

## CHAPTER I.

### LITERARY CHARACTERISTICS

The Talmud,—using this name in its broader sense to include the entire Talmudic literature, the Mishnah and the Tosefta, Megillat Taanit, Seder Olam Rabbah, the Halakic or Tannaitic Midrashim, Sifra, Sifre, and Mekilta and both the Palestinian and Babylonian Gemaras<sup>1</sup>—may properly be designated as the second Jewish Bible. For the place which it occupies in Jewish literature is second only to the Bible. In point of time, the Talmud is next to the Bible and forms the direct continuation of the Biblical literature. As regards the character of its teachings, it holds the same position. For, next to the Bible, the Talmud is the most important and most authoritative body of Jewish literature.

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<sup>1</sup> All these works, with the exception of the Palestinian Gemara, are frequently mentioned by name in the Babylonian Gemara, only the Mekilta having formed part of the Sifre is not mentioned separately. Their redaction, not considering minor additions which some of them may have received even later than the sixth century C. E., took place before the final redaction of the Babylonian Talmud, and hence they are included in the name Talmud. I exclude the Agadic Midrashim, the Rabbot, Pasiktas, the Tanhuma-Yelamdenu group and all the others because they were redacted and received their present form after the final redaction of the Talmud. Even Genesis Rabbah received its present form not earlier than the seventh century C. E. The Pesikta de Rab Kahana is likewise not older than the seventh century C. E. The Pesikta de Rab Kahana is likewise not older than the seventh century. Buber, who, in the introduction to his edition of the Pesikta, p. IV would put its redaction at an earlier date, is contradictory in his statements and incorrect. The same is to be said about the Tanhuma A, of which Buber claims that its redaction preceded the final redaction of the Babylonian Talmud. See against him A. Epstein Kadmut Ha-Tanhuma in Bet Talmud V, p. 7-23; comp. also my article in the Jewish Encyclopedia XII, p. 45 ff. The opinion about the age of the Tanhuma expressed by me there is hereby corrected.

Its dicta have been recognized by the Jews as having almost absolute authority similar to the authority of the Bible. In fact, it has even greater authority than the Bible. For the dicta of the latter are accepted by the Jews as of binding authority, only when endorsed, and in the meaning and according to the interpretation given to them by the Talmud. It embraces the religious ideas, moral laws and ethical teachings which were conceived, developed and taught by the Jewish people during the period of time following immediately after the period of the Bible.

It is true, though, that the Talmud contains also teachings of Biblical times and some traditions and legends which date back to the very early Biblical times. Some Talmudical sayings are as old or even older than certain portions or even entire books of the Bible. For, the ancient scribes, the Soferim,<sup>2</sup> whose teachings are embodied in the Talmudic literature, and their successors, the wise teachers, Hakamim, whose sayings and discussions are recorded and preserved in the Talmud, both these classes of teachers began their activity of expounding the Torah and of giving religious instruction at the time when some of the books of the Bible were not yet written and certainly a long time before the Canon of the Holy Scriptures as we now have it, was completed. Thus, for instance, the Chronicles were

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<sup>2</sup> The Soferim who in Tanhuma (Beshallah 15) are identified with the leaders of the great community during the Persian period, the Anshe Kneset Hagdolah, carried on their activities in the fourth century b. c. e. They were the successors of the last prophets from whom they received the law, (Abot I, i; Abot d. R. Nathan I, Schechter p. 2) and are sometimes also called Hakamim. See Seder Olam Rabbah XXX, Ratner p. 140. But since these early teachers were mostly priests (see Lauterbach, Midrash and Mishnah, New York, 1916, p. 44 note 39) the name Hakamim has been limited to the lay teachers of non-priestly descent, the Hakme Israel (ibidem p. 52 note 46) who later on formed the Pharisaic party and came to be considered as the rightful successors of the early Soferim.

written at the very earliest, near the end of the period of the Soferim, and the book of Daniel was certainly not written before the time of Jose ben Joezer, a teacher of the Halakah, mentioned in the Mishna.<sup>3</sup> The same may be said of many of the Psalms and of Ecclesiastes and others,<sup>4</sup> not to mention the changes and additions made by the teachers who edited and fixed the Canon, all of whom were Rabbis of the Talmud.

However, considering that these older elements of the Talmudic literature which originated in Biblical times constitute but a comparatively small portion of the Talmud, it is not incorrect to say that as a whole, the Talmudical literature forms the direct continuation of the Biblical literature. But it is more than a mere continuation. The Talmud explains, interprets and completes the Bible.

Being like the Bible, the product of the genius of the Jewish people, the Talmud resembles the Bible in many features and shares with it many peculiarities, which, in those ages at least, were characteristic of the Jewish spirit when expressing itself in literary activity.

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<sup>3</sup> The book of Daniel was written during the Maccabean period, and Jose b. Joezer who was a relative of Alcimus died about 165 b. c. See Midrash and Mishnah p. 29, note 29 and p. 53 note 47. Jose b. Joezer is mentioned in the Mishnah, Abot I, 3-4; Hagigah II, 2 and Eduyot VIII, 4.

<sup>4</sup> It should be remembered that these very Soferim or the Anshe Kneset Hagdolah are not only reported to have made changes and corrections in the text, Tikkune Soferim, (Tanhuma Beshallah I. c., comp. Midrash and Mishnah p. 37 note 36), but are also said to have written the book of Ezekiel, the twelve minor prophets, Daniel and Esther (b. B. B. 15a). Even if the word *Kotbu* "wrote" merely means "edited", they certainly added to or corrected some of the text. And when it is said in the Talmud, that at the final revision of the Canon Kohelet was permitted to remain in the Canon because they found that it closes with the words: "Fear God and keep His commandments, etc." (b. Sabbath 30b.) it really means, that the teachers who were anxious to retain the book, believing it to be the work of Solomon, added these closing words of Ecclesiastes XII, 13.

Like the Bible, the Talmud contains genuine Jewish teachings, i. e., it presents the divine truth of religion, the laws of morality and righteousness as revealed to, developed and expressed by the Jewish people. But just as we find in the Bible some passages which express ideas and principles that fall short of the high standard of the moral and ethical teachings of the prophets, or some portions which reflect views that cannot be harmonized with the pure monotheistic beliefs of the Jewish religion, so do we also find in the Talmudical literature some non-Jewish elements, as I would call them, i. e., false ideas, superstitious notions, or erroneous beliefs which are absolutely foreign and even antagonistic to the true spirit of Jewish teachings. These foreign elements and inferior teachings found in the Talmud are insignificant, however. They form but a small, almost negligible part of its vast contents. They are not sufficient to affect the character of the literature as a whole. They cannot reduce its value and importance as a great literature, teaching the eternal verities of religion, advocating a high standard of morality and expounding the highest laws of justice and righteousness, just as in the case of the Bible its character is not seriously affected by the superstitious conceptions and heathen myths contained in it. The stories of the Bne Elohim finding the daughters of men fair and marrying them, or of Lot and his daughters, and the strange adventures of Samson, or of Daniel and his friends, and even the ethically inferior teachings that may be found in the Bible, such as for instance those pertaining to the practices in the so-called holy wars,<sup>5</sup> certainly do not make

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<sup>5</sup> It is interesting to notice that the Rabbis of the Talmud sometimes criticize such passages of the Bible, though they also try to explain them somehow. Thus a criticism of the commandment to destroy Amalek utterly is put by the Rabbis of the Talmud into the mouth of King Saul (b. Sabbath 56b) and Simon b. Lakish said that many pas-

the Bible as a whole the less valuable as a literature, proclaiming the word of God and revealing the divine truth to man. The same standard of judgment is to be applied to the Talmud as to the Bible. Both literatures are to be treated alike.

It is not my purpose or intention to offer an apology for these literatures, as indeed there is no need for an apology. Yet it is only fair to say that we can, to a certain extent explain the presence of such inferior elements in both these sacred literatures. As regards the fanciful legends and myths, we are, in many cases at least, justified in considering them as allegorical stories or poetical productions using metaphorical language to present a certain truth or teach a certain lesson. In some instances we can easily discover the kernel of truth contained in those legends or myths. If we succeed in deciphering the obscure references and can explain the peculiar figures of speech used in these allegorical stories, their true meaning becomes revealed to us and we find that they tell us something worth while listening to.

In fact, these considerations were probably the reasons for retaining these legends in Bible and Talmud. The final redactors of both literatures must have believed that these stories and myths have a deeper meaning than is apparent on the surface and for this reason they permitted them to remain unchanged in these sacred literatures. In the case of many others, however, it cannot be denied that they are ancient legends and primitive notions of heathen origin which have crept into and survived in these Jewish literatures. The presence of these heathen notions and other

sages forming an essential part of the Torah are seemingly deserving to be burned, but on closer inspection they can be explained to teach important lessons, so that they really are essential parts of the religious instruction. (b. Hullin 60b).

superstitious ideas and false beliefs in Bible and Talmud must be ascribed to the influence of the surrounding heathen people, as well as to the ignorance of those ages, from both of these influences even the people of God in possession of the divine truth could not keep themselves entirely free.

Again, Bible and Talmud have this peculiar feature in common, that most, if not all of the works of which they are composed, respectively, are anonymous and yet authoritative. They all bear the stamp of the Jewish spirit and claim for their teachings the authority of God or the authority of the people of God as interpreting the word and will of God. The works of the Talmudical literature do not claim to be the works of one particular author or of certain teachers. It is true the Talmud mentions the names of many Teachers who not only expressed opinions and gave new interpretations of laws and decisions of their own, but also instituted practices and established ritual customs, or advocated new teachings which seem to be altogether new with them and entirely their own. In most cases these teachers are indeed the authors of the sayings uttered by them and to a certain extent, may be considered the originators of the teachings ascribed to them. Yet there is not one work in the Talmudic literature, which as a whole, could be said to be the exclusive work of one particular teacher, though it may contain a great deal of the teachings and opinions of that teacher, or a large part of it may have been arranged or compiled by him. The same is also true in the case of the Biblical literature, the prophets and sages of old, to whom certain books of the Bible are ascribed, may, in some cases, have been the authors of at least part of the books ascribed to them, but they cannot claim the authorship of that book in its entirety.<sup>6</sup>

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<sup>6</sup> I have no reference to the results of modern Bible criticism. Even from a conservative point of view we are unable to point to any book

Moreover, the prophets as well as the teachers of the law who succeeded them, (see Seder Olam Rabbah XXX, ed. Ratner, p. 140), do not claim as their own even those sayings which they really uttered or those teachings which they, for the first time, expressed or taught. Both prophet and rabbi sincerely believed that it was not their own wisdom which they taught nor their own personal views and opinions which they expressed. They were convinced that they were teaching the divine truth of religion, as revealed to them and as they understood it, that it was merely the word of God which they proclaimed or interpreted respec-

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of the Bible of which we could say with certainty who gave it its present shape and form. The Talmud (b. B. B. 14b-15a) gives a list of the authors of all the books of the Bible assigning them to certain prophets or groups of sages respectively. In most cases, however, the Talmud also adds that besides the alleged original authors there was some one else who finished the work. Thus, the Pentateuch, written by Moses, was finished by Joshua. The book of Joshua was finished by Eleazar and Phinehas. Samuel was finished by the seer Gad and the prophet Nathan. David composed the Book of Psalms, but ten other people shared in its authorship. Ezra wrote the book bearing his name and part of Chronicles which was finished by Nehemiah. The book of Isaiah not only contains prophecies of Beeri the father of Hosea (Leviticus R. XV, 2) but the whole book together with Proverbs, Song of Songs and Ecclesiastes were written by Hezekiah and his associates whose names we do not know. Ezekiel and the twelve minor prophets, Daniel and Esther were written by the Anshe Kneset Hagdolah. As to the authorship of the book of Job different opinions are expressed there in the Talmud. And if one considers that the changes in the Biblical text or Tikkune Soferim ascribed to the Anshe Kneset Hagdolah extend over the books Genesis, Numbers, Samuel, Kings, Hosea, Jeremiah, Ezekiel, Habakuk, Zacharia, Maleachi, Psalms, Lamentations and Job, and as may be safely assumed not all the changes made by them have been reported, then the statement that none of the alleged authors of the Books of the Bible can be considered as the ones who gave the books ascribed to them their present shape, cannot be doubted. As to the authenticity of the statement in Tanhuma Bashallah, (comp Midrash and Mishnah p. 38), I would add here, that even though the passage is missing in some of the manuscripts, it does not necessarily follow that it is of later origin.

tively. They felt themselves to be but the human agents of the divine spirit of God that rested upon them and worked in and with them. (comp. sayings in Mishnah Abot III, 7). And as they also believed that the Jewish people, as a whole, was the instrument chosen and used by God for making His will known to man, the individual prophet or teacher considered himself as merely voicing and expressing the spirit and the genius of the chosen people of God.

The Talmudic literature, accordingly, is like the Bible, the product of the work of the best Jewish minds, representing the majority of the great teachers in Israel and expressing the religious genius of the Jewish people in and through whom the divine spirit works. And just as the Bible contains various codes of law dealing with all branches of ritual, civil and criminal legislation, as well as collections of histories, narratives, legends, prayers and poems, so does the Talmud also include all these diverse elements. It contains Halakah which deals with law in the broadest sense of the term, discussing civil and criminal laws as well as ritual and custom and religious legislation. It also contains Hagadah, consisting of history, legend, prayer, poetry, philosophical speculation, and ethical instruction, as well as wit, humor, folklore and all kinds of knowledge accessible to the peoples of antiquity. Neither in the Bible nor in the Talmud are these diverse subjects strictly separated from one another. Legal maxims, rules of conduct, ethical instruction and poetical compositions, regulations for a ritual practice and folkloristic explanations, lofty prayers and popular song or legend can be found together in one and the same work of either Bible or Talmud. Of course, these various subjects are not equally represented in all the books of either Bible or Talmud. The Mishnah, which occupies in the Talmudic literature a similar position to the Penta-

teach in the Bible, is primarily a code of law and is mostly Halakic, but it contains also a considerable amount of Agadic material, historical references, legends, stories, theological speculations, ethical admonitions and prayers. The Tosefta has even more Hagadah. Of the Halakic Midrashim, the Sifra has but little Hagadah while Mekilta and Sifre have a larger proportion of Hagadic teachings. In the two Gemaras the proportion of Halakah and Hagadah also varies. In the Babylonian Gemara the Hagadah forms about one-third of the entire contents, while in the Palestinian Gemara it is only one-sixth.

The Talmudic literature covers a period of time almost as long as the one covered by the Bible. It represents the results of a thousand years of diligent study and research participated in by the best minds of the Jewish people. Beginning with the Soferim in the fourth century b. c. e. the religious leaders of every successive generation contributed their share to the vast body of teachings which constitute the Talmud. This process continued till the sixth century of the present era, when the Saboraim, as the Babylonian Jewish teachers of that century were called, finally completed and redacted the Babylonian Talmud.

The builders of the Talmud represent not only different ages, but also vastly separated climes and countries. For during the thousand years in which the Talmudic literature was evolved, the Jewish people lived not only in Palestine and Babylon, but also in Egypt and Italy and in other countries of Asia, Africa and Europe. Each one of these various Jewish centers produced one or more teachers who made some contribution to the Talmudic literature. So in this respect also the Talmud is like the Bible, for the authors of the Biblical works also came from the various countries in which the Jews of Bible times lived.

And just as the Bible contains information about the various nations with whom Israel and Judah were directly or indirectly acquainted, so also does the Talmud tell us a good deal about the general history and the life and culture of all the peoples with whom the Jews came into contact during these thousand years of the Talmudic period. It contains valuable information concerning the laws and morals, the social institutions and popular customs, the religious beliefs and practices of almost all the nations of antiquity.

In the main, however, its contents deal with Jews and Jewish life, culture, religion and practice. It tells us what the Jewish people thought and believed, hoped and realized, aspired and achieved, endeavored and accomplished, experienced and suffered during that period. Its records show us how, through the manifold activities and various experiences of the Jewish people, the cause of true religion, with which they have always been identified, was helped and furthered, progressed and improved, or how at times it was hindered and retarded during that period. In the same manner the Bible represents to us a true record of the growth and development of the pure monotheistic belief and the ethical ideas of the prophets, as well as the occasional retrogressions which took place among the people of God during the period of Biblical times.

And just as in the case of the Bible, we cannot fix the exact date when, nor point out the person or persons by whom each Biblical book received its present form, or by whom the Canon of the Holy Scriptures as a whole was finally arranged and completed,<sup>7</sup> so also in the case of the

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<sup>7</sup> I am not concerned here with the question whether at the meeting in Jabneh about 100 c. e., reported in M. Yadayim III, 5 they for the first time finally fixed the Canon of the Complete Bible or merely

Talmud, we are unable to state exactly the date when, and the persons by whom the various works of the Talmud were composed or written. And in the case of some of them though we know who originally composed them, it is not known by whom they were finally arranged and completed. This may sound rather surprising, for are there not traditional reports about the authors of these works, who they were, when and where they lived? It is true, we have such reports, assigning each of the main works of the Talmud to a certain author. But these reports cannot be taken as historically correct. Without entering here into a discussion as to the origin, composition and final redaction of the various works of the Talmudical literature which will be taken up in the following chapters, it can easily be shown that even according to the most orthodox views these traditional reports cannot be taken as referring to the works of the Talmud in the form which they have been preserved to us. Let us briefly review the various reports about or allusions to the different works as found in the Babylonian Gemara or in early post-Talmudic literature.

Megillat Taanit is mentioned in the Mishnah Taanit II, 8 and in a Baraita Taanit 17b and R. H. 19a and in other places both in the Babylonian and Palestinian Gemara. And a

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settled disputes which arose in regard to the previously fixed Canon, or discussed a possible revision of the Canon. The fact remains that we do not know exactly when the Canon as a whole was fixed. I should add here that even after that meeting in Jabneh and a long time after it, the canonicity of some of the books of the Bible was still questioned. R. Simon b. Menasja at about 200 c. e. said that Ecclesiastes does not defile the hands (b. Megillah 7a) which means nothing else than that it is not canonical. The same is said there about the book of Esther by R. Judah in the name of Samuel. And from b. Sanhedrin 100a it appears that even at a still later time, in the second half of the third century some teachers did not consider the book of Esther as of the same character as the other Hagiographa.

Baraita in b. Sabbath 13b even tells us that Hananiah b. Heseekiah of the family of Garon and his associates, the zealots, who were active in the war against the Romans were its authors. But, aside from the fact that we do not know who these associates of Hananiah were, there cannot be any doubt that the Megillat Taanit as we have it now was composed much later than the time of Hananiah and we do not know by whom. Certainly the scholium or the Hebrew commentary to the Aramaic text was written many centuries after Hananiah, as it was most likely composed after the final redaction of the Babylonian Talmud. See Lauterbach, Megillat Taanit in J. E. volume VIII, p. 427 ff.

The Seder Olam<sup>s</sup> is mentioned by name in the Babylonian Talmud (Sabbath 88a; Yebamot 82b, and Niddah 46b) and R. Johanan is reported to have said that R. Jose b. Halafta was the author of the Seder Olam (ibidem, l. c.). There is no reason whatever to doubt this reported saying of R. Johanan, but we must not take it as referring to the Seder Olam in the form in which it has been preserved to us. The Tanna R. Jose b. Halafta no doubt composed a chronicle called Seder Olam which R. Johanan knew and reported about and from which quotations are found in the Talmud. Our Seder Olam, however, is the work of a later author who embodied in his work the Seder Olam of R. Jose but enlarged and modified it, retaining for the enlarged work the same name, Seder Olam which R. Jose gave to his work (comp. B. Ratner, Einleitung zum Seder Olam, Wilna 1894, p. 3-19). But who this author of the larger Seder Olam or its final redactor was and when and where he lived is not known.

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<sup>s</sup> This is the original name of the work and so it is still called by Rashi (R. H. 11b) and by Abraham ibn Yarhi in Hamanhig, Berlin 1855 p. 2a. It was only in later times and in order to distinguish it from another smaller chronicle, Seder Olam Zutta, that they began to call this larger and older work Seder Olam Rabbah.

Ratner's suggestion (*ibidem* p. 52 ff) that R. Johanan b. Nappaha was the final redactor of our Seder Olam merits consideration, but there is no express report in Talmud or Geonic literature to support it.

As to the Halakic or Tannaitic Midrashim, Mekilta, Sifra, Sifre, we are also unable to ascertain who their author or authors were and the time when they were finally redacted, although they are referred to in the Talmud. First let me state that not all the halakic Midrashim that were extant in Amoraic times have been preserved to us in their entirety. In Amoraic times there existed two sets of Halakic Midrashim to the four books of the Pentateuch, Exodus, Leviticus, Numbers and Deuteronomy. One of these sets originated from the school of Akiba, the other from the school of Ishmael. We have only the so-called Mekilta of R. Ishmael complete to Exodus which originated from the school of R. Ishmael, and a reconstructed Midrash to Exodus which may have originated from the school of Akiba. This Midrash was contained in the Midrash ha-Gadol and has been reconstructed and edited by Hoffman and published under the name *Mechilta de-Rabbi Simon b. Jochai*, Frankfurt A. M. 1905. To Leviticus we have the Sifra or *Torat Kohanim* from the school of Akiba and only fragments of the Midrash to Leviticus from the school of Ishmael. To Numbers we have the Sifre from the school of Ishmael, and from the school of Akiba the Sifre Zutta, reconstructed and edited by H. S. Horovitz in *Corpus Tannaiticum*, Leipzig, 1917. The Sifre to Deuteronomy is in its Halakic portion from the school of R. Akiba, and the first part, which is Agadic, is from the school of R. Ishmael. We have besides now fragments from an Halakic Midrash to Deuteronomy from the school of R. Ishmael, first published by Hoffman under the name of *Likkute Mekilta* and subsequently in his

larger work, *Midrash Tannaim zum Deuteronomium*, Berlin, 1909. But the assignment of the several Midrashim to the school of R. Akiba and to the school of R. Ishmael respectively is not to be taken in too strict a sense. In the form in which they have been preserved to us the Midrashim belonging in the main to the school of R. Ishmael contain Midrashic material from the school of R. Akiba and vice versa. See Lauterbach, *Midrash Halakah in Jewish Encyclopedia*, Volume VIII, p. 571 and *Mekilta*, *ibidem* p. 444-447.

Now what definite information as to authorship and date of composition of these Midrashim can we obtain from the Talmud or the post-talmudic early rabbinic authorities? The *Mekilta* is not mentioned in the Talmud by name. But since in post-talmudic times the Midrash to Exodus was together with those to Numbers and Deuteronomy called by the name of *Sifre* (see Lauterbach, *The Name of the Mekilta*, in *Jewish Quarterly Review* N. S. XI, p. 169 ff) there cannot be any doubt that in Talmudic times also the Midrash to Exodus or the *Mekilta* was included in the *Sifre*, and the Babylonian Talmud mentions *Sifra* and *Sifre* (*Megillah*, 28b, *Hagigah*, 3a and *Sanhedrin* 86a, *Shebuot* 41b). It mentions besides the *Sifra* and quotes passages from it in *Sabbath* 136b-137a; *Erubin* 96b; *Yoma* 40b-41a; *Kid-dushin* 53a; *Shebuot* 13a; *Bekorot* 61a and *Keritot* 22a. The passage apparently quoted from the *Sifre* in *Sanhedrin* 86a is not found in our *Sifre*. The *Sifra* is besides mentioned by the name of *Sifra debe Rab*, *Berakot* 11b and 18b, and *Sifre* is also called by the name of *Sheor Sifre debe Rab*, meaning the Midrashim to the other three books of the Pentateuch besides *Leviticus* (see *The Name of the Mekilta*, l. c. p. 171). The name *Sifre debe Rab* is post-talmudic. In the Palestinian Talmud the names *Sifra* and *Sifre* or *Sifra debe Rab* and *Sifre debe Rab* is not found.

The Tanna debe Rab mentioned in p. Nedarim II, i (37b) may have referred to a Baraita collection of Rab but not to the Sifra or Sifre, see Hoffman, Zur Einleitung in die halachischen Midraschim (Berlin 1887) p. 17.

As to the question who the authors of these various Midrashim were we have absolutely no reliable traditional report. The well known saying of R. Johanan,<sup>9</sup> "*Setam Sifra R. Judah, Setam Sifre R. Simon. . . . Aliba de R. Akiba*" (Sanhedrin 86a) certainly does not mean to say that R. Juda b. Ilai is the author of the Sifra and R. Simon is the author of the Sifre including the Mekilta, in the form in which these works have been preserved to us or even in the shape in which R. Johanan had them. For in the same statement R. Johanan also says, "*Setam Matnitin R. Meier*", which certainly cannot mean that R. Meier was the author of our Mishnah or the Mishnah of Judah ha-Nasi. R. Johanan tells us just the opposite, that R. Judah and R. Simon were not the authors of the Sifra and the Sifre respectively. For he specifically says that only *Setam Sifra*, i. e., those sayings found in the Sifra anonymous, are the sayings of R. Judah or taken from a collection of R. Judah who in turn gave them in the method of or according to the opinion of R. Akiba. This plainly tells us that numerous sayings found in the Sifra which are not anonymous but are given in the name of their respective authors came from another source not from R. Judah or his collection. In other words, he tells us that the Sifra and Sifre embody considerable parts of the

<sup>9</sup> It must be assumed that the saying of R. Johanan is quoted in the Babli only according to its contents but not in the very words of R. Johanan. Since we do not find in the Yerushalmi the terms Sifra and Sifre, it is very unlikely that R. Johanan used these terms to designate these two Midrashim. R. Johanan must have used other names for these Midrashim, but the Babli, quoting the saying substituted the names by which these Midrashim were known in Babylon.

(See Hoffman, Zur Einleitung, p. 15, note 2).

works of R. Judah and R. Simon but in their entirety are not the works of R. Judah and R. Simon. And when Maimonides tells us in the preface to his *Mishneh Torah* (also in the preface to his commentary to the *Mishnah*) that our *Mekilta* is the work of R. Ishmael and our *Sifra* and *Sifre* are the works of Abba Areka or Rab he does not report any reliable tradition, but merely gives us a mistaken opinion of his own or his authority, whoever that was. This opinion was altogether due to a misunderstanding of the names "Mekilta d. R. Ishmael" and "Sifra debe Rab" and "Sifre debe Rab." Our *Mekilta* was called *Mekilta d. R. Ishmael*, because it began with the words R. Ishmael (see *The Name of the Mekilta*, l. c. p. 195). But Maimonides or his authority understood the name to mean the *Mekilta* of R. Ishmael. Likewise the term "*debe Rab*" which as Rashi (to *Hullin* 66a) correctly explains, simply means of the school house, i. e., the book or books used or well known in the school house, was misunderstood by Maimonides or his authority to mean, of the school of Rab or Abba Areka.

But even if Maimonides had derived his report from an old tradition it could not have been considered as historically accurate. Rabbi Ishmael cannot be considered as the author of our *Mekilta* which contains sayings by teachers who lived a long time after R. Ishmael, as for instance, Judah ha-Nasi, R. Banaah, Hoshaya, Shela and R. Jeremiah (?). And our *Sifre* cannot be the work of Rab or Abba Areka, since the names of teachers who lived after Rab are quoted in it, like R. Samuel b. Nahmani (*Numbers* 73) and R. Jose b. Hanina (*Deuteronomy* § 1).

The *Tosefta* is also mentioned in the Talmud (*b. Megillah* 28b; *Yoma* 70a; *Kiddushin* 49b; *Shebuot* 41b, and *Sanhedrin* 86a). In the *Palestinian Talmud* it is mentioned under the name of *Tosafot* (*Peah* II, 6, 17a) or *Tosefet* (*Horayot* III,

48c). But whether they refer to the Tosefta as it had been preserved to us, is, to say the least, very doubtful. Nothing is said in the Talmud about the author and the final redaction of the work. For the saying of R. Johanan, "*Setam Tosefta R. Nehemiah*" (Sanhedrin 86a) means as in the case of Setam Sifra R. Judah, that the Tosefta even as R. Johanan knew it, embodied teachings of R. Nehemiah or from a collection of R. Nehemiah, but that the work in its entirety was by somebody else. Post Talmudic authorities are not unanimous in their opinion as to who the author or redactor of our Tosefta was. R. Judah Albarzeloni in his *Sefer ha-Ittim* (Berlin 1902) p. 174 ascribes it to R. Hiyya and so does Maimonides, *op. cit.*, Or Zarua I, Hilkot Tephilla 107 p. 39 ascribes it to Hoshaya. An anonymous authority quoted by Joseph Caro in his *Keseph Mishneh* to Hilkot Teshubah IV, says that our Tosefta is composed of the works of Hiyya and Hoshaya and others. (See Lauterbach, *Tosefta in Jewish Encyclopedia* XII, p. 107-209). At any rate R. Hiyya who is quoted in our Tosefta Negaim VIII, 6, cannot be considered as its final redactor.

The Palestinian Gemara is not mentioned in the Babylonian Talmud. The question as to whether the redactors of the Babylonian Talmud knew already the Palestinian Gemara, as assumed by the early rabbinic authorities (comp. Hai Goan quoted in *Sefer ha-Eshkol* II, Halberstadt 1867, p. 49, and Alfasi, *Erubim* end) and by modern scholars like Rappaport, Chajes and others (comp. Israel Jonathan Jerusalemki in *Atlas' Hakerem*, Warsaw 1887 p. 144 ff, and Hal-levi, *Dorot Harishonim* III, Pressburg 1897, p. 111 ff) or not as maintained by Z. Frankel, *Mebo ha-Yerushalmi*, Breslau 1870 p. 46 ff, and Hirschensohn, in *Hamisderonah*, Jerusalem, 1888, p. 97 ff, will be discussed in one of the following chapters. Here we can only state that even if the Pales-

tinian Gemara was not known in its entirety to the Redactors of the Babli, it was not because it was redacted later than the Babli, as assumed by Wiesner, who in his *Gibeat Yerushalayim*, Wien, 1871, would place the redaction of the Yerushalmi in the eighth century. There cannot be any doubt that the Palestinian Gemara was composed<sup>10</sup> before the Babylonian Gemara was redacted, even though the latter nowhere mentions it by name. There is no reliable tradition nor any Geonic report as to who the compiler of the Yerushalmi was. It is only from the authorities of the twelfth century (Abraham ibn Daud, *Sefer Ha-Kabbalah* in Neubauer *M. J. Chr.* I, p. 57 and Maimonides *op. cit.*) that we

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<sup>10</sup> We can hardly speak of a final redaction of the Palestinian Gemara, for it lacks all the finishing touches which a final redaction would have given to it. There is a certain looseness in the manner in which the sayings and discussions are grouped together. The discussions themselves are not so elaborate in the Yerushalmi as they are in the Babli. This explains why although the Palestinian Talmud covers more tractates than the Babylonian Talmud, the former having thirty-nine tractates and the latter only thirty-six and a half (Tamid having Gemara to only half of the Tractate), yet in bulk the Babli is three times as large as the Yerushalmi, because the discussions in the Babli are more lengthy. It seems as if the Palestinian teachers were interrupted in their activity and did not have a chance to finish their work of revising it and putting it in the proper final shape. Whether this interruption in the activity of the Palestinian academies also accounts for the fact that there is no Palestinian Gemara to any of the Tractates of Seder Kodashim is hard to maintain. The fact that there is Gemara to a part of the Tractate Nidah of the sixth order of the Mishnah would speak against such a theory. It is most likely that there was a Palestinian Gemara to the Seder Kodashim, as indeed maintained by Maimonides and other medieval authorities (see Lauterbach, Article Kodashim in *Jewish Encyclopedia*, VII, p. 527-28) but it has been lost and never been rediscovered. The statement in *Les Chaptres de Ben Baboi* (published by Jacob Mann in *Revue des Etude Juives* 1920) p. 137 that the Palestinians had no Talmud to Kodashim, is to be considered in this connection. S. Friedlander's claim to have found the Yerushalmi to Kodashim in an ancient manuscript which he published was not substantiated. There seems to be no such manuscript and the texts published by Friedlander are, in the opinion of scholars, based upon forgeries.

hear for the first time that R. Johanan b. Nappaha, the disciple of Hoshaya was the author of the Palestinian Talmud. But it is impossible to ascribe to R. Johanan, a Palestinian Amora of the second generation, a work which contains sayings of teachers who lived three generations after him. And Estori Parhi (14th century) in his *Kaphtor wa-Pherah XVI* (Jerusalem 1897) p. 380, has already expressed himself against this report that R. Johanan was the author of the Yerushalmi. Michael Kahana's theory that it was probably R. Johanan b. Marja, a pupil of R. Jose b. Abun, Palestinian Amora of the fifth generation, who redacted the Yerushalmi (Atlas' *Hakerem* p. 103-5) may in itself be worthy of consideration, but it has nothing to do with the report of the medieval authorities who expressly mention R. Johanan b. Nappaha, the pupil of Hoshaya, as the author of the Yerushalmi.

As regards the Babylonian Gemara we have no definite information in Talmudic or Geonic sources as to who its authors or final redactors were. There is no mention of this work in the Gemara itself. All the references or allusions to a Talmud or a Gemara, found in our Gemara, do not refer to the Babylonian Talmud in the form in which it has been preserved to us. Thus, e. g., the saying of Samuel about one who abandons the study of the Talmud and pursues the study of the Mishnah (b. Hagigah 10a) certainly cannot refer to our Talmud. Likewise the saying of R. Johanan (ibidem l. c.) about the one who substitutes the study of one Talmud for another "*Mi-Talmud le-Talmud*" does not mean, as Rashi, ad. loc. explains it, one who leaves the Palestinian Talmud for the Babylonian Talmud, but merely one who changes his methods of study or goes from one kind of a Talmud to another. Comp. Rappaport, *Toledot Rabbenu Nissim*, Note 16 (*Bikkure ha-Ittim XII* p. 66). Likewise, when it is said

that R. Zera when he came to Palestine, fasted a hundred days praying that he may forget the Babylonian Gemara, because he did not wish to be disturbed by it in the pursuit of his new studies (b. B. M. 85a) and when R. Jeremiah applied the words "He made me to dwell in dark places" (Lamentations III, 6) as a description of the Talmud of Babylon (b. Sanhedrin 24a) the terms Talmud and Gemara refer to the learning or methods of study of the Babylonians and not to the work of the Babylonian Talmud as we have it. In some instances the names Talmud and Gemara mentioned in the Babylonian Talmud refer to an earlier Talmud or Gemara, but never to the Talmud or Gemara which has been preserved to us. Neither is there any express statement in the Talmud or Geonic literature mentioning Ashi as the sole author or redactor of our Talmud. There are sufficient indications in the Talmud to justify the assumption that Ashi and his colleagues composed a Talmud. The reference of Rabina to the first and second versions of Ashi's teaching *Mahdura Kamma* and *Mahdura Batra* (b. B. B. 157b) merely suggests that Ashi composed a Talmud and then revised it, but does not definitely say so. Weiss, Dor. III, p. 186 is not correct in taking this saying of Rabina as a definite indication that Ashi composed the Talmud in two versions. The saying may mean only that when Ashi repeated his lecture he changed an opinion which he had expressed when he gave his lecture for the first time. According to Sherira's understanding of this saying of Rabina (Neubauer M. J. Chr. I, p. 33, comp. also R. Hananael quoted in Aruk Completum v. *Hadar*) it can only refer to Ashi's studies of and comments to the Mishnah, the sixty tractates of which Ashi commented upon twice. It cannot refer to our Talmud which has only thirty nine tractates. Again the saying: "*Rab Ashi we-Rabina Sof*

*Horaah*" (b. B. M. 86a) merely means that with Abina the Amoraic period came to an end but not that Ashi and Abina finished the Talmud. And all the Geonic reports that we have and even Abraham ibn Daud (op. cit. p. 59) assign the final redaction of the Talmud to others than Ashi. Maimonides' report (l. c.) that Ashi is the author of the Babylonian Talmud is, therefore, incorrect. Ashi probably redacted a Talmud (comp. Weiss l. c.) which formed the basis of and is embodied in our Talmud, but our Talmud contains much more than Ashi's Talmud. Our Talmud embodies the sayings and discussions of the last Amoraim who lived after R. Ashi. It also contains additions and corrections made by the Saboraim who followed the Amoraim (comp. Sherira's letter l. c. p. 25-26). The final redaction of the Talmud accordingly was the work of the Saboraim.<sup>11</sup> But we are not able to name these redactors of the Talmud. We do not even know whether they were of the first or of the second generation of Saboraim, whether they were of the school of Sura or of Pumbedita or of both, (comp. Lauterbach, *Saborae in Ozar Yisrael VII*, p. 133-134).

The Mishnah is ascribed by traditional reports to R. Judah ha-Nasi I, and with very good reasons. Both the Palestinian and Babylonian Talmud frequently speak of Judah ha-Nasi

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<sup>11</sup> We are not considering, of course, the few additions and slight changes made in the Talmud by the Geonim who followed the Saboraim. In the same way slight changes may have been made in the Text of the Bible after the works had been finally redacted, see *Midrash and Mishnah* p. 48, note 43. Such additions came into the Talmud text by copyists who embodied in the text comments that were found on the margin. That there are such interpolations of Geonic origin in our Talmud is attested by many early rabbinic authorities, as *Tassafot to Berakot 36b*, *Sukkah 37a*, *Hullin 97a*, *Shittah Mekubetzet to B. M. 13a*, and by modern scholars like Rappaport, *Toledot R. Nathan*, note 45 and R. Hirsch Chajes in *Bikkure ha-Ittim HaHada-shim*, 1845 p. 16 especially in regard to the Sheelta found in b. *Sabbat 30 ff.*

or Rabbi, as he was called, as the author of our Mishnah. R. Simon b. Lakish says: "Rabbi taught us a perfect Mishnah" (p. Kilayim I, 27a and B. K. V, 10. 5a) comp. his sayings in b. Yebamot 40b and 50a and B. M. 29b. In b. Yebamot 64b it is said: "Who arranged or prepared the Mishnah? Rabbi". In Hullin 85a and 86a it is also said that Rabbi, approving of the opinion of a certain teacher expressed this opinion in the Mishnah as if it had been given by more than one teacher. When finding that the *Setam Mishnah* contradicts itself, expressing in two different tractates opposite opinions on one and the same question, it is explained that when Rabbi composed the one tractate he favored the one opinion, but by the time he came to work on the other tractate he had changed his mind and accepted the opposite view, without, however, correcting or striking out his former opinion expressed in the first tractate (b. Shebuot 4a comp. also Hullin 104a and 84a and R. H. 7b). And we have also the statement in b. B. M. 86a "*Rabbi we-Rabbi Nathan Sof Mishnah*". Yet with all these indications pointing to him as the author of our Mishnah, Rabbi cannot be considered as the author of the Mishnah in the form in which it has been preserved to us. For in our Mishnah Rabbi is frequently quoted as expressing opinions different from the other teachers or explaining or modifying the statements of others. The places where Rabbi is mentioned in our Mishnah are: Shebiit VI, 4; Maasrot V, 5; Sabbath VI, 5, and VII, 3; Pesahim IV, 6; Ketubot II, 4; Nedarim III, 11; Nazir I, 4 and IV, 5, according to reading in the Mishnayot; Sotah III, 5 and V, 1; Gittin V, 6; B. K. V, 3; Abot II, i; Makkot I, 8 and II, i; Ab. Zarah IV, 5 and V, 11; Menahot VI, 3 and VIII, 6 and XIII, 2, 5, 8 and 9; Hullin III, 4; Bekorot VII, 6; Arakin IV, 2, VIII, 5, IX, 3 and 8; Temurah IV, 3 and VI, 2; Meilah V, 3; Middot III, 4; Oholot XVIII, 9.

In one place, Sotah IX, 15 there is found the statement that after Rabbi died modesty and the fear of sin disappeared, which certainly was not said by Rabbi himself. Besides our Mishnah contains sayings by the sons of Rabbi, R. Gamaliel (Abot II, 2) and R. Simon (Makkot III, 15) and also by his grandson Judah Nesiah, also called Rabbi (Abodah Zarah II,6). It also contains saying of other teachers who lived after Rabbi, like R. Jannai (Abot IV, 15) and R. Joshua b. Levi (Ukzin III, 12). It is, therefore, evident that the Mishnah as we have it is not the work of Rabbi. Rabbi was a compiler and redactor who collected, sifted and arranged the material which he found in older collections and thus composed a Mishnah. This Mishnah of Rabbi has in the main been preserved in our Mishnah, but our Mishnah contains more than the Mishnah of Rabbi. It contains many additions, changes and corrections made by the teachers who lived after Rabbi (see Lauterbach, Mishnah in J. E. VIII, p. 609-619). It may, therefore, be safely stated that the Amoraim finished the redaction of our Mishnah and gave it its present form. Yet we are unable to name these redactors or editors who thus completed the Mishnah. We do not even know to which generation of Amoraim they belonged. Thus we find that just as in the case of the Bible, the report in the Talmud (B. B. 14b-15a) assigning the various books to certain authors cannot be taken as historically accurate, or as giving definite information about the authors of the Biblical works, so also in the case of the Talmudic literature the reports about the authorship of the various works cannot be considered as historically accurate. They cannot be taken seriously as referring to the present shape and form in which these respective works of the Talmud have been preserved to us. If any historic value at all is to be attached to these traditional reports, it can only be this, that they

mean to tell us that all these teachers whom they designate as the authors of these respective works were the originators of or in some way helped in bringing about these works. It may also be that the traditional reports mean to tell us that these works as we have them, embody material of older works, or are arranged and modeled after older works which have been composed by these teachers respectively who were known as the authors of such works.

Again, Bible and Talmud are alike in that they do not represent the entire literature produced by the Jewish people in their respective periods.

The Bible forms but a part of the Jewish literature of Bible times. The Bible itself mentions many books which have been lost to us but had been known to the Biblical authors who frequently refer to them and even quote passages from them. Thus a "Book of the Wars of the Lord" is quoted in Numbers XXI, 14, "The Book of Jashar" is quoted in Joshua X, 13 and I Samuel I, 18. The Book of the Words of Solomon is quoted in I Kings XL, 41. The Book of the Chronicles of the Kings of Judah is mentioned fifteen times in our book of Kings, and the Book of Chronicles of the Kings of Israel eighteen times. "The Words of Nathan the Prophet" is mentioned in I Chronicles XXIX, 29, "The Words of Shemaya the Prophet and of Iddo the Seer" are mentioned in II Chronicles XII, 15, and a "Midrash of the Prophet Iddo" *ibidem* XIII, 22, and "The Words of Nathan the Prophet and the prophecy of Ahijah the Shilonite and the visions of Jeddo the Seer" (*ibidem* IX, 29).

Besides these books expressly mentioned in the Bible there were current among the Jews of Bible times many other works which for some reason or another were not embodied in the authoritative collection which constitutes our Bible. The teachers who collected and finally arranged the

Canon of the Holy Scriptures evidently did not care to preserve all the works of Jewish literature extant in their times. They only arranged together what they believed to be a choice selection from the literary works of their days. They included in their Canon only those works which they considered of authoritative character and such writings as in their opinion contained true religious teachings and expressed genuine Jewish thought. They believed that only works which were written by Divine inspiration and hence could be considered as standard works, suitable for the moral and religious guidance of the people, were worthy of being preserved and recognized as Holy Scriptures or Sacred Books. They, accordingly, ignored all works which in their opinion were not of authoritative character and excluded from their collection such writings as did not come up to their standard and which they could not consider worthy to be preserved among the standard works. Some of these excluded works have been preserved to us in the Apocrypha and Pseudepigrapha of the Old Testament. Of some others we have only fragments (see M. Rhodes James, *The Lost Apocrypha of the Old Testament*, London, 1820), and still others have been entirely lost.

It is the same with the Talmudic literature. It does not represent the entire literature produced by the Jews in Talmudic times. The Talmud itself mentions by name many works, containing collections of Midrash-Baraitot, Mishnahs, Agadic interpretations and amoraic discussions and comments to the Mishnah, i. e., Gemara or Talmud, which have not been preserved to us in their entirety though quotations from them may be found in our Talmud. As to collections of Midrash-Baraitot referred to or quoted in the Talmud see D. Hoffman, *Zur Einleitung*, etc., p. 80-81. As to the collections of Mishnayot or Baraitot, the Talmud mentions

a Mishnah of R. Eliezer b. Hyrkanos (Menahot 18a) a Mishnah of R. Eliezer b. Jacob Yebamot 49b), a Mishnah Rishonah and a Mishnah of R. Akiba (Sanhedrin III, 4), a Mishnah of R. Meier (b. Sanhedrin 86a and p. Yebamot IV, 11 6b), and a Mishnah of R. Nathan (b. Ketubot 93a, Temurah 16a comp. b. B. M. 86a). There was also a Mishnah of Abba Saul (see Lauterbach, Jewish Encyclopedia XI, p. 78). Then there are mentioned the large Mishnah collections, Mishnayot Gedolot of R. Hiyya, Oshaya and Bar Kappara (p. Horayot III, 48c comp. also Midrash Shir ha-Shirim R. VIII, 2 and Kohelet R. VI, 2 and Midrash to Psalms 104, 22). There is also mentioned a Megillat Setarim of R. Hiyya (Sabbat 6b and 96b). This, however, may be identical with the Mishnayot of Hiyya and we should read Megillat Sedarim. A Megillat Hasidim is quoted in Sifre Deut. 48, Friedman p. 84a. The Mishnat ha-Hasidim mentioned in p. Terumot VIII, 46b may mean simply Teaching of the Hasidim. There are also mentioned a Mishnah collection of Abba Areka, Rab (p. Nedarim II, 37b) of Samuel (b. Pesahim 3a; M. K. 18b) of Levi (b. Kiddushin 76b, B. B. 52b and Bekorot 14b). A Baraita collection of the Debe Menashya is mentioned in b. Ketubot 5a. Rab Sheshet also had collections of Baraitot (b. Erubim 67, Abodah Zarah 42b). Likewise, R. Joseph had a Baraita collection from which he recited (b. Ketubot 9b and Yoma 10a), and wherever we find an Amora reciting a Baraita, as Tani Rab Kahana and Tani R. Samuel b. Judah (Yoma 11ab) Tani Agra (Hullin 104b) Tani Tahlifa (M. K. 9a and 10a), Tani Rabbah b. Samuel (ibidem 11a), Tani R. Shmaya (Yoma 21a) and Tani Tanna, etc., it is most likely that these Amoraim had collections of Baraitot from which they recited. Collections of Baraitot, designated as Mekilta, are also mentioned in both the Palestinian and Babylonian

Talmud (see Lauterbach, *The Name of the Mekilta*, J. Q. R. XI, 1920, p. 186-187). Agadic works are mentioned in Berakot 23a, Sabbath, 89a, Gittin 60a and Temurrah 14b, and Sanhedrin 57b *Agadeta debe Rab*. An Agadic commentary to Psalms is mentioned in p. Kilayim IX, 32b. An earlier Gemara or Talmud is mentioned in M. K. 3b (Talmuda) and Erubin 32b, Pesahim 115a and Kiddushin 53a, Shebuoth 41b, (Gemara, see Lauterbach in J. Q. R. VIII, p. 110-112). Minor works or special treatises mentioned in the Talmud are Sheniyot of Mar (Yebamot 21b) the Pinkas of R. Hillel (p. Kilayim I, i, 27a) of Levi, Joshua b. Levi and of Zeiri (b. Sabbath 156a) and of Ilfa (b. Menahot 70a and p. Maaserot II, 49d). And we may safely assume that besides these works mentioned in the Talmud there were others that have been entirely lost and not even their name has been preserved. The Talmud works which have been preserved to us were collected and arranged for the purpose of furnishing authoritative standard works for the guidance of teachers and students in their study of Jewish lore. Their redactors intended them as a help to teachers to be used by them as text books in the schools when teaching religious law and morality, to be consulted by them when deciding ritual matters or rendering legal decisions, and by supplying information in guiding principles as well as in precedent cases, help the teachers in settling all questions and new cases of practical religious life.

With this aim in view the redactors of the Talmudical works, of course, did not care to preserve all the sayings and teachings which they found in the literature of their times. For, as may safely be assumed, these teachings were not all of the same value, and therefore, not all equally worth preserving. The redactors of the Talmudical works, like the editors of the Biblical Canon, desired merely to

give a choice selection. They wished to preserve only what they considered to be the best in the older collections and what in their opinion was worth while preserving and what would best serve the purpose they aimed at with their works. This can best be shown in the case of the Mishnah of Judah ha-Nasi and the Gemara of the Babylonian Talmud by Ashi.

We know that Judah ha-Nasi, or, as he is usually called, Rabbi, had before him many collections of Mishnahs and even completely arranged works of former Tannaim and earlier teachers. There is no reason to doubt the report found in *b. Nedarim* 41a that Rabbi had learned thirteen versions or collections of Mishnayot (Of course, the saying in *Hagigah* 14a speaking of six hundred orders of Mishnah, supposed to have been known by Judah b. Tema and his colleagues, younger contemporaries of Rabbi, is a legendary exaggeration). Likewise, R. Ashi had before him many collections of Amoraic discussions, sayings, comments and explanations to the Mishnah. But both Rabbi and Ashi made only eclectic use of the works and collections of their predecessors. They selected only what, in their opinion, was best and worth preserving of the older collections and they incorporated into their own collections only as much as agreed with the plan and purpose of the latter.

The large collections of the *Tosefta*<sup>12</sup> and the Halakic *Baraitot*, scattered through the Talmud, as well as other traditions and sayings of Tannaitic teachers, preserved in the Talmud and in the post-Talmudical works, the so-called

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<sup>12</sup> The *Tosefta* is arranged on the same plan on which the Mishnah is arranged. It consists of the same six orders covered by the Mishnah, and the names of the Tractates are the same as those of the Mishnah tractates. There is no *Tosefta* to the Tractate *Abot*, but the *Abot d. R. Nathan* may be considered as such. In the order *Kodashim* the *Tosefta* is lacking the three tractates, *Tamid*, *Middot* and *Kinnim*.

“extracanonical” and “minor” tractates, “*Massektot Hizonot*” or “*Massektot Ketanot*”,<sup>13</sup> comp. *Halakot Gedolot* (Vienna 1810). p. 106 show how much of the Tannaitic material Rabbi excluded from his collection. And we may safely assume that a great deal of Tannaitic teachings contained in the older collections has been altogether lost.

In the same way we find much Amoraic material, that is, discussions and sayings of the Amoraim, which has been preserved to us only in post-Talmudic works, like the Agadic Midrashim. This also shows how much of the material which must have been contained in former collections, Ashi excluded from his Talmud. And here we may likewise assume that much of the teachings of the Amoraim has been lost entirely without even being mentioned in the later Midrashim or Apocryphal tractates.

Thus we see that just as Rabbi did not embody in his Mishnah all the Tannaitic teachings which were at his disposal, so Rab Ashi did not incorporate in his Talmud all the Amoraic teachings found in the collections which existed in his time. And we may rightly conclude that the redactors of the other works of the Talmudic literature adopted the same method in selecting, arranging and composing their works as Rabbi and Ashi followed in theirs. The many Midrash-Baraitot quoted in the Talmud and the sayings of the Palestinian Amoraim, found in the later Agadic Mid-

<sup>13</sup> The “extra-canonical” tractates are: 1) Abot d. R. Nathan which exists in two versions, 2) Tractate Soferim, 3) Ebel Rabbati or Semahot, 4) Kallah, 5) Kallah Rabbati, 6) Derek Erez Rabbah, 7) Derek Erez Zutta, 8) Perek ha-Shalom. The minor Tractates or Massektot Ketanot, are seven in number. They are Tractate Sefer Torah, Mezuzah, Tephillin, Zizit, Abadim, Kutim and Gerim. All these are printed in the Talmud editions at the end of the order Nezikin. Of some of them there are critical editions, as Abot d. R. Nathan by Schechter, Soferim by Müller and the seven minor tractates were published by R. Kirchheim under the title *Septem Libri Talmudici parvi Hierosolymitani*, Sheba Massekot Yerushalmiyot, Frankfort A. M. 1851.

rashim, warrant this conclusion in regard to the Halakic Midrashim and the Palestinian Talmud.

As said above, Rabbi meant to make his Mishnah a sort of textbook for the study in the schools, a guide for the students and a standard work to be consulted by the teachers when regulating matters of Jewish observances or deciding questions of religious beliefs and practices.<sup>14</sup> It was not to be considered as the work of an individual teacher, the Mishnah of Rabbi, and in a class with other Mishnah collections by other teachers (like Rabbi Eliezer's, R. Akiba's, R. Meir's, R. Nathan's). It was to be the Mishnah par excellence, a work accepted by all and recognized as of authoritative character. The happy combination of circumstances under which this work was produced helped a great deal to give it such a character. The fact that Rabbi was the patriarch, the president of the Academy and the religious head of the Jewish people, and that the members of his academy, the most representative of that time, were consulted and no doubt helped and advised in the work of the redaction of the Mishnah, all this helped greatly to invest this Mishnah work with such great authority and to make it accepted by all. (Against Abraham Krochmal in *Hehaluz II*, Lemberg 1853, p. 83).

Those Tannaitic teachings contained in the older collections which were at the disposal of the redactors of our

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<sup>14</sup> That Rabbi did not intend to give merely a code of laws is evident from the fact that he records opposite opinions without deciding as to which should be accepted as the Halakah or law. Furthermore, many important laws affecting the daily religious life, as the laws about Tefillin, Zizit and Mezuzah are only briefly mentioned but not discussed in detail in our Mishnah. It certainly cannot be said that Rabbi omitted these laws from his Mishnah because he considered them of little importance. Compare further about Rabbi's aim with his Mishnah, Reggio, in *Kerem Hemed I*, p. 12-13, III, p. 79 ff. Lauterbach, *Mishnah*, in *Jewish Encyclopedia VIII*, p. 612.

Mishnah but were not embodied in this authoritative Mishnah are called Baraita, or as the Hebrew equivalent for it is "*Mishnah Hizonah*" (Midr, Numeri Rabbah XVIII, 21) i. e., outside Mishnahs, Mishnahs not included in our Mishnah.<sup>15</sup>

The position of these outside Mishnahs in the Talmudic literature resembles somewhat the position of the Apocrypha in the Biblical literature. Their status as compared with the accepted Mishnah is similar to the status of the Biblical Apocrypha, *Sefarim ha-Hizonim*,<sup>16</sup> as compared with the books of the canon of the Old Testament. Not being accepted by the schools and consequently not so well guarded against mistakes or even interpolations of spurious teachings, they could not be relied upon, as expressing authoritative opinions or genuine Jewish teachings. The rule was that unless a Baraita was accepted and taught in schools of a high standing and reputation, it could not be cited in argument in the discussions of the Academy, or to be more specific, Baraitot not taught in the schools of Hiyya and Oshaya were considered unreliable (Hullin 141ab). R. Simon b. Lakish said, we cannot place reliance upon a Mishnah which has not been discussed in an authoritative group p. Erubin I, 3 19b). When in the course of a discussion a

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<sup>15</sup> As to the interpretation of the term Baraita as meaning the Mishnah collections studied outside of the main academies, see L. Ginzberg in Jewish Encyclopedia II, p. 514.

<sup>16</sup> The term *Sefarim ha-Hizonim* may sometimes have been used also to designate heretical works in general, since these also were outside of the Canon. Indeed, in the Babylonian academies the term seems to have been understood as synonymous with *Sifre Zadukim*, or *Sifre Minim* (b. Sanhedrin 100b reading of the manuscripts "minim" for *Zadukim* in the printed editions). But primarily the term was used to designate the Apocrypha. Thus in p. Sanhedrin X, 28a it is said: *Sefarim ha-Hizonim kegon Sifre Ben Sira, etc.*" In Tanhoma (Buber) Behaaloteka p. 59 all books outside of the twenty-four books of the Bible are referred to as *Sefarim ha-Hizonim*, comp. also L. Ginzberg in Journal of Biblical Literature, 1922, p. 129-30.

Baraita is cited in support of an argument the question is sometimes asked, "who can assure us that this is a correct and reliable Baraita?" Pesahim 99b-100a, Sabbath 121b. Thus we see that the Baraita, if not vouched for by reliable authority was regarded with doubt and suspicion.

The same attitude was also observed towards the Apocrypha in general. Their teachings were doubted because it was not known whether their authors had been of the same character as the writers of the Canonical books. In the case of the Apocrypha this attitude of suspicion became stronger and more pronounced in the course of time due to the fact that they were accepted by the Church. The possibility of some of the apocryphal works having been interpolated in favor of Christianity or other heretical teachings made these books even more suspicious to the Jews, so that in time the entire apocryphal literature was rejected altogether. This fate did not befall the Mishnah Hizonah. But both the Mishnah Hizonah and Sefarim Hizonim do contain ideas rejected by all Jewish teachers as erroneous and false.

But just as we find among the Apocrypha certain books or parts of books which contain genuine Jewish teachings and are religiously of greater value than some of the books included in the Canon (comp. Ecclesiasticus with Proverbs and I and II Maccabees with Esther), so are there among the Baraitot preserved in the Talmud or in the Tosefta genuine and authoritative Halakic teachings, as important and as reliable as the contents of the Mishnah, although they have not been included in that standard collection accepted by the schools (see Hoffman, Zur Einleitung in die halachischen Midrashim, p. 1 Note 2).

This, no doubt, was the view of the compilers or redactors of our Tosefta, whoever they were, and whatever the aim and purpose of their collection may have been. Whether

they intended to put up a rival code or aimed merely to furnish a complementary collection to the Mishnah is not to be decided here,<sup>17</sup> but this much is certain, that they regarded the material excluded from Rabbi's Mishnah and embodied in their collections as important and as worth while preserving as the teachings embodied by Rabbi in his Mishnah.

What has been said of Judah ha-Nasi and his Mishnah is also true in the case of Ashi and his Gemara. R. Ashi, likewise meant to furnish teachers and students of his time with a standard guide for their studies and for their decisions of religious questions. He embodied in his Gemara all the comments of the Mishnah and all the decisions and new laws of the Amoraim which he considered worth while preserving and in harmony with the plan and purpose of his work. This Talmud was to be *the* Talmud, studied in the schools as the standard work. The academy in Sura, of which Ashi was the head, included the most representative Jewish scholars of that period and was, therefore, for that period, as important and as prominent and authoritative as the academy of the patriarch Judah in its time. R. Ashi and the members of his academy who no doubt helped in the redaction of his Talmud (comp. b. B. B. 157b), could, therefore, give to their work, the Babylonian Gemara, the same authoritative and representative character which the patriarch Judah ha-Nasi I and his academy gave to their work, the Mishnah.

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<sup>17</sup> The name "Tosefta" meaning "addition" would, of course, suggest that the work is merely a supplement to the Mishnah. But this name may have been given to this collection by later teachers who regarded it as an addition to the Mishnah. The redactors themselves may have called them Mishnayot, or Mishnayot Gedolot, the same name by which the collections of Hiyya and Oshaya who were regarded as the compilers of our Tosefta are designated in p. Horayot III, 48c and Midrash Thillim 104, 22.

But a great deal of the material excluded by Ashi from his work and preserved in the later Midrashim, is of absolutely authoritative character, representing genuine Jewish teachings, and religiously even superior to some of the sayings and teachings embodied in the Gemara. As in the case of the Baraita, the mere fact that these teachings were not included in the standard work, in this case, the Talmud, does not speak against their intrinsic value as genuine Jewish religious teachings. We are unable to ascertain the reason that prompted Rabbi and Ashi to exclude such material as in our opinion represent true religious teachings of great value, from their respective standard collections. We only know the fact that these works, Mishnah and Talmud were meant to be standard works but did not include all the teachings extant in their respective times.

It is very important to notice this fact, namely that the works of the Talmudic literature were meant to be standard works of authoritative character, composed by a body of representative teachers. In each case they were the works, not of individual teachers, but the work of the spiritual head of the Jewish people and his colleagues. In the case of the Mishnah, it was the work of the patriarch Judah and his academy. In the case of the Talmud, it was the work of the representative academy in Sura and its head, at that time, the spiritual head of Jewry. And so it was also with the other works of the Talmudic literature. Although, as said above, we have no reliable tradition as to the authorship of these works, yet it is significant that tradition ascribes each work to an author who was the greatest teacher of his time and the head of the academy, the members of which are said to have helped in arranging and composing the work. Thus the Sifra and Sifre are ascribed to Abba Arika, Rab, the undisputed authority of his time and

head of the academy in Sura. The Palestinian Talmud is ascribed to R. Johanan b. Nappaha who after the death of Rab in Babylon, was recognized as the greatest teacher, and was head of the academy in Tiberias, Palestine.

This fact will help us to understand some peculiar characteristics of the Talmudic literature and will account for the manner in which the material was handled by the compilers and redactors. It has already been said that the Talmudic works are anonymous. But it should be noticed that they are not pseudepigraphical. This distinction is important, especially when we realize that there was a tendency in those days to ascribe works to older authorities. Now, why was this method so common in the Pseudepigrapha, not followed by the authors of the Talmudic works? Simply because of the above mentioned aim and purpose of this literature. The Pseudepigrapha were ascribed by later authors to older teachers and seers in order to obtain a hearing from the people. No work could claim divine authority if written during the time in which prophecy had already ceased or when the people believed that revelations were no longer given to man. Those who felt or believed that they had a message to the people resorted to presenting it in pseudepigraphic form, ascribing their work to an older seer or sage of the time when revelations were still received. The authors of the Talmudic works who merely wished to explain the Torah and give the laws and doctrines of Judaism, as understood and taught by the representative teachers of each generation had no need of that method. For, all the teachings which they wished to give they could interpret into the words of Sacred Writ or present them as implicit in the law. The manner in which the rabbis handled the material is likewise explained by the purpose at which they aimed with their works. The rabbis were wrongly

accused of a lack of literary ethics. It was charged against them that they were not scrupulous in handling other people's ideas and teachings, that they would not hesitate to appropriate sayings of older teachers and present them as their own, or to pass off their own opinions in the name of older authorities and former teachers in order to give them higher authority and greater importance, and thus secure for them the acceptance by the people. (see Weiss Dor. II, 215-16). But this accusation is unjustified and cannot be sustained or proved.

The Rabbis did respect the right of ownership of ideas. Their methods of discussion, their efforts to ascertain whose opinions are recorded in a Mishnah or a Baraita, by asking "Mani Matnitin" or "Ha mani", their frequent asking whether a later Amoraic discussion is not identical with an earlier Tannaitic discussion, "Lema ke-Tannai", their efforts to distinguish which of the sayings of a person represent his own opinion and which were the opinions of his teacher merely quoted by him, "Ha dideh ha de Rabbeh," and to inquire whether an opinion ascribed to a teacher was expressly stated by him "beferush itamar" or merely implied in some of his utterances, "mi-kelala itamar;" these and similar other attempts to trace sayings and opinions to their original sources, which abound in the Talmud are sufficient to prove that the Rabbis were very much adverse to pseudonymous methods. Furthermore, there are numerous sayings in the Talmud insisting on a strict observance of the rules of literary ethics. They condemned plagiarism as well as the passing of one's ideas under the name of a higher authority. To ascribe the opinion of one teacher to another they considered as grave an offence as removing the boundary lines of a field and giving one man's property to another (Sifre Deut. 188) and they warn their students

to be careful not to change the authorities, "Lo tahlif gabre" (B. K. 96b and elsewhere). They insisted that one should always mention his source and give the saying in the name of the authority who said it, (b. Megillah 15a) and use the very same words of the teacher when quoting him, (M. Eduyot I, 3) and not add anything to a saying when quoted, (Sanhedrin 29a and Abot d. R. Nathan I, Schechter p. 3a) and not say in the name of a teacher what the latter did not actually say (b. Berakot 27b, Tractate Kallah end. comp. B. B. 7a and 151b and Abodah Zarah 37b).

I can think of only two cases in which Rabbis of the Talmud were suspected of violating the rules of literary ethics. The one is the case of R. Abahu whom Simeon b. Aba accused of having ascribed a saying to R. Johanan which the latter did not say, (p. Peah I, 1, 15c). The other is R. Eleazar b. Pedat who is charged with having passed off as his own, teachings found in a Baraita of the Sifra (b. Yebamot 72b) as well as sayings of his teacher R. Johanan (ibidem 96b-67a and Makkot 5b, also p. M. K. III, 83c). As to the case of Abahu, his guilt is not at all proved. Simeon may have been mistaken. Abahu may have heard this saying from R. Johanan though the latter never said it in the presence of Simeon. And even the second case touching Eleazar b. Pedat is not an instance of purposed plagiarism, as the motive of his conduct is satisfactorily explained by R. Jacob b. Iddi (ibidem l. c.). But even if these two teachers had been guilty of the offenses with which they were charged, it would be unjust to charge the Rabbis of the Talmud in general with a disregard of the rules of literary ethics.

Morover, the wholesale charge of a lack of literary ethics on the part of the Rabbis of the Talmud reveals a lack of understanding of the special aim and purpose of the Tal-

mudic works and of the reason why the latter like the works of the Bible are anonymous though of an authoritative character. In explaining the anonymity of a great part of the Bible, R. H. Charles says: "The Hebrew writer was almost wholly devoid of the pride of authorship and showed no jealousy as to his literary rights. He was apparently devoid of the desire of personal fame, his sole object was the service of God and the well-being of the nation. Accordingly the post exilic-writer adopted freely the work of his predecessors and recast it according to the needs of his own time, or in other cases, as in that of the scribe, he reedited the works of the ancient prophets, and introduced under their names anonymous fragments of prophecy. It is to this process of reediting that we owe their preservation.." (Religious Development between the Old and the New Testament, London, 1914, p. 37). The same is to be said of the Rabbis of the Talmud. Their sole object was the service of God, the interpretation of His Law and the spiritual well-being of the people. They had no desire for personal fame or recognition.<sup>16</sup> Hence in earlier times all teaching was given anonymously and no name of a teacher was mentioned, (see Midrash and Mishnah, p. 34). In the course of time it became necessary to mention the name of teachers in connection with the interpretations of the Law or legal decisions and religious teachings in order to be able to judge

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<sup>16</sup> It is interesting to note that in two cases found in the Talmud where teachers show a desire to be quoted, the Gemara is rather surprised and wonders why these teachers cared so much for the mention of their names in connection with their opinions. Thus in the case of R. Johanan (Yebamot 96b) it is asked, "why was he angry that Eleazar did not mention his name" (comp. p. M. K. III, 83c where it is asked why did he wish to be quoted). And in the case of R. Sheshet (Bekorot 31b) it is asked, "what difference did it make to him whether he was quoted by name or not?" In both cases the Gemara explains that they had a certain reason for wishing to be quoted. But this reason was not the desire for personal fame.

whether the interpretation was given by a responsible teacher, whether the legal decision was rendered by a reliable authority and whether the religious teachings emanated from the right sources. It was then that the standards of literary ethics referred to above were developed. It was then that the rules were laid down always to mention the name of the authority who gave the teaching, to quote correctly and in the very language used by the author, not to add a word to his statement and not to ascribe to him what he did not say. But all this insistence on exact reference was only in regard to the teachings and sayings when first presented or introduced into discussion, in order to be sure whether they came from the right sources and could be accepted as authoritative teaching. But once the teachings or sayings had been found correct or had been approved or vouched for by a reliable authority they were accepted by the school and became the property of the school. They were then taught anonymously as the teachings of the Rabbis, "Rabbanan" or the sayings of the wise men, "Hakamim." It was not deemed necessary to mention the name of the author except in the case when one teacher differed from the opinion of the majority. In such a case it was felt that record should be kept of such dissenting views and of who their authors were, in order that the people should know that the views in question were merely the opinions of individual teachers, and also for the purpose of making it possible for future generations to reexamine the questions and if they find good reasons for it, decide to accept the dissenting view, (see M. Eduyot I, 4-6). The teacher who compiled a collection of sayings and opinions of former teachers was interested primarily in preserving the teachings and not in erecting a monument to the individual teachers whose sayings he collected and preserved. Neither

did the compilers wish to establish for themselves memorials by their compilations, for they did not put their name upon their collections and did not label them as their own work. Furthermore their aim in preserving these teachings was not an archaeological one. It was not merely to have an historical record of the teachings of the past. It was to make the teachings of former generations of use to their own time. They wanted their people to be able to benefit by the accumulated wisdom and the teachings of the past, but they did not forego the right to judge for themselves as to which teachings of the past still hold good for their own time. Hence their peculiar method in composing these compilations. They recorded faithfully the opinions of the older teachers, but they also put their own remarks alongside of these older teachings. They voiced their opinion as to the value and acceptability of the sayings of the older teachers or they modified and qualified them when necessary for the purpose of preserving for their own time the validity and the authoritative character of these older teachings. And the various collections compiled by teachers of one generation were freely used by the compilers of subsequent generations. Rabbi Ashi and the other redactors of Talmudic works, who embodied older collections and works of other teachers in the Mishnah, Talmud, etc., were not guilty of plagiarism. They did not appropriate in any way the sayings of others, for they did not claim them as their own. And the Amoraim and Saboraim who made additions and corrections of their own to Rabbi's Mishnah or Ashi's Gemara respectively, were not guilty of putting a false label upon their own teachings and passing them under the guise of an older higher authority.

All the teachers of the Law were considered as one body altho living in successive generations, they were all merely

the bearers of Jewish tradition, the representatives of the Jewish spirit whose teachings they voiced.

Each successive generation of teachers, accordingly, felt that not only did they have the right, but that it was even their duty to add their own teachings and discussions to the teachings of the former generation in order thus to complete the teachings of the Jewish tradition of which for the time being, they were the representatives. For they believed that the former teachers did not intend their teachings to be final, but simply as the expressions of the collective Jewish consciousness of their time, subject to change and modification by the growing and developing consciousness of the people. The later teachers consequently felt justified in their procedure, to add remarks of their own to the utterances of their predecessors, to change a decision or correct an opinion, to modify a principle or define and qualify a law, contained in the works of their predecessors, thus enlarging these older works and bringing them up to the standard of Jewish teaching as required for their generation.

In thus editing, so to speak, works accepted and used in the schools, they maintained the true character of these works, which was to represent the authoritative opinions of the representative teachers of every generation, to record their modifications and interpretations of as well as their additions and restrictions to the Jewish religious laws and moral teachings as embodied in the Biblical literature. To speak in more familiar terms, the works of the Talmudic literature were to contain the constantly growing and developing teachings of the oral or traditional law, the Torah she be-al-Peh. They were to preserve the traditions and laws, ideas and beliefs, principles and rules of the teachers, which, on the one hand, explain and modify, and on the other hand,

complement, improve, and develop the written law, the Torah, she-be-K'tab.

And here again we notice another important point of striking similarity between the Biblical and the Talmudic literature, or between the Torah she-be-K'tab and the Torah she-be-al-Peh. In the Bible, the Torah she-be-k'tab, in a wider sense, (see Hoffman, *Erste Mishna* p. 29) we find that the compiler or redactor did not change the distinct character of the sources from which he drew his material. He did not recast the material which he gathered from different sources in a new form, using his own words and thus obliterating the peculiarities of language and form of the original sources from which he drew. He merely grouped the material together, very often putting extracts from different sources alongside of one another with but slight changes, necessary to adapt them to the plan of his work, or inserting such connective phrases or explanatory remarks which were necessary to give unity to the work and logical connection to its parts.

In the literature of the traditional law, we notice the same attitude of the redactors toward their sources and the same method in handling and grouping their material.

The redactors of the various works of the Talmudic literature did not obliterate the peculiar characteristics of the sources which they used. They did not exclude from their works such teachings found in the sources as were peculiarly characteristic of a former age or of a certain school or tendency and which had in the course of time lost their significance and practical value or had been rejected by the authoritative schools. Thus, e. g., they incorporated in their works old sayings and laws which had not been accepted and approved by the majority of the teachers, or even such teachings and opinions as had been rejected by the teachers.

They did not change the character or form of these old sayings by substituting their own words for the old expressions and thus putting them in more modern form. They retained the sayings of former times and recorded the individual opinions of older teachers in the very form and language, and with all their peculiarities exactly as they were found in the sources and earlier collections. Their sense of literary ethics forbade them consciously to make changes in the form or wording of another teacher's sayings. They believed that it was obligatory to quote a teacher's saying by using his very words and his peculiar expressions (Eduyot I, 3). They would, however, if that saying or opinion was not fully acceptable to them, put alongside of it another saying or a different and opposite opinion, or they would add to it a qualifying remark or a restrictive statement, like "Bameh debarim amurim" or "Ematai." They would also sometimes state that this opinion or decision was merely the opinion of an individual given by such and such a teacher, but was not approved of by the other teachers, "welo hodu lo Hakamim", or they would remark that this was the practice or decision of former times, "ba-rishonah", but had subsequently been changed or abandoned. The use of such peculiar methods was due to the Rabbi's respect for another man's opinion and to their belief that it furthers the cause of truth to hear and record the opinions of the individual teacher, even if he be opposed by the majority. (comp. Eduyot I, 4-6). These literary peculiarities form a notable feature of the Talmudic literature and are of great importance for the correct understanding of this literature. For, by means of them we are enabled to trace the origin of the various works of this literature and to follow them in their growth and development. In this also, the Talmudic literature resembles the Biblical literature.

In the Biblical literature we can distinguish the component parts or the various sources of each work by their respective peculiarities in words and expressions, as well as by the different ideas expressed in them, which can be traced to different times or reflect conditions of different places.

In thus distinguishing the various sources according to their origin in different times and places (Israel or Judah or Babylon) we can trace the origin of each religious idea, observe its growth and thus follow up the growth of the law and the development of the purely ethical and monotheistic conceptions as well as the moral principles through their successive stages and periods.

The same process can be applied to the Talmudic literature and the same method should be pursued in studying it. In the Talmud as in the Bible the various component parts of each work can be distinguished by noticing their respective characteristics, their peculiarities of language and technical terms, their special emphasis on certain principles, their differences in enjoined actions or in general views and attitudes towards the law, as well as by their peculiar methods of argumentation and their mode of grouping and arranging their teachings. The preserved sayings of each school and each period can thus be singled out. By thus distinguishing the different sources of the various teachings in the Talmud and by ascertaining under what conditions and in what environment as well as the time and the place in which the various teachings were proclaimed or the laws modified we can observe the gradual growth of the traditional law, especially of the Halakah. We can trace its development from its very beginning through all stages and periods of time. For each period is represented in the body of teachings, preserved to us in the Talmud. Each method

or form used by one school or the other at the various times is illustrated by a smaller or larger number of teachings or sayings of that school embodied in the literature of the Talmud.

The Talmudic literature has very aptly been described as a palimpsest in which the writings and letters of one period are written upon the text of the writings of another period.

All the various tendencies of the different schools and different ages and different countries which have enriched the contents or influenced the development of the traditional law are represented by sayings collected and stored up in that vast storehouse of Jewish lore, the Talmudic literature. In this vast storehouse, however, the huge mass of the great variety of materials is not arranged systematically in such a manner as to show at a glance all the teachings of one school or tendency together. The teachings and sayings are not grouped separately according to their respective sources nor are they arranged strictly chronologically in the order of time in which they originated. They are all mixed together. We ourselves have to do this proper assorting by a process of redistribution and arrangement of the material.

If we wish to understand correctly the Talmudic literature and know its character well we must seek to distinguish between its various parts, separate its contents according to their respective origin, tendency and purpose, and trace the course of the various streams or currents of thoughts which, originating in distant ages and in far away countries, have flowed into the vast sea of the Talmud. And the best way to proceed to do this is to begin with the origin of the traditional law and the very beginnings of the Halakah and its Midrash, i. e., the methods by which it derives its teachings from the laws of the Bible or connects them with the words of the written Torah. We must then proceed to trace

the growth of the Halakah and the development of its Midrash. We shall notice how the Halakah assimilates diverse elements from the popular usages and practices, thus enlarging the body of its teachings, and how in keeping with this increase in its teachings and practices it also changes its Midrash methods and develops new exegetical and hermeneutical rules for the interpretation of the Torah. We shall also notice how different tendencies develop among different groups, resulting in separate movements with distinct purposes and different attitudes towards the law and towards the Tradition. We shall also observe the rise of different schools with different methods and different outlook, and how the differences between these schools are settled, how diverse tendencies are harmonized and compromises are effected between the opposite views. We shall also find that a gradual change and improvement took place in the forms in which they presented their teachings and in the modes of arranging their material. At first, the teachings of the traditional law were given only in connection with the written law, hence these teachings followed the order in which the written laws follow each other in the Pentateuch. Then the teachings of the traditional law were also given in another form, not connected with the written law. The contents of the traditional law had, therefore, to be arranged according to some system. Various devices for grouping and arranging the ever increasing material of the traditional law are introduced. The various schools use different systems of arrangement. Each school selects or devises a mode of grouping and presenting the Halakic material adapted to its peculiar needs or the special purpose aimed at.

The compilers of collections or the redactors of works, while using a system of their own, very often retain the material which they draw from older collections in the same

form or system of grouping in which it was found in the older collections. Thus the modes of grouping the material or the system of arranging the teachings of the traditional law are improved in every subsequent collection but the later collections still show traces of the older systems which were peculiar of the older collections. We shall thus find that we can trace all the earlier modes of grouping even in the final system of arrangement adopted by the final redactors of the Talmudic works and which is presented to us in the complete structure of the Talmudic literature as it has been preserved to us.

This method of tracing the process of the development of the Halakah and of the evolution and growth of the Talmudic literature we shall try to follow in our Introduction to the Talmud.