεγεννημένον.

and the Nazarenes forbade it') seems to suggest that the sect in question was in essential agreement with the view taken of marriage in the New Testament.

If this be so, the Karaites, who, according to R. Eleazar b. Tobiah in his *Lékaḥ Tōb* on Dt 21¹⁵, also prohibited bigamy, might in this respect have followed the lead of Obadiah, who flourished only about half a century before 'Anan, the founder of Karaism, though it is possible that they derived the principle of monogamy from a much earlier source (perhaps even from the New Testament).

There is, on the other hand, a marked contrast between the ordinance of monogamy in the manifesto and the marriage law, in early times, of the Pharisaic party. One may cheerfully agree with Mr. Israel Abrahams's statement that 'although the Jewish law permitted polygamy, Jewish practice early abrogated the license'²; but still there is a vast difference between a body of teaching which expressly forbids the practice and a system in which a legal prohibition does not exist.³ Or Mr. Abrahams's own showing, moreover, the absence of such a prohibition produced—and still produces—some deplorable lapses from the higher rule of life in countries under Muhammadar sway.

The practice of the Samaritans in this respect may best be indicated by the following extract from Peterman's *Reisen im Orient*,⁴ i 279:—

'As their number is so small, they are not able to be very particular about near kinship in relation to marriage, the less so as they are allowed to marry two wives. When, namely, a wife has become old and remained childless, the husband may take to himself another wife; but he may not do so, if his wife has children. The wife of the priest Amram had had five children; she died and after her died all her children. He married

² *Jewish Life in the Middle Ages*, p. 114; on the entire subject see Hastings' *B.D.* iii. 265 f.

³ The prohibition of polygamy by the synod convoked by Rabbenu Gershon Me'or hag-Gōlah ('Light of the Exile' took place about 1000 A.D., but though the decree was intended to apply to all Jews, its practical effects were confined to western Jews mainly or—more precisely—to Jew resident in Christian countries.

⁴ A convenient summary of the Samaritan marriage law is given in Montgomery, *The Samaritans*, pp. 42-43, 175 sqq.

a second wife, who remained childless, and as she had become old, he married a younger one in addition to her, so that he now [about 1860] has two wives, with two daughters from the second. . . . It is, however, never permitted to marry a third wife, even if the two wives a man already has are childless. No definite time before marrying a second wife is fixed; a man must wait one whole year at the very least, and it even then depends on the priest whether he would grant them permission to marry a second or not.'

Regarding the attitude of the Book of Jubilees towards the practice of bigamy, Dr. Kohler (p. 428 of the article referred to) naively says that that apocryphon makes no mention of its prohibition. Of course it does not, the Mosaic marriage law necessarily lying quite as much outside the purview of Leptogenesis as of the canonical Book of Genesis. As has already been remarked, there, indeed, is a possibility of Jubilees having been written from a point of view antagonistic to the usual Judaic attitude towards the legalism of the Pentateuch; but—as has also been already indicated—it would hardly be justifiable to include an investigation of the topic in the present series of papers.

II. We now come to the second part of the passage before us, namely, that dealing with the prohibition directed against marrying one's niece.

What strikes one first of all in this connexion is the complete agreement of the manifesto with Karaite law, extending even to the form of the argument used.¹ The agreement in form is, in fact, so close that one almost feels disposed to regard the argument that follows the bare statement regarding the practice of marrying a niece as an addition made to the original text of the manifesto by a Karaite scribe. On consideration, however, one finds that the theory of interpolation would only hold good if it could be shown that the documents are non-Zadokite; for if Zadokite, the inclusion in the original manifesto of the argument used would be proved by the statement of Kīrkīsānī that Zadok 'adduced no proof for anything he said . . . except in one thing, namely, in his prohibition against marrying the daughter of the brother, and the daughter of the sister. For he adduced as proof their being analogous to the

¹ אָנָּקָה, or 'argument from analogy,' is, indeed, one of the mainstays of Karaite *Halakha* (law of religious practice).

paternal and maternal aunt² (see Dr. Schechter, Introduction, p. xviii).

But even supposing that the documents are not Zadokite, and that the argument from analogy is a Karaite interpolation, the fact of marriage with a niece being prohibited in the manifesto would still remain, so that the essential affinity on this matter between our sectaries and the Karaites would still be unshaken.

Marriage with a niece is also forbidden among the Samaritans (see e.g. Montgomery, *The Samaritans: The Earliest Jewish Sect*, p. 43). Dr. Kohler (p. 428) mentions the view supported by scholars of great repute that the Samaritans adopted the prohibition from the Koran (see Surah iv. 27, which contains a list of prohibited degrees); but though one cannot be as categorical on this point as the American critic named, who says that this view 'must now be discarded as false,' it would seem at least as likely that the Samaritans as well as the Karaites³ followed earlier Jewish sectaries.

The practice of marrying a niece seems to have been discouraged rather than absolutely forbidden in the early Church. In the *Didascalia*, ed. Funk, p. 568 (as quoted by Dr. Kohler), we thus read: 'He who has married two sisters (one after the other), or his brother's or sister's daughter, cannot be a clergyman' (comp. *Canones Jacobs von Edessa*, ed. Kayser, p. 162, where the prohibition applies to all Christian people); but, as is well known, the prohibition of such a marriage forms part of the list of prohibited degrees in the ecclesiastical usage of to-day.

In striking disagreement, on the other hand, with our manifesto is the Rabbinic law regarding marriage with a niece. Such alliances are not only tolerated, but even strongly recommended in the Talmud. In Babl. *Yebāmōth*, fol. 62^b, we thus find that a man who married his sister's daughter is classed in point of beneficence with persons who lend to the poor, when they are in distress, and who do everything possible to help their neighbours and relations (see also *Sanhedrin*, 76^b; *Berēshith Rabba*, xviii. 5, where the marrying of 'one of one's near relation' in a general sense is highly commended).

² It is, on the other hand, not impossible that Kīrkīsānī had already an interpolated text before him.

³ See Poznanski in the Kaufmann Gedenkbuch with regard to this prohibition.

Dr. Kohler thinks that the Book of Jubilees also 'sets up the rule that each pious man should marry the daughter of his brother or sister,' citing as proof the records contained in Jubilees 4¹⁵⁻³³ etc. But it would be as correct to argue from the history of Jacob that the author or compiler

of the Book of Genesis recommended the simultaneous marriage of two sisters by one man as to infer from the passages of Leptogenesis named that marriage with a niece was considered a praiseworthy act by the religious school from which it emanated.

Contributions and Comments.

Isaiah xxxviii. 15, 16.

Vv. 15-16 in Is 38 are difficult. Various attempts at explanation have been made, but no satisfactory solution of the difficulties has as yet been given (see Commentaries). I should like to suggest the following explanation.

V. 15^a does not constitute a change in the tone of the prayer of Hezekiah. 'What shall I say, and he (God) has spoken (decreed) with regard to me,¹ and he (God) has done it' (v. 15^a), is not an expression of joy, but is a sigh of resignation. The first assumption is impossible according to the words in v. 15^a and the words that follow. V. 15^b presupposes a certain change in the thought of Hezekiah. The following thought seems here to have passed through the mind of the sick king: even if I will not die, even if I will not go down to 'the gates of Sheol in the midst of my days' (v. 10), I may be afflicted with illness all the rest of my life. I will live, but it will be a life of pain and suffering. This fear is expressed in v. 15^b: '(I fear) I shall walk (spend) my years in the bitterness of my soul.' This the king dreads, and he prays (in v. 16) for a life of health and vigour. V. 16

אדני עליהם יחיו ולכל בהן
חיי רוחי ותחלימני והחייני

is, I think, to be interpreted this way: 'O God, over them (the remaining years of my life) there may be real, healthy life (יחיו), and in every one of them (of the years) (ולכל בהן) (there may be) the life of my spirit (vigorous life), and thou mayest make me strong and let me live (a healthy life).' This interpretation may at the first glance look forced, but, when examined more carefully, it can be regarded as quite satisfactory. V. 16^b is decidedly a prayer for good health (ותחלימני והחייני). V. 16^b (ולכל בהן חיי רוחי) can also only be explained in

¹ ל and על are used in this chapter not in their strict meaning; cf. v. 16 (עליהם) and v. 17 (לשלום, 'instead of peace').

the same way, so that ולכל בהן refers to each of the years (see also Rashi and Kimḥi). The crux is v. 16^a. Here, I think, we have a short, pregnant phrase with the meaning just given in the translation. אדני is vocative. עליהם clearly refers to שנותי in v. 15^b (see also Rashi and Kimḥi). The main difficulty is יחיו. This I take to mean: 'There shall be (real) life (life of health).' This interpretation does no violence to the word יחיו. It can quite well have this impersonal meaning. Cf. also Ibn-Ezra, who renders יחיו by יהיו החיים ('the life shall be'). The crux thus disappears and the whole verse (16) is seen to be a prayer for good health in the remaining years of the king.

To sum up. In v. 15^a Hezekiah resigns himself to the will of God. Following upon this thought of resignation flashes through the mind of the praying king the thought that God might after all save him from 'the gates of Sheol,' but might let him live the rest of his life in suffering and pain. This fear he expresses in v. 15^b. Then he prays in v. 16 for a life of health and vigour (if he is to continue to live). Thus both verses are satisfactorily explained, and the text remains intact.

Further, what Hezekiah prays for in v. 16 becomes gradually a certainty in his mind. In v. 17^a he glances back at the time of trial through illness.² In v. 17^b he is sure of God's help and of the forgiveness of his sins. In vv. 18-19 he gives the reason why God should help him. And v. 20 contains the final expression of Hezekiah's trust in God's help and his promise to praise God throughout the whole of his life.

Thus the whole prayer seems to be freed of the difficulties and obscurities and to yield a satisfactory sense. SAMUEL DAICHES.

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² וינהג לי שום is no doubt to be translated: 'Instead of peace there was bitterness unto me.' See for the meaning of ל above, note 1.