

THE TAZ AND ITS AUTHOR

A Study of the Life and Work
of Rabbi David Halevi, Author of
the Turei Zahav.

NOAH H. ROSENBLOOM

Submitted in partial fulfillment
of the requirements for the degree
of Doctor of Hebrew Literature in
the Graduate School of Yeshiva University

1948

The Seventeenth Century was one of the most cataclysmic centuries in the history of the Jewish community of Poland. The Chmielnicki Rebellion erupted like a dormant volcano and threatened the very foundations of Polish Jewry.

On the threshold of this eventful century, R. David Halevi appeared. Unable to stem the gushing lava of barbarism that seemed to engulf his brethren, he decided to rescue the latter from social and religious disintegration. Laboring patiently, persistently and systematically over his commentary Turei Zahav on the Shulchan Aruch, he endeavored to enhance the authority and prestige of the latter and contributed greatly to make it the Standard Code of Israel.

Aided by the Commentary of R. David, the Shulchan Aruch shone forward as a beacon of light to the remnants of devastated Polish Jewry emerging from the ruins of the Chmielnicki pogroms. It shed light in the esoteric confusion caused by the Pseude-Messianic movement of Sabbatai Zvi and pointed for future generations, to a perplexed mankind, the straight path to God's Holy Mountain.

NH.R.

CONTENTS

- Chapter One - Early Influences - Rabbinic Posts -
Rabbinate of Ostreg
- Chapter Two - Events reflected in R. David's Werks -
Years of Exile - Rabbi of Lemberg -
Pegrem in Lemberg - Pseudo-Messianic
Movement
- Chapter Three - Differences of Opiniens -
R. David's Views - Sources and
Explanations - Reconciliation and
Harmonization - Position Regained
- Chapter Four - Taz en Yereh Deah - Sabbatai Cohen's
rival Commentary - Commentary on the
Orach Hayyim - Taz en Heshen Mishpat -
Taz en Eben Haezer - Divrei David and
Responsa
- Chapter Five - Halachah and Cabbalah - Quest for Truth -
Compromise and Moderation - Custom and Law -
Textural Corrections - Students and
Influence

Bibliography

Chapter One

Rabbi David Halevi, one of the greatest commentators of the Shulchan Aruch left an indelible imprint on Jewish legal and ritualistic codification. He has been frequently referred to as the author of the "Taz", an abbreviation derived from the initials of the greatest of his many works, "Turei Zahav." However, in spite of his voluminous works, the richness of this colorful personality must be reconstructed from the very few biographical references which have remained.

Among the few rare facts it is known that Rabbi David was born about the year 1583¹ in Wlodzimir², Volhynia. It seems his family had been residing there for a great many years and occupied an esteemed position therein. Rabbi Isaac b. Bezalel, who had been previously one of the leading rabbis in Germany,³ was the maternal grand-

-
1. Eleazer b. Joseph Ha Cohen Kinath Sofrim, Lemberg, 1892. p. 48 B, note 809. There is however no unanimity with regard to the exact date of R. David's birth. H. Graetz gave it as 1580 (Cf. Graetz, H. Geschichte der Juden, Leipzig, 1882, vol. X., P. 62) While S. Bäck maintained that he was born in 1600. (Cf. Bäck, S., "Die Halachistische Litteratur vom 15. bis 18. Jahrhundert", Die Jüdische Litteratur Seit Abschluss des Kanons, Berlin, 1897 vol. II, p. 519.
 2. Hayyim Nathan Dembitzer, Klilath Yofi; Cracow, 1888, p. 43a.
 3. Baron, Salo, W. The Jewish Community, Philadelphia, 1945, vol. III, p. 71

father of R. David and also had lived in Włodzimierz⁴ and had served
as rabbi of that city.⁵

Rabbi David respectably referred to Samuel, his father merely as "pious" rather than in any other terms of distinction. But in the same sentence when mentioning, Joel Sirkes, his father-in-law, he lavishly bestowed upon him such praise as "gaon, miracle of the generation."⁶

The only opinion of his father that R. David ever quoted was with regard to the manner of holding the "Goblet of grace", an opinion demonstrating piety and meticulous observance rather than erudition.⁷

-
4. Cf. Joel b. Samuel Sirkes, Responsa Bach HaChadashoth, Korzec, 1785, (70), Rabbi Isaac b. Bezalel signed his name as, "Isaac b. Bezalel who dwells in Włodzimierz."
 5. Caro, Jecheskiel, Geschichte der Juden in Lemberg, Cracow, 1894, p. 119.
 6. R. David signed, "David the humble one, son of the lord, my father, the pious, Samuel Halevi, of blessed memory, son-in-law of the gaon, miracle of the generation, the Rabbi Joel, author of the Baith Hadash. Cf. Halevi, Isaac b. Samuel, Responsa, Nemvied, 1736, #45.
R. David's brother Isaac also referred to his father, Samuel, without any laudatory terms. In the introduction to his book, Siyach Yitzchak, Isaac signed his name, "The Young Isaac, son of the lord, my father Samuel of the House of Levi, of blessed memory." Cf. Halevi, Isaac b. Samuel, Siyach Yitzchak, Basle, 1627, Introduction.
 7. Halevi, David Taz, Orach Hayyim, 18312. Here R. David's father maintained that the "goblet of grace" should be held in this way. At first, firmly in both hands to show eagerness to perform the commandment; and then in one hand in order to keep it from looking like a burden.

Nevertheless, the fact that R. Isaac b. Bezalel accepted Samuel as his son-in-law⁸ connoted that Samuel was a man of importance and of a great spiritual caliber.⁹

EARLY INFLUENCES

In the early life of R. David there were three major influences discernible which were responsible for the molding of his career as Talmudic scholar and codifier. To begin with, there was the family tradition born by his maternal grandfather, R. Isaac b. Bezalel. Then, he was influenced strongly by his previously mentioned older brother, R. Isaac Halevi. And thirdly, was the influence stemming from his closely knit association with R. Joel Sirkes, his father-in-law and teacher.

Rabbi Isaac b. Bezalel's reputation as sage and scholar helped pave the road for the full career of his grandson, R. David, even though they were unknown to each other.¹⁰ The strength of this influence can not be overestimated if it will be remembered that the grand-

-
8. Dembitzer, op. cit., pp. 49 b 50a. The first son-in-law of R. Isaac b. Bezalel was R. Abraham b. Jacob Polack, well-known Rabbi of Lubomla, who gave his approbation on the "Matanoth Kehunah" commentary on the Midrash, Cracow, 1597. Cf. Mirsky, Samuel K. "Joel Sirkes, author of the Bach", Horeb, Nov. 1941, vol. VI., p. 46, notes 17, 18, where Joel Sirkes, Responsa Bach Hayeshanoh, Frankfurt-am-Main, 1697, #4, mentioned R. Polack as Rabbi of Lubomla in 1577.
 9. Although the date of Samuel's death is unknown, it cannot be ascertained that in 1627 he was no longer alive, for in that year his son Isaac published his own Siyach Itzchack and he referred to Samuel as "of blessed memory". Cf. Halevi, Isaac b. Samuel, Siyach Itzchack, Basle, 1627, Introduction.
 10. His older brother Isaac seemed to have been named after his grandfather.

father belonged to the generation of students and illuminaries who fostered Talmudic knowledge and promoted Halachic exposition in Poland, thus spreading a fame which reached far beyond the borders of that country.¹¹

Possessed with old age, seniority and erudition, R. Isaac b. Bezael was considered by his contemporaries as the highest rabbinic authority.¹² Even Rabbi Solomon Luriah¹³ who was renown for his disregard for his contemporaries' views in addition to his most analytical mind sent queries to R. Isaac b. Bezael in quest for his opinions.¹⁴

-
11. Low, Judah b. Bezael, Nethivoth Olsm, "Nethiv Halashon", Warsaw, 1884, Chap. 1X. Judah Low b. Bezael, Chief Rabbi of Moravia (1558-1573) referred to R. Isaac b. Bezael in the most glowing terms of praise such as, "by whose decision we live...holy one of the world, the distinguished gaon, R. Isaac b. Bezael of blessed memory".
 12. The great esteem in which R. Isaac b. Bezael was held was responsible for the notion that he was once Chief Rabbi of all Germany. This view has been refuted by Dr. Salo W. Baron, "One may perhaps disregard in this connection the statement on the title page of Bezael Ashkenazi's Responsa, first printed in Venice 1595, in which the author's uncle, Isaac Bezael's is designated as the "Chief Rabbi of all Germany". If the latter be identical with one of the founders of Polish rabbinic learning residing in Wlodzimierz, his previous leadership in Germany may have contributed to the great reverence in which he was generally held by his rabbinic colleagues". Baron, op.cit., vol III, p. 71
 13. R. Solomon Luriah (1510-1574) known by his initials as Maharshah or Rashah was one of the most distinguished Talmudists in Poland.
 14. R. David mentioned a controversy between his grandfather and R. Solomon Luriah in 1546 about whether it is permissible to sit alone in judgment if both parties consented to it. In R. David's commentary, he defended his grandfather's view against that of Luriah, arguing in the affirmative. In addition R. David proved his grandfather's point from the Jerusalem Talmud and the decision by R. Joel Sirkes.
Halevi, David, Taz, Hoshen Mishpat, 3;3.

In his lifetime R. Isaac b. Bezalel wrote numerous glosses on
the Talmud, Asheri and the Mordecai as well as a number of responsa.
Consequently, it can be understood why the halo that surrounded the
name of R. Isaac b. Bezalel should have enhanced the scholastic prestige
in the family; and why the grandchildren Isaac and David were proud
enough of their grandfather to continue to forge the chain of Talmudic
learning. This influence was particularly evident throughout the works
of R. David in the many quotations from and references to R. Isaac b.
Bezalel.

-
15. R. Asher b. Yehiel (1250-1327) Talmudic scholar and codifier. He wrote a compendium to the Talmud known as "Rosh" abbreviated from R. Asher.
 16. The Mordecai is a code consisting of comments, decisions and responsa, written by a German Rabbi Mordecai b. Hillel of Nuremberg. He was a student of R. Meir of Rothenberg (1270-1293) and died a martyr's death in 1298.
 17. Dembitzer, op.cit., p. 48 b-49a, notes that in the introduction to the collection of responsa by R. Hanoch Henoch, Hinuch Beth Yehudah, Frankfurt-am-Main, 1708. The author mentioned several responsa by R. Isaac b. Bezalel. This, however, doesn't seem to be the case since R. Hanoch Henoch mentioned a number of sources including R. Isaac b. Samuel Halevi but no responsa of R. Isaac b. Bezalel. The only responsa quoted are by Joel Sirkes, Responsa Bach Ha Chadashoth, Korzec, 1785, #70, and Responsa Bach Ha Yesh-anoth, Frankfurt-am-Main, 1697, #89.
 18. Halevi, David, Taz, Orach Hayyim, Johannisburg, 1862, 153:15, 473:9, Taz, Yoreh Deah, New York, 1945, 113:2, 138:13, Taz, Hoshen Mishpat, Lemberg, 1882, 3:3, Taz, Eben Haezer, Halberstat 1861, 17:67, 129:35

In his formative years, R. David's older brother Isaac, gave him further impetus to learning. R. Isaac Halevi, frequently referred to as Mahari Halevi (from his initials), was a disciple of the well-known Talmudist, Joshua Falk.

To regret, there are few facts known about R. Isaac too. However, he resided in Chelm and perhaps was rabbi of that community for a certain period of time. It is also known that he lived in Lemberg for sometime from where he wrote a poem, "Hymn of Salvation" in 1609 on the occasion of the restoration of the Synagogue to the Lemberg Jewish community.

In 1627, Isaac was Dean of the Academy of Posen and well on the

-
19. Balaban, Majer, Zyci Lwowsky Na Przelomie XVI i XVII Wieku, Lwow, 1909, pp. 196-197. Rabbi Joshua Falk (d. 1614), commentator of the Tur and the Shulchan Aruch.
 20. In a query addressed by R. David to his brother in Chelm, the former called him "Av Beth Din" while the reply of R. Isaac was signed simply "Isaac Levi dweller in the tent (Yoshev Ohel), here, the holy community of Chelm," which he might have done of humility. Halevi Isaac Responsa Mahari Halevi, Neuwied 1736, #45.
 21. The Synagogue of Lemberg "within the city" (intro Moenia) was claimed by the Jesuits and won by them in a court decision in 1604. The Lemberg Jews, however, refused to yield or accept the verdict as final; and after several years of appealing and litigating, the verdict was rescinded and the Synagogue rightfully placed in the hands of the Jewish community. The Lemberg Jews attached so much importance to this poem that the rabbinical authorities incorporated it into the accepted liturgy and instituted the custom of reciting it annually during the morning service on the Sabbath after Purim. Among the rabbis sanctioning this custom were R. Meir b. Gedaliahu (1553-1616) and R. Joshua Falk (d. 1614). The poem was in the Mahzor Magidei Tehilim and was printed by Caro in his Geschichte der Juden in Lemberg, Cracow, 1890, pp. 149-158.
 22. The inscription on the title page of his Siyach Itzhak, Basle, 1627, reads

בשנת ה'שכ"ז (1627) הודיע ר' יצחק הלוי ז"ל רב העדה הגדולה של לובלין כי הוריש את ספרו זה ליהודי פוזנא ויהיה ראש ישיבתם ויהיה ראש הכולל

In one approbation by R. Simeon Wolf (Shvat 19, 1627), Isaac is referred to as Rash Methivtha (dean of the Academy). In another one by R. Aaron Benjamin b. H. ayyim, he was called "Marbitz Torah". All of which indicated that he actually occupied the post as head of the Yeshiva of Posen. Halevi, Isaac b. Samuel, op. cit., title page and approbations.

road of success in his career. And continuing to keep pen in hand, he wrote several books dealing with subjects like Talmud, Rabbinics, exegesis, language and grammar, some of which appeared in print while others were apparently lost. In addition, this versatile man wrote responsa, many of which remained in manuscript or were included in other collections.

The strength of his brother Isaac's influence upon R. David can further be understood if it will be noted that R. David always considered Isaac as his teacher and mentor. This impression was so deep that even

23. Halevi, Isaac b. Samuel, Hidushei Mahari Halevi, Neuwied, 1735, a book of novella, comments and glosses on the Talmud.
Sheailoth Utshuvoth Mahari Halevi, Neuwied, 1736, a collection of responsa.
Siyach Itzchack, Basle, 1627, a book dealing with Hebrew grammar which was later condensed by R. Judah b. Samuel Oppenheim.
Derech Siyach, Frankfurt-am-Main, 1692.
Brith Halevi, Prague, 1628, a book dealing with Biblical grammar.
24. Cf. Buber, Solomon, Anshei Shem, mentioned two books which were lost, Pachad Itzchack, a book on Yoreh Deah, and Korban Itzchack. Caro, Jecheskiel, op. cit., p. 150, said that R. Isaac wrote a comprehensive work, Eileh Toldoth Itzchack dealing with the Hebrew language and grammar and also a commentary on Rashi.
25. Henech, Hanoch b. Judah Leib, Hinuch Beth Yehudah, Frankfurt-am-Main, 1708, Introduction. Here he wrote that his father Judah Leib left him many manuscripts of great Rabbis including some of "R. Isaac, brother of the author of Turei Zahav". "and he left me an unlimited treasure, bundles and volumes of responsa from the gaonim of the world and from my ancestor, the above mentioned Rabbis and other gaonim who sent them replies, as the authors of the "Gur Arieh, Shnei Luhoth, HaBrith (Isaiah b. Abraham Hurvitz) Baith Hadash (Joel Sirkes). Sefir Meirath Einayim (Joshua Falk. Maharasha (Samuel Eidels) and from the gaon, R. Isaac, brother of the author of the Turei Zahav and from other gaonim of Poland, Prague, Frankfurt-am-Main and other countries, Germany and Italy."
26. Arieh Leib b. Samuel Zvi Hirsh, Responsa Gaonei Bathrai, Prague, 1816, #XX.
27. Halevi, Isaac b. Samuel, Responsa, Mahari Halevi, Neuwied, 1736, vol 1., #45, #46.

when R. David was already enjoying glory and reputation from his own
endeavors he continued submitting his queries to his brother and humbly
requesting his opinions. In some of his writing he actually referred
to R. Isaac as, "My great teacher" and whenever he mentioned his name
in these letters he would modify it with words of praise, admiration
and sincere humility. However, Isaac's letters to David in response,
were never as from teacher to pupil but rather as from colleague to
colleague, with an addition of fraternal devotion, warmth, sentimentality,
praise and high esteem for his younger brother's knowledge. The extent

28. Cf. Halevi, Isaac b. Samuel, Responsa Mahari Halevi, Neuwied, 1736, vol. 1, #13, #45, #46, #48, #49, #50 - responsa which included some of these queries.

29. Ibid, #46.

30. The following excerpt may serve as an example:

תמיד אנו נושעים בך ונאמרים לך שלום, ונחמדים לך ונכבדים לך, ונעזרים לך, ונשתתפים לך, ונאמרים לך שלום, ונחמדים לך ונכבדים לך, ונעזרים לך, ונשתתפים לך.

Ibid, Responsum 45.

אמר רבינו דוד, אמר רבינו דוד, אמר רבינו דוד, אמר רבינו דוד, אמר רבינו דוד, אמר רבינו דוד, אמר רבינו דוד, אמר רבינו דוד, אמר רבינו דוד, אמר רבינו דוד.

31. Ibid, Responsum 49.

In a letter to Isaac R. David said that the problems which are difficult to him will appear simple and insignificant to his brother.

Ibid. Responsum 46.

R. David also anticipated his brother's letters and "was thirsty for them as a heart that panteth for water" Ibid, Responsum 49. His letters to R. Isaac were signed as "David the humble one".
Ibid Responsa 45, 46, 49.

32. R. Isaac's letters to D. David were full of praise. The following excerpt may serve as an illustration. When referred to himself in one letter as "the humble one", R. Isaac replied:

בגד היום אעשה כבוד לך, ובגד היום אעשה כבוד לך, ובגד היום אעשה כבוד לך, ובגד היום אעשה כבוד לך, ובגד היום אעשה כבוד לך.

Ibid, Responsum 45.

A similar reference is to be found in Responsum 50:

The high esteem in which Isaac held his younger brother can also be seen from the following responsum:

אמר רבינו דוד, אמר רבינו דוד, אמר רבינו דוד, אמר רבינו דוד, אמר רבינו דוד, אמר רבינו דוד, אמר רבינו דוד, אמר רבינו דוד, אמר רבינו דוד, אמר רבינו דוד.

Ibid. Responsum 48.

of his reverence for his younger brother can be seen from R. Isaac's form of address to R. David, "old in wisdom, though young in years."³³

Rabbi David valued his brother's opinions so highly that he even incorporated several of Isaac's views, responsa and decisions, in his own works considering them authoritative and binding.³⁴

How long this fruitful correspondence lasted is difficult to ascertain since the biographical notes about the life of R. Isaac are meager, as mentioned before. Even the place and date of his death are unknown. However, it is known with certainty that in 1646, R. Isaac was no longer alive, for in that year R. David's commentary on the Yoreh Deah was published and he referred to his brother as "of blessed memory".³⁵

Now remains to be discussed the third and most potent imprint on the early life of R. David which left a marked impression on his whole career.³⁶ R. David came into such close associations with this

33. Ibid, Responsum 45.

34. Halevi, David, Taz, Yoreh Deah, New York, 1945, 27:1, 127:7, Taz, Orach Hayyim, Johannisburg, 1862, 25:6. This responsum is also to be found in Isaac's Responsa Mahari Halevi, #8. Taz, Orach Hayyim, 340:4, Taz Hoshen Mishpat, Lemberg, 1882, 3:4. Divrei David, Dyhernfurth, 1689, p.3a.

35. Halevi, David, Taz, Yoreh Deah, New York, 1945, 27:1.

36. Halevi, Isaac b. Samuel, Responsa Mahari Halevi, #45. R. David signed his name as, "the son-in-law of the gaon miracle of the generation, Rabbi Joel, author of the Baith Hadash." (Inquiry to his brother Isaac.)

rabbi of wide renown by marrying Rebecca, daughter of R. Joel Sirkes (1561-1640). The exact date that the marriage took place is another
38
of the many uncertainties of R. David's life.

37. The notion held by Joel Mathew Zinz that, prior to her marriage to R. David, Rebecca was married to a certain R. Jacob who was mentioned as a son-in-law of Joel Sirkes (Zinz, J.M. Yir Hatzedek, Lemberg, 1874, p. 73) was considered as baseless by Prof. Samuel K. Mirsky. This assumption was based upon the fact that Sirkes had only two daughters, Esther and Rebecca. But, it is known that he had three sons-in-law, R. Judah Zelkel, who married Esther (d. Nissan 8, 1648) in Cracow). R. David and R. Jacob, Zinz therefore maintained that Rebecca was married to R. David after the death of R. Jacob, who was killed in an accident. But Prof. Mirsky demonstrated clearly that Sirkes mentioned R. David as his son-in-law already in 1614. Sirkes, Joel, Responsa Bach HaYeshanoh, #78 and also in a responsum dates 1618 (ibid, #94) whereas R. Jacob's death was recorded by the Hevrah Kadishah of Cracow to have occurred in 1621. "Jacob, a quiet man and a smooth one, without beard, son of the Elder and leader Elhanon, may the Lord protect him, and son-in-law of the King, gaon, pious head of the Academy, and Chief Rabbi Joel, may the Lord protect him, who fell down from the top floor and broke his neck and died Thursday night, 23 of Elul 1621".
Mirsky, Samuel K., op. cit. pp. 50-51. Notes 29, 30, 31, 41.
38. The reference by Sirkes, dated 1614, regarding the recent marriage of his daughter, in a reply to R. Joshua Falk, "And although I am occupied at the present moment, thanks to the L--d, blessed be He, who made me worthy to marry my daughter to a scholar. May it be the will of our Heavenly Father that their marriage be successful, "does not refer to D. David's marriage to Rebecca, an opinion maintained by Joel Mathew Zinz. It referred to his third son-in-law, R. Jacob. Cf. Mirsky, Samuel K. "Joel Sirkes, author of the Bach", Horeb, 1941, vol VI., pp 51, 41.

After their marriage, R. David and Rebecca lived with R. Joel
40
Sirkes in Cracow where the latter was the Rabbi of the District of
41
Cracow and Chelm.

Under his father-in-law's guidance, R. David studied diligently. 42
Their relationship was so friendly that R. David even ate at Sirkes'
43 house and prayed at the same synagogue. 44

-
39. R. Isaac paid tribute to Rebecca in one of the letters to R. David.
Halevi, Isaac b. Samuel, Responsa Mahari Halevi #48.
40. Halevi David, Taz Orach Hayyim, Johannisburg, 1862, 151:4.
41. Mirsky, Samuel K. maintained in contradistinction to J. M. Zinz
that Sirkes was twice Rabbi of Cracow. Once he was "Rosh Methivta
and Av-Beth-Din of the District of Cracow and Chelm" and several
years later, after having served as Rabbi in various Jewish commu-
nities, he came back to Cracow as "Rosh Methivta and Av-Beth-Din
of the Holy Community of Cracow and its district." Mirsky, op.cit.
pp.48-49.
42. From a reply of his older brother, Isaac, it can be noted that
David wrote to him about his diligence in his studies, "You made me
increasedly joyous by letting me know all your problems in detailed
manner, especially your diligent study and your perseverance at the
gates of wisdom. You entered into the innermost courts of the king."
Halevi, Isaac b. Samuel, Responsa Mahari Halevi, #48.
43. In a query to Sirkes, R. David mentioned the fact that he lived in
the former's house,
- Sirkes, Joel, Responsa Bach HaChadashoth #17. In his commentary,
R. David also spoke of his stay in Sirkes' house.
- Halevi, David, Taz Orach Hayyim, 461:10.
44. R. David and R. Sirkes were in the same synagogue. R. David spoke
of observances connected with religious procedures in a problem of
synagogue ritual. "On many occasions during my youth, I was the
reader (of the Priestly Benediction) when the Cantor was a Cohen
and the latter said the prayer of 'Sim Shalom' and my master and
father-in-law was in the same synagogue."
Halevi, David, Taz, Orach Hayyim, 128:18.

The esteem in which R. David held his father-in-law seemed to have been mutual, for Joel Sirkes recognized in his young son-in-law the bud of an outstanding Talmudist not merely a brilliant student. As well as R. David spoke of Joel Sirkes as, "my master and father-in-law" so R. Sirkes employed terms of praise and reverence ⁴⁵ in mentioning R. David's name. There is even in existence a responsum in which Sirkes consulted R. David in a complex problem regarding the legality of a certain marriage. ⁴⁶ Not only did Sirkes consult his son-in-law, but he accepted R. David's ⁴⁷ opinions and quoted them authoritatively in his own words.

So important did R. David deem his father-in-law's views that he ⁴⁸ discussed them continuously and at great length in all his works and constantly referred to them. Hundreds of times throughout R. David's ⁴⁹ commentary on the Shulchan Aruch, R. David quoted his "mori v'chami",

45. *וְיָדוּעַ שֶׁלְּרַב הַגָּדוֹל הַזֶּה הָיָה לְרַב הַגָּדוֹל הַזֶּה וְלֹא לְרַב הַגָּדוֹל הַזֶּה וְלֹא לְרַב הַגָּדוֹל הַזֶּה*

- 46. Sirkes, Joel, Responsa Bach HaYeshanoth #113.
- 47. R. David said, "This question was asked of my lord and teacher, father-in-law, gaon, R. Joel, may his light shine... and he sent it to me for consideration."
- 48. Sirkes, Joel, Responsa Bach HaYeshanoth, #97.
- 49. Ibid, #74, #93.
- 50. Halevi, David, Taz, Yoreh Deah, 147:2. R. David mentioned that Sirkes accepted his decisions, "And I suggested it to my master and father-in-law and he rendered his decision accordingly in my name."
- 51. A few examples from the first ten chapters of the Taz, Yoreh Deah are: 1:14, 1:15, 1:17, 1:23, 2:14, 4:2, 4:4, 5:3, 5:4, 10:10, 10:16.
- 52. "My teacher and father-in-law", a favorite expression employed by R. David for R. Joel Sirkes.

and evidently took great pride in him. The fact that R. David many a time took issue with his father-in-law's opinions does not at all detract from R. David's admiration for him nor from the magnanimity of the bearing he had on R. David.

In addition to the cordiality R. David had at his father-in-law's house, he also made the acquaintances of many of R. Joel's famous students, among whom were, R. Menachem Mendel Krochmal, R. Mendelem Ross, R. Zvi Hirsh b. Joseph, R. Samson b. Joseph, and R. Gershon Ashkenazi.

Such an intellectual environment, where Talmudic learning was the breath of life certainly was ground fertile enough for a young man like R. David to mature to his full spiritual stature.

The City of Cracow, too offered many opportunities for David's alert and eager mind. Cracow was the former capitol of Poland and had a very

-
- 50. Halevi, Isaac b. Samuel, Responsa Mahari Halevi #45.
 - 51. Dembitzer, Hayyim Nathan, Klilath Yofi, pp. 51a-52a.
Mirsky, Samuel K. "Joel Sirkes, Author of the Bach" Horeb, p. 75, note 116
 - 52. R. Menachem Mendel b. Abraham Krochmal (1600-1661) Rabbi of Kremzier and later Rabbi of Nikelsburg and the Province of Moravia, author of the Responsa Zemach Zedek, Amsterdam 1675.
 - 53. R. Menachem Mendel b. Isaac Avigdor, known as R. Mendelem, occupied the post of Rabbi of Frankfurt-am-Main.
 - 54. R. Zvi Hirsh b. Joseph Katz was author of the Nachlath Zvi, on the Orach Hayyim and Eben HaEzer.
 - 55. R. Samson b. Jonah of Prague, Rabbi of Schneituch.
 - 56. R. Gershon Ashkenazi (d. 1693), author of the Avodath HaGerahum, Frankfurt-am-Main, 1699.
 - 57. Halevi, David, Divrei David, p. 9b. Here he mentioned a sermon he once preached in Cracow, "This I preached in my youth in the Holy Community of Cracow and they showed me some of it later in the book, Kawanoth HaAri and I was very happy."

58. large Jewish community. But alas, like so much else of R. David's life detailed facts of his life there are lacking. Nevertheless, it is known that the children he had with Rebecca⁵⁹ died there, with only his three sons, Mordecai, Solomon, Isaiah and a daughter⁶⁰ remaining; and R. David, 67 David attributed the cause of their premature death to "his house ~~being~~⁶¹ higher than the Synagogue.

RABBINIC POSTS

With some knowledge of R. David's family background and private life as much as is known, the influential factors in the making of his career, his prestige and his brilliant mind; how he handled his various positions and how they handled him, remain to be discussed concerning R. David's early career. Even with what is probably only a mere sketch of his earliest beginnings, it can readily be seen that a young man like R. David would be adept enough to hold his own in any rabbinic station.

58. Balaban, Majer, Zydzi Lwowsky, na Przelomie XVI i XVII Wieku, Lwow, 1909, Introduction.

59. Dembitzer, H.N. loc.cit.

60. The name of the daughter is not known. It is known that she was the wife of R. Gad and mother of R. Joel of Szczebrzesyn, author of Maginei Zahav.

Dembitzer, Hayyim, Nathan, Klilath Yofi, pp.59b- 60a.

Some maintain that R. David had another daughter. See Wetsstein's remarks to Euber's Anshei Shem.

61. Halevi, David, Taz, Orach Hayyim, 151:4. "In my youth I lived in Cracow and my house of study was higher than the Synagogue, I was very much punished with the death of my children which attributed to it."

The Talmud states that a "city where the roofs of the private houses are higher than that of the Synagogue will be destroyed" Sabbath 4A.

The exact date that R. David left Cracow is unknown. Undoubtedly, the death of his children was no small consideration for that move. Be that as it may, in 1618 R. David was in Potylicze, near Rava. ⁶²

The Jewish community of Potylicze was too small to adequately support its spiritual leader. From R. Joel who became Rabbi of Cracow and the District ⁶³ in 1619, the economic plight of R. David is known. On his way to his newly accepted post, R. Joel visited his son-in-law in Potylicze and saw R. David's precarious position. Apparently, Sirkes was unable to assist R. David, but from Cracow he wrote R. David this letter, "When I visited you at Potylicze, I saw your poverty and I regret very much that you can't pursue your study of the Torah in peace. I hope, however to send you a gift when the Lord will help me..." ⁶⁴

The role of economics, as dynamic in human existence as it is and always was, forced R. David to seek his fortune elsewhere. Leaving Potylicze, he was to found in Posen ⁶⁵ for a certain period.

-
62. Sirkes, Joel, Responsa Bach HaYeshanoth #34. Here he mentioned that he sent a problem to, "my son-in-law, the great David Halevi, Chief Rabbi and head of the Academy of the community of Potylicze."
63. Mirsky, S.K. "Joel Sirkes, Author of the Bach" Horeb, pp. 48-49.
64. Mirsky, S.K. "Joel Sirkes, Author of the Bach" Horeb, pp. 42-43. See also note 6 about economic difficulties of R. Joel Sirkes. Dembitzer, Hayyim Nathan, Klilath Yofi, pp. 55a-55b.
65. In a query to Sirkes, R. David mentioned the fact that he was in Posen, "And now while I am in Posen....I sat in judgment with R. Benjamin Dayan, may the Ld protect him." Sirkes, Joel, Responsa Bach HaChadashoth #17. In his commentary on the Yoreh Deah the following reference to his stay in Posen was made, "I remember that in my youth a similar problem had occurred in Posen and all scholars agreed to permit it." Halevi, David, Taz Yoreh Deah, 124:32..

It had a long chain of great and famous rabbis who had served as its spiritual leaders, among whom were, R. Solomon Luria (1510-1574), also known as the Maharshel,⁷⁰ R. Samuel Eliezer Edel's (1565-1632), also known as Maharsha.⁷¹

R. David's material conditions must have improved considerably and with a bettered economic status came such heightened spiritual powers as R. David exhibited from here on. He intensified his studies and devoted the rest of his time to his Yeshivah.⁷²

As mentioned in passing, R. David completed his monumental commentary on the Yoreh Deah while in Ostrog. In the introduction to that work, he gave credit to the Jewish community that assisted him so generously, also to the students of his Academy who spurred him on in publishing this work. In his own words, R. David,

"It has been three years since the Holy Community of Ostrog accepted me for the spreading of the knowledge of the Torah in their midst and they designated the great Synagogue as a place for the assembly for scholars. Many thanks and gratitude to the members of the above mentioned community who spent money so lavishly to maintain me and my great and worthy Academy, to which many noble students came from near and far from all parts of the country. I have never seen such a worthy academy, I lectured to them that which I was privileged by the Ld. And when they heard my words and were pleased with them, they pleaded with me to have my lectures printed...⁷³

-
70. Waxman, Meyer, A History of Jewish Literature, New York, 1933, Vol. 11, pp. 116.
71. Ibid, p. 118.
72. Halevi, David, Taz Yoreh Deah, Introduction
73. Halevi, David, Taz Yoreh Deah, Introduction

Since it was concerned with decisions of a Halachic nature as authoritative and binding, R. David was at first reluctant to publish his commentary. Finally, despite of the responsibility involved, he acceded to the numerous requests of his disciples⁷⁴ and published his extensive commentary on the Yoreh Deah in Lublin in 1646, which established his fame as one of the most renown commentators on the Shulchan Aruch and gave R. David his rightful and well-deserved name among the great rabbis of the centuries.

74. Ibid.

Chapter Two - Events reflected in R. David's works

Years of Exile -

Rabbi of Lemberg -

Pogrom in Lemberg -

Pseude-Messianic Movement

CHAPTER TWO

The moments of peace and tranquility that R. David finally had achieved in Ostrog, which enabled him to demonstrate his creative ability were interrupted by the grave calamity that befell all the Polish Jewry.

In the early part of the year 1648, under the reign of the weak King Wladislaw IV, the Ukrainian Cossacks elected Boghdan Chmielni¹ki as their hetman. The new hetman, who shared the hatred of his compatriots against the Polish nobility and the Jews, began a campaign of organizing the small military companies of the Cossacks into a strong disciplined fighting force. Having concluded an alliance with the Khan of Crimea, who sent him large contingents of troops, Chmielni¹ki unfurled the banner of rebellion against the deeply hated Szlachta and their Jewish satellites.

The flames of the revolt spread like wild fire over the Ukraine, Podolia and Volhynia. The worse fate was meted out to the Jews who unlike the Szlachta were unarmed and completely defenseless.²

1. Polish nobility

2. Prof. Dubnow quoted a Russian historian as to the suffering of the Jews in those terrible days: "Killing was accompanied by barbarous tortures; the victims were flayed alive, split assunder, clubbed to death, roasted on coals, or scalded with boiling water. Even infants at the breast were not spared. The most terrible cruelty, however, was shown towards the Jews. They were destined to utter annihilation, and the slightest pity shown to them was looked upon as treason. Scrolls of the Law were taken out of the Synagogue by the Cossacks, who danced on them while drinking whiskey. After this, Jews were laid down upon them, and butchered without mercy. Thousands of Jewish infants were thrown into wells or buried alive." Dubnow, Simon, The History of the Jews in Russia and Poland, Philadelphia, 1916, Vol.1, pp. 145-146.

In their course, the rebels reached the City of Ostrog where R. David resided. Most of the Jews had fled the city before the enemy had entered. Only those, who were unable to escape remained in the city. The Cossacks made a deal with the burghers, who joined them in the loot and the pogrom.³ Among the refugees was the Rabbi of Ostrog, Rabbi David Halevi.

Pursued by the enemy, R. David with many other Jewish refugees escaped to Olik, which was a fortified town. When he got there apparently he acted as the rabbi of that city during his stay there.⁴

3. Berenfeld, Simon, Sefer HaDmaoth, Berlin, 1926, Vol. III, pp. 131-132. See also the elegy by Gabriel b. Joshua Heshel of Rzeszow about the pogrom of Ostrog. Ibid, p. 181.

4. In the manuscripts of the penitential poems by R. David, found in Olik and discovered by M.M. Biber, the former is referred to as "the Rabbi, gaon, author of the Turei Zahav, who was Chief Rabbi of Olik". Biber, Menachem Mendel, Yalkut Menachem, Wilna, 1903, p. 4. M.M. Biber gave credence to the current legend that the Cossacks reached the town of Olik in 1649. The Jews there, seeing the immanent danger and expecting to meet the same cruel fate as the numerous other communities did, assembled in the Synagogue fasting. R. David led them in prayers to avert the evil decree or to die together for the sanctification of the Holy Name. Due to exhaustion, R. David fell asleep and dreamed of having heard a voice heralding the Biblical sentence, "I will defend this city and save it for Mine own sake and and for the sake of My servant, David." (Kings, II, XLIX, 34) David awakened and interpreted the dream as a Divine message with regard to the precarious position of the Jewish community of Olik which would be saved for his own sake. Believing firmly, he encouraged the distressed Jews to await a miracle. The story continued that in the town there were cannons which were obsolete, but suddenly they exploded and the roar of the cannons frightened the besieging Cossacks and caused them to flee in terror. M.M. Biber maintained that this story is true, historically and quoted a penitential poem of R. David in commemoration of those days, which the Jews of Olik used to recite annually on the twenty-sixth of Sivan. They also used to fast half the day. In that poem, R. David spoke of the terrific strain of the time and also about the salvation that came when, "from above, He sent fire and thunders. He, Who dwelleth in heaven made them hear terrific sounds and then they fled in terror." According to Biber, this indicated that Olik was somehow saved in the last minutes. Biber, M.M. Yalkut Menachem, Wilno, 1903, pp. 5-14.

In 1650, Rabbi David and many other famous rabbis were exiles in
5
Lublin.

The situation in Poland grew progressively worse. The Pact of
6
Zborov, which was unsatisfactory to the Poles, but had granted a comparative respite to Polish Jewry, was not adhered to.

The abrogation of the treaty kindled the fire of rebellion again in 1651. The renewed civil war clearly demonstrated the instability of the political situation and the constant threat to the security of the Jewish population. As a result, many Jews, including many renowned rabbis completely evacuated Poland to seek refuge abroad.
7

Among the wanderers was R. David. Wherever he went he saw the plight of his people. But above all, the terrible fate of the surviving women who remained Agunoth, touched his heart. Those women wandered from place to place. They had lost everything in life which was dear and precious to them. They had lost their homes and wealth, their children were slaughtered before their very eyes, their husbands were tortured and presumably killed. But this presented an agonizing problem since it was only a presumption and they were unable to establish sufficient evidence in order that the Rabbinical authorities should permit them to remarry, should such an opportunity present itself.

-
5. Halevi, David, Taz, Eben Haezer, Halberstadt, 1861, 156:8
Aryeh Leib b. Samuel Zvi Hirsh, Responsa Geonei Bathrai, Prague, 1816, Responsum 8.
 6. After suffering numerous defeats the Polish King, John Casimir (1648-1668) was compelled to sign a pact with Boghdan Chmielnicki, hetman of the Cossacks, in the town of Zborov, (August, 1649), which was agreeable to the latter. The pact contained a clause forbidding Jews to reside in that portion of the Ukraine populated by the Cossacks, the regions of Chernigov, Poltava, Kiev and part of Podolia. Dubnow, Simon, History of the Jews in Russia and Poland, p. 151.
 7. Dembitzer, Hayyim Nathan, Klilath Yofi, Cracow, 1888, p. 56b.

R. David endeavored to employ his vast knowledge in order to ameliorate this vital and distressing Agunah problem. Many a time he had to depend on his memory alone, since he did not have any books to consult.

EVENTS REFLECTED IN R. DAVID'S WORKS

Many of these cataclysmic events found their way into the works of R. David, although they were primarily concerned with Halachah. Many of his legal interpretations and ritual decisions bear the imprint of that crucial period. Thus the ferocity of the battles, in which even neutrals and civilians were massacred, was mentioned. R. David in his work also spoke of the

3. R. David mentioned the fact that he had only a volume of the Talmud and a copy of the Tur:

Sirkes, Joel, Responsa Bach HaChadashoth, Korzec, 1785, #78.

9. R. David distinguished between a war where the rights of neutrals are respected and the civilian population is left unharmed and between the war of his time which assumed the proportions of a full-fledged massacre in which participant, neutral unlocker and civilian by-passer were in equal danger. Thus R. David differentiated between an ordinary war "where the conquerors kill only the vanquished but they don't kill those who are near the battlefield, since they know that the latter do not come to assist their enemies but rather as spectators, whereas in the wars, where the conquerors kill not only the active participants but also those who come near the front are in danger, as we have heard due to our grave sins, in the wars which occurred in the evil days of 1640 and thereafter. There is no difference (between fighters and spectators) and whoever was there is to be considered as if he were actually in the war.

Taz, Eben Haezer, 17:64.

fears that gripped the Jews in that time. He emphasized the importance of loyalty to the government which was apparently the only power standing between the Jews and annihilation. ¹¹ R. David, in passing mentioned the

10. The constant fear and trepidation in which the Jews lived was mirrored in one of R. David's opinions to abstain from drinking wine: "And now we avoid buying red wine due to the false accusations." This abstention from drinking red wine was not new in the time of R. David. He was avoided by the Jews wherever the ill-famed accusation of using blood of Christian children for ritual purposes was known. The Jews abstained from drinking red wine on account of its similarity to the color of blood. One can easily understand the special precautions the Jews took with regard to this matter during the time of the Chmielnicki pogroms where the mob could have been easily incited and where Jewish life was in constant danger. Taz, Orach Hayyim, 472:9.

R. David mentioned also numerous Jewish casualties who succumbed as a result of heart attacks due to fear. Said R. David that "during the year 1648 and thereafter many Jews in Poland, Lithuania and in other countries were killed and many of those who escaped beyond the Vistula River had died of a sickness that came from the compartments of their hearts."

Halevi, David, Divrei David Dyhernfurth, H aazinu, p. 73b.

11. Although the Poles especially the burghers were hostile to the Jews and betrayed them during the Chmielnicki uprising there were nevertheless some Poles particularly those under the command of Count Jeremy Wisniowiecki protected them. The Jews fleeing from the Cossacks were welcomed by Wisniowiecki who gave them shelter. With this view in mind we can understand why R. David spoke in such strong terms against such people who were disloyal to the government or who counterfeited money. These irresponsible acts aside from violating the Rabbinic dictum "The law of the government is law" were threatening to invite the hostility of the Polish government and thus jeopardize the safety of the entire Jewish community. R. David therefore said that:

"In our days whoever commits a crime or rebels against the government we must hand him over (to the authorities). This applies also to other crimes such as one occupying himself with counterfeiting money or with other violations, that may spell danger (to the Jewish community) we certainly ought to hand him over (to the authorities), ~~It~~ is also lawful to hand (the violator) over even when he was not singled out, because he presents a menace to the rest of the Jews on account of his evil deeds, which he was pursuing wilfully"

Taz, Yoreh Deah, 157:8

economic insecurity of the Jews and their failure to pay their debts,¹²
the plight of the women who were taken captive and others who remained¹³
agunath.¹⁴

R. David spoke of the loss of religious leadership and rabbinic¹⁶
guidance, the destruction of Synagogues, especially imposed fast¹⁶

12. The insecurity in which the Jews lived brought about the ruin of their economic position. The payments of debts became irregular or were never paid. The creditors became alarmed and the rabbinical authorities permitted therefore lawsuits even on Hol Hamoed. This was evident from the following passage:

"Now we witness in all the communities lawsuits are being taken up on Hol Hamoed before the judges even with regard to merchandise. I can justify it due to the fact that we see the deterioration in the payment of debts so frequent and day by day we become poorer."

Taz, Orach Hayyim 539:1.

13. In one case where a girl was captured by the Cossacks and was subsequently redeemed, R. David prohibited her to marry a Cohen in accordance with law governing a captive.

Taz, Eben Haezer, 7:13.

14. Taz, Eben Haezer, 156:8.

15. Due to the havoc and devastation caused by the enemy many rabbis were killed or fled into exile. Thus the remaining Jewish communities or those remnants that managed to survive on Polish soil remained without guidance, without religious and communal leadership. Some lay people took over in the interim and acted upon vital religious matters. Since these people were without a thorough Rabbinic or Talmudic education, many complications ensued from their decision. R. David related details of a divorce case which was issued by a layman in the City of Busk which had to be invalidated.

Taz, Eben Haezer, 129:29.

16. R. David mentioned that temporary Holy Arks were made by the returning refugees to their demolished communities. He differentiated between the sanctity of the permanent Holy Arks and the temporary ones. The former were considered to be implements of holiness whereas the latter were not to be designated as such.

Taz, Orach Hayyim 154:7.

17 days and the decline in the standards of religious observances. 18

When viewed in the light of those historical events, these halachic decisions can be better comprehended and we feel under those legalistic and ritualistic strata the vibrating pulse of the march of time.

Aside from these scattered notes throughout his halachic works R. David left a few elegies in which he portrayed the terror of those days. 19

YEARS OF EXILE

In his flight, R. David went over again to his familiar Moravia, where he was known and the Jewish communities welcomed him cordially and gave him a great reception. 20

R. David mentioned his stay in Moravia in several places in his commentary. Thus he related a personal experience while he spent one Sabbath as a guest of a Moravian Jewish family. He also rendered a 21

-
- 17. "In our times where there are, due to our sins, many evil decrees against us, both from the foes in our midst and from those outside the country these facts (self imposed) are to avert the anger of the Lord and not just for the mere sake of penitence. They are considered therefore as official community fasts, since they are observed by most of the people of the community."
Taz, Orach Hayyim, 566:20.
 - 18. R. David remarked that there were people who used to drink non-Kosher wine. He said that in those days even such people "who did not indulge in promiscuity could be suspected of drinking non-Kosher wine."
Taz, Yoreh Deah 129,24.
This laxity in religious observances was not general and might have been referred to a few violators. It should also be noted that this laxity was not necessarily due to the migrations or economic insecurity caused by the Chmielnicki rebellion since R. David mentioned this fact in his commentary to the Yoreh Deah which was published in 1646 prior to the uprising.
 - 19. Biber, M.M. Yalkut Menachem, pp.5-14.
 - 20. Dembitzer, H ayyim, Nathan, Klilath Yofi, p. 56a.
 - 21. Mention of this fact was made with regard to kiddush that he made by mistake, over a glass of water instead of over a glass of wine.
Halevi David, Taz, Orach Hayyim, Johannisburg, 1862, 271:19.

decision with regard to the payment of a K'tubah at the time of the
22
devaluation of the currency.

The Moravian Jews availed themselves of the opportunity of having R. David in their midst and requested his opinion on many vital questions. Thus, he enlightened the Jewish community of Steinitz with regard to an Erub problem which had existed there for a long time. In Helischau, he became involved in an extremely controversial question when he permitted a husband whose wife was forcibly baptized to remarry, without even divorcing the former one, in absentia.

-
22. One married a woman and promised her, in addition to the regular sum stipulated in the K'tubah, another amount of money. In course of time, however, the currency was devaluated and the woman now demanded the payment of the K'tubah and the addition according to the previous exchange. R. David ruled that she should receive the regular amount of the K'tubah in accordance with the new value, while the addition she should receive according to the previous. Halevi David, Taz, Eber Haezer, Halberstadt, 1861, 100:15.
23. R. David prohibited carrying in the City of Steinitz without an Erub in contradistinction to the belief held by the local population that since the city was surrounded by a river an Erub was not necessary. Halevi, David, Taz, Orach Hayyim, 363:2.
24. The problem concerned a disciple of R. Gershon Ashkenazi (d.1693), by the name of Joel, who escaped from the Ukraine to Helischau. His wife was carried off by the Tartars and witnesses testified that she was converted forcibly. Since one of the wealthy men in the city wanted to give him his daughter in marriage, the question arose whether Joel had to divorce his converted wife in order not to violate the ban of R. Gershon against bigamy by remarrying. R. David, during his stay in Helischau declared that Joel was permitted to marry again, a decision which was upheld by R. Gershon Ashkenazi with the modification that he had to divorce her in absentia. This decision drew fire from R. Menachem Mendel Krochmal (1600-1661), Chief Rabbi of Nikolsburg and the Province of Moravia, and the father-in-law of R.G. Ashkenazi. He led the opposition against the verdict of R. David. Ashkenazi, Gershon, Avodath HaGershonim, Frankfurt-am-Main, 1699, #36. Krochmal, Menachem Mendel b. Abraham, Zemach Zedek, Amsterdam, 1675. #70.

Thus, R. David travelled from place to place in Moravia without establishing himself there permanently.

In the meantime, in Poland, the government troops gained the upper hand over the hordes of Chmielnicki. The latter was forced to conclude a treaty with the Poles in Byelaya Tzerkov in September 1651. This treaty was favorable to the Poles and also advantageous to the Jews, since their right to live in the Pravoslav part of the Ukraine was restored.²⁵

This favorable change that came in Poland had its affect upon the Jewish emigrees. Many of them came flocking back to the country which was not only their former homeland and place of birth but also their spiritual home. Many great rabbis returned to Poland although they had established themselves in important communities in the West.²⁶

RABBI OF LEMBERG

The Rabbinate of Lemberg constituted the most important post of R. David. At that time Lemberg had emerged as one of the greatest Jewish communities in Poland rivalled only in Jewish population by Cracow, the former Polish capitol, and the City of Lublin.²⁷

Many things in Lemberg remained closely associated with the name of R. David. There still stands a synag@ue wherein there is a place bearing an inscription above: "Here prayed our Master, the author of the Turei Zahav."²⁸

25. The following clause was incorporated into the treaty "The Jews even as they formerly were residents and arendars on the on the estates of his Royal Majesty as well as on the estates of the Szlachta shall equally be so in the future."

Dubnow, Simon, Op.Cit. p. 152, note 1.

26. Dembitzer, Hayyim Nathan, Klilath Yofi, p. 56 b.

27. Balaban Majer, Zydzi Lwowscy na Przelomie XVI: XVII Wieku
Lwow, 1909, Introduction,

28. Ibid, p. 196

Balaban Majer, Historja: Literatura Zydowska, Vol.111, p.248

R. David assumed his position as the Rabbi of Lemberg "outside of
the city,"²⁹ in 1653. He succeeded R. Joseph b. Eliakum Goetz,³⁰ who died
the second of Tishri 1652.³¹

29. There existed in Lemberg two independent Jewish communities, whose origin is shrouded with obscurity. These communities, were completely separated in organization as well as in administration. One was called the "Holy Community Within the City", or as it was referred to in legal documents, "Comunitas infidelium Judaeorum intro moenia civitatis habitantium." The other was the Holy Community Outside the City," or comunitas infidelium Judaeorum in suburbio a Cracovia in Dioto." Each community had a rabbi who headed the rabbinical court. He was called, "Moreh Zedek" or Magid Meisharim" for short, "Magid." Every Magid had an academy and supervised the religious observances and conduct of the members of his community. They also supervised, together with a trustee (He'em'an), the elections of the respective community councils. These rabbis, as well as the rabbis of the neighboring smaller communities, were under the jurisdiction of the Rabbi of the Province (Rav HaGadol), He was the highest authority in religious matters and made decisions regarding appeals from the lower rabbinical courts.

At the end of the sixteenth century, (according to J. Caro in 1599) and according to Eiber in 1580) due to the enormous number of problems, the post of the Rabbi of the Province was divided into separate posts. One was the rabbi "within the city, who controlled the smaller part of the Lemberg Province and signed the documents as the rabbi," residing in the Holy Community of Lemberg and the Province," (HaChoneh B'Kehilah K'dosheh Lvuv V'HaGalil). The other rabbi lived "outside the City," and the rabbi "residing in the Province of Lemberg." (HaChoneh B'Gadil Lvuv).

Balaban, Majer, Zydzi Lwowscyna Przelomie XVI i XVII Wieku, p.9
Cf. Lewin, Isaac, Fun Amohl un Heint, Lodz, 1939, pp.54-55. For further development of the Rabbi of the Province.

30. Balaban, Majer, op.cit. p. 126

31. R. Joseph b. Eliakum Goetz was the son-in-law of R. Meir b. Gedaliahu known as the Maharan of Lublin, Caro, J., Geschichte der Juden in Lemberg, Cracow, 1894, p. 119.

32. The inscription on the monument of R. Joseph b. Eliakum Goetz read, "The angels and the mortals strove for the Holy Ark. The angels overpowered the mortals and the Holy Ark was captured. The great gaon, R. Joseph b. Eliakum of the Holy Community of Lemberg, outside the city... was interred in Lemberg, second of Tishrei 5412."
Ibid.

The exact circumstances which led to R. David's appointment to this important position are unknown.

33. There is an interesting legend concerning R. David's appointment to the Rabbinate of Lemberg which is the following, "The Gaon, author of the Taz, was engaged as the head, "menaker". At that time, the gaon, R. Meir Sack was the Chief Rabbi of the community "outside the city" and the gaon, R. Jekuthiel Zalman was the Chief Rabbi "within the city." Once a ritual question concerning Kashruth of a chicken arose in the slaughter house and the gaon, author of the Taz, declared it as Kosher. The other "Menakrim" knew that according to the ritual code, it was trephah. They took the complaint to R. Meir Sack, the Rabbi of the City. The Gaon sent for R. David and demanded an explanation for permitting the trephah to be eaten. When R. David insisted that his opinion was correct and in keeping with the Law, R. Sack became angry and decreed to put R. David in the place of shame, under an iron lock, which is still in existence in the larger hall of the Synagogue "outside the city." (Every sinner and violator of the Law, was placed there with iron chains upon his hands, as a warning to the insubordinates, that they may hear and fear. The people called this "Kil'ne"). While R. David stood there, a boy passed by with a slaughtered chicken in his hand. When R. David asked why he carried the chicken, the boy answered that he had to consult the Rabbi of the City about it. After hearing the problem and the fact that the gaon declared it as trephah, R. David told the boy to go back and tell R. Sack in R. David's name that the chicken was Kosher. The boy hurried back and relayed the message to the Chief Rabbi, R. Meir Sack, loving the truth as he did, investigated the problem again and realized that R. David was justified. He immediately released R. David and called for him. Through their conversation, R. Sack discovered how full of knowledge and Gd's spirit R. David really was and apologized for the insult he had caused him. Upon calling together the elders of the city, R. Sack said to them,

"Be it known to you that this man is great and a man of distinction and he is fit to be your leader."

Since the Rabbinical post was not vacant then, they made him president of the court (Rosh Beth Din). After the death of R. Meir Sack in the following year, R. David was accepted as the Chief Rabbi and Rector of the Academy. Euber, Solomon Anshei Shem.

This story has all the earmarks of a fabulous legend. S. Knebel in Toldoth G'dolei Hora'ah already remarked about it that, "it is difficult to believe that the name of the Taz, who enjoyed such a famous reputation and who even in foreign countries, where he passed as a refugee and received such a great welcome, should be unknown in his own country, where he was one of the outstanding scholars. Especially in the city where his brother had lived for many years." Knebel S., Toldoth G'dolei Hora'ah.

From the historical point, the legendary element is quite obvious for the following reasons, a.) R. Meir Sack was not Rabbi "outside the city" but "within the city" from 1638-1654. (cf. Caro J. Geschichte der Juden in Lemberg, pp. 123-124.) b) The Rabbi "outside the city" was R. Joseph b Eliakum Goetz and he was succeeded by R. David (ibid, p. 119) c) Jekuthiel Zalman never was Rabbi of Lemberg but only Rector of the Academy. This title was engraved on his monument. (ibid, p. 139) According to the story, Jekuthiel Zalman acted as Rabbi together with R. Meir Sack at the time of the arrival of R. David, about 1652. But, according to the inscription on R. Jekuthiel's monument, he died on the second of Tammuz, 1631, (ibid) seven years before R. Meir Sack became Rabbi of Lemberg.

As Rabbi of Lemberg, R. David played a vital role in the sessions of the Council of the Four Lands.³⁴ In 1654, he participated in the deliberations of the council in the Granwitz Market Day in Lublin, where he was one of the signatories to the decision concerning a dispute between the Jewish communities of Tiktin and Zablidowo.³⁵ Of the few documents of the "Council of the Four Lands" bearing the signature of R. David, which remained, is also the plea of the Council, issued in 1661, to help redeem the Jews from Lithuania and White Russia, who were captured by the invading armies of Moscow and brought to Kazan, Kaluga and Nizhni Novogrod during 1654-1656.³⁶

In 1663, R. David's signature appeared in the Council's decision, issued in Jaroslav, to uphold the copyright of the Schulchan Aruch for ten years.³⁷

In the following year, 1664, his name was found again on the Council's approbation of the book "Amudehah Shiv'ah" in the Granwitz Market Day in Lublin.³⁸

-
34. The Council of the Four Lands was the highest administrative and judiciary authority of the Jews in Poland. It consisted of the representative Rabbis and laymen from Poland, little Poland, Galicia and Volhynia. It ruled regarding the distribution of taxes levied by the government, the problems between the various Jewish communities and other phases of Jewish life. The Council was dissolved in 1764 by the Polish Government.
35. Halperin, Israel Pinkas Vaad Arba Aratzoth. PP.94-96, Jerusalem 1945
36. Ibid. P.96
37. Ibid. PP.97-98
38. Ibid. P.99
"Amudehah Shiv'ah" (Her Seven Pillars, an illusion to Prov. LX;1) was a book written by Bezalel of Kobryn.

Being rabbi of such an esteemed Jewish community as Lemberg, it was only natural for R. David to come in contact with some of the most celebrated rabbis of his generation including R. Mordecai Jaffe, R. Nathan Shapiro, R. Heshel of Lublin, R. Mosheh Harif, the first, R. ~~Jonah~~ Krochmal, He also exchanged letters with R. Naphtali Katz and R. Joshua of Cracow.

As to anyother specific activities connected with R. David's Rabbinate of Lemberg, references are lacking.

-
39. Halevi, David, Taz, Yoreh Deah, New York, 1945. 33, 39:23 63:7
 40. Halevi, David, Taz, Eben HaEzer, 129:25, R. Nathan b. Solomon Shapiro (d.1633), rabbi at Cracow, was the author of M'galeh Amuketh (Revealer of Profundities)
 41. Halevi, David, Taz, Eben HaEzer, 156:8, R. Heshel, R. of Lublin, Responsa Geonei Bathrai #7.
 42. Halevi, David, Taz, Orach Hayyim, 430:1
 43. Halevi, David, Taz, Hoshen Mishpat 72:40, R. Jonah Krochmal was senior Dayan of Cracow.
 44. Halevi, David, Taz, Orach Hayyim, 684, R. Naphtali Katz, was Chief Rabbi of Lublin.
 45. Halevi, David, Taz, Eben HaEzer, 129:5, R. Joshua, Head of the Academy of Cracow, author of Maginei Sh'leme (Shields of Solomon).
 46. Prof. Baron's contention that R. David "argued for the retention of ownership by the community, transferring to seat holders only permanent right of possession" is not be found in the reference he mentioned as Taz, Yoreh Deah 192. Baron, Salo, W. The Jewish Community, Philadelphia 1945, Vol. III, p. 145.

POGROM IN LEMBERG

At that time the influence of the Church grew. Its hold upon the people had a tremendous effect upon the life of Polish Jewry. Jewish sufferings were inflicted especially by the students of the Jesuite schools, who engineered the massacres of the Jewish population. The local authorities were passive spectators of the vandalism of the students, which frequently turned into bloody pogroms.

In order to protect themselves from this constant menace, the Jews of Lemberg, like the Jews of many other communities paid a tax called, ⁴⁷ "Kuzubalec" to the rectors of the Jesuite schools. However, even the ransom agreed upon could not avert the impending disaster of the Lemberg Jews in 1664. The students of the Cathedral school and the Jesuit Academy prepared to storm the Jewish quarter. In spite of the organized resistance of the Jewish youth, the rioters penetrated the Jewish section and staged a real pogrom. They left about a hundred Jewish dead, a large number of demolished houses, and several desecrated Synagogues. ⁴⁸ This pogrom lasted from the eight of Iyar to the twentieth of Sivan 1664. R. David's casualty ⁴⁹ was the loss of two sons, Mordecai and Solomon.

-
47. The text of the agreement between the leaders of both Jewish communities and the rectors of the Jesuite schools of 1611 was published from the Lemberg city archives by Dr. Isaac Lewin in his book, "Przyczynki do dziejow i Histerji Literaturny Zydow w Polsce", Lwow 1935. pp.39-41.
48. Caro, J., Geschichte der Juden in Lemberg, p. 77:120, and p. 163. Balaban, Majer, L'Toldoth HaT'nuah Ha-Frankith, p.25. Berenfeld, Simon, Sefer HaD'ma'oth, Berlin, 1926, vol.111.,pp.210-229.
49. Berenfeld, Simon, op.cit.,p.227. The inscription on their monument read, "Great and most Supreme Gd, avenge the blood of Thy servants, the souls of the brothers who were lovely, and pleasant, the distinguished, the lion of the company, the renown scholar, R. Merdecai, and the famous pious R. Solomon, the sons of the great Rabbi David of "outside the city". They learned the Terah day and night.... Therefore, Gd of vengeance, avenge their blood speedily. May their souls be bound in the bond of eternal life."

PSEUDO-MESSIANIC MOVEMENT

The plight of the Jews in Poland exemplified, to a certain extent by R. David's family tragedy, the massacres by Chmielmicki, the invasions by the Muscovites and the Swedes, the constant threat from the Catholic clergy, made the Jews in Poland a fertile ground for the implantation of the seeds of the Pseudo-Messianic Movement of Sabbatai Zvi. The esoteric teachings of the Gabbalah, which were very popular with the Polish Jews, were no small factor in making the Jewish population there receptive to the doctrines of Sabbatainism.

The new Messianic Movement caused a great deal of excitement. The entire Jewish community was thrown into turmoil and became a house divided against itself. Even the circles close to R. David could not remain indifferent to the engulfing stream of Sabbatainism.

50. Prof. S. Dubnow quoted the contemporary Ukrainian writer Galatovski about the mass psychosis that gripped the Jews in those days. Says Galatovski:

"The Jews triumphed. Some abandoned their houses and property refusing to do any work and claiming that the Messiah would soon arrive and carry them on a cloud to Jerusalem. Others fasted for days, denying food even to their little ones and during that severe winter bathed in ice-holes at the same time reciting a recently composed prayer. Faint-hearted and destitute Christians, hearing the stories of the miracles of the false Messiah and beholding the boundless arrogance of the Jews, began to doubt Christ".

Dubnow, S. History of the Jews in Russia and Poland. Vol. 1. p. 205.

51. R. Samuel b. David, Moses Halevi of Meseritz (1625-1681) disciple of R. David, described the state of mind of the Jews in those days:

"In the year 1666, all Israel was awaiting salvation which was about to come any minute. Due to various omens and miracles, which were known all over the Diaspora, the vast majority of the people believed that the exile will last not longer than a year or two, the most".

R. Samuel told about some collectors for charitable institutions, who exploited the faith of the people and persuaded them to donate large sums of money which the people readily did, since they believed that the day of redemption was close at hand and no money will be necessary anyway.

David, Samuel b., Responsa Nachlath Shiv'ahII. Warsaw 1898. P. 92- 8

R. David, although advanced in years was cool-headed enough to maintain his spiritual and intellectual equilibrium and not be swept off his feet by the adherents of Sabbatai Zvi or his opponents.

In order to obtain first hand information, R. David sent a delegation to Sabbatai's residence in Abydos, near Constantinople, to familiarize himself closely with the movement. The delegation consisted of, R. David's third son, Isaiah and his step-son, Arieh Judah Leib.⁵²

R. David's representatives had arrived on Monday, the twenty-second of Tammuz 1666, the day which was declared by Sabbatai Zvi as the Grand Sabbath.⁵³ Not knowing of this innovation and unfamiliar with the customs of the followers of the pseudo-Messiah to abstain from work on that day, and to observe it more rigidly than the traditional Sabbath, the delegates violated unintentionally this Sabbatainic sacred day. For this they were at first reprimanded by the Messiah.⁵⁴

Since Sabbatai Zvi was very anxious to gain the support of R. David, who was one of the leading Rabbinic authorities of the time, he became more conciliatory to the delegations. And so, he showered them with gifts.

52. R. David lost his first wife Rebecca and he married his sister-in-law, the former wife of R. Samuel Zvi Hirsh and the mother of Arieh Judah Leib.

Dembitzer, Hayyim Nathan, Klilath Yofi, p. 59a.

53. David Kahanah maintained that the Grand Sabbath was on the 24th of Tammuz. The preceeding day, the 23rd of Tammuz was called "Hag Ham'eroth", "the Festival of Lights".

Kahanah, David, Toyim U'Math'Yim, Hashiloach vol. V.

54. Saspertas, Jacob, Zizith Novel Zvi, pp. 21-22.

He even sent a shirt with curative powers, for R. David, presumably. According to Sabbatai Zvi's instructions, R. David had to recite ^{while} donning it, the words of the Psalmist: "May Thy youth be renewed like that of an eagle,"⁵⁵

The gift to R. David was accompanied by the following letter:

"On the sixth day after the resuscitation of my spirit and light on the twenty second of Tammuz, in the month which is the lion of the months and the order (of the weekly portion) "and they journeyed from Rithmah and encamped in Rimon Paretz." I herewith send a gift to the man of faith, the venerable old man, Rabbi David of the house of Levi, the author of the Turei Zahav, may he flourish in his old age in strength and freshness. Soon will I avenge you and comfort you, even as a mother comforteth her son, and recompense you a hundred-fold (for the sufferings endured by you). The day of revenge is in my heart, and the year of redemption hath arrived.⁵⁶ Thus speaketh David, the son of Jesse, the head of all Kings of the earth, the man of all Blessings and praise, the Messiah of the God of Jacob, the Lion of mountain recesses Sabbatai Zvi. The prophet Rabbi Nehemiah should hurry we me with joy and song."⁵⁷

58

The letter was signed with the form of a snake.

-
- 55. Psalms 103:5.
 - 56. Sabbatai Zvi as many other Cabbalists employed frequently the usage of the Gematqiyah, i.e. calculating the numerical value of a word equal to that of another. The Hebrew expression of the year of redemption hath arrived " אבג דהז חטק למנ is equivalent to the name Sabbatai Zvi (זכב אזב)
 - 57. A reference to Nehemiah Cohen, who predicted in Poland the coming of the Messiah. This Nehemiah revealed later the secrets of Sabbatai Zvi to the Turkish Government and brought to the downfall of the pseudo-Messiah.
 - 58. The Hebrew word for snake (Nahash) is numerically equivalent to the Hebrew word for Messiah (Mashiach). It also symbolized that Sabbatai Zvi will avenge the Jewish persecutors and tormenters as a venomous snake.
- Sasportas, Jacob, Zizith Nevel Zvi, pp. 21-22.

The reaction of R. David to his delegation's report was interred with his bones. For R. David was then undoubtedly too old and feeble to take up his cudgels for verbal reaction. The "venerable old man," R. David, passed on, on the twenty-sixth of Shevat, 5427, 1667,⁵⁹ a few months after the delegation had returned from its mission to investigate the Sabbatai Zvi Affair. With his passing, the great constellation of Jewish codifiers lost one of its brightest stars.

59. The epitaph of R. David's monument in Lemberg read,
"On the twenty-sixth of Shevat, 5427, the great gaon, light of the exile, the distinguished Rabbi, author of the Turei Zahav, our teacher and master David, b. Samuel Halevi, the author of precious works on the Shulchan Aruch and the Four Turim, whose light of the Torah radiated for countless generations. He was privileged that during his lifetime, his Halachic decisions should be accepted for their purity and clarity. May his soul be bound up in the bond of eternal life. The City of Wlodzimierz conceived and bore him, the City of Cracow brought up her delight, Wee unto me saith Lemberg, for her precious instrument is lost".

The last sentence was paraphrased from the saying of the Talmud about R. Zeira. Cf. Moed Katan 25 b. Megillah 6a.)
Dembitzer, Hayyim, Nathan, Klilath Yofi, p. 58a.
Care, J. Geschichte der Juden in Lemberg, Cracow, 1894, p. 121.
Balaban, M. Zydzi Lwewscy na Przelemie XVI i XVII Wieku.

Chapter Three - Differences of opinions -

R. David's views -

Sources and Explanations -

Reconciliation and Harmonization -

Position regained

CHAPTER THREE

Knewing R. David's biographical background, it now is possible to elaborate on the discussion of his commentary. To better understand this work, and to more fully appreciate it, it is necessary to first examine the status of the Shulchan Aruch. Therefore, this chapter attempts to do the following: to show the state in which the Shulchan Aruch existed which prompted R. David to write his commentary, and show the method R. David employed to follow through his purpose and bring forth his great life-work.

Even before R. David was born, the popularity of the Shulchan Aruch as the accepted code was constantly waning. Great rabbis had taken to task to prick pin-holes in the Shulchan Aruch. Evidently, this condition did not remain at any status quo for too long a time, but was rather gaining momentum with the passing of time. For, when R. David came on the stage of great rabbis, the structure of the Shulchan Aruch had been threatened enough to warrant R. David's contributions of efforts and powers to write his life-work in this field, so that Jewish law could have been once again established on an accepted level with all the respect, abidance and obedience which is and has been its due.

The Shulchan Aruch had been found lacking. In what? Well, each of the great rabbis who took issue with it had his own idea of what was wrong with it, as will be seen subsequently from the ensuing discussion.

Figuratively speaking, the Shulchan Aruch lay threadbare begging for just such a man as R. David to take reins in hand and attempt some sort of mitigation to again clothe the body of the law with ever-lasting clothes.

Most of the rabbis who were finding fault with the Shulchan Aruch were aware of the need for change within the code itself, but R. David attempted to adequately adjust the code into harmony with all the challenging factions and yet retain the foundation. This was R. David's problem and this

answered with his commentary on the Shulchan Aruch.

As an aid to further appreciation of R. David's masterpiece, it is necessary to set forth in summary the position of the Shulchan Aruch prior to R. David's work,

DIFFERENCES OF OPINIONS

The Shulchan Aruch, published by R. Joseph Caro (1488-1575)¹ with the glosses and additions of R. Moses Isserlis (1520-1572)², which gained the recognition of all segments of Jewry as their authoritative code, seemed to have weakened considerably in the time of R. David. Apparently, its roots were not firm nor deep enough to withstand the forces which kept on steadily undermining its position and detracting from its popularity.

There were scholars who seemed to view the Shulchan Aruch like it fore-

1. The Shulchan Aruch was not intended by Caro to become the universal Jewish code. He rather wished that his major work, Beth Joseph, which he labored twenty-five years in writing it and twelve years in revising it should serve this purpose. The Shulchan Aruch was a digest of the Beth Joseph and was prepared by Caro for the younger students before they embark upon the study of his Magnum Opus. However, due to the clarity and simplicity of the former and because it rendered the decision of law briefly and concisely without elaborating upon it, the Shulchan Aruch seemed to be more serviceable for practical use and consequently more acceptable.

Waxman, Meyer, A History of Jewish Literature, New York, 1933, Vol. 11, pp. 144-147.

2. At the beginning the Shulchan Aruch was unacceptable by the scholars of Franco-German and Slavonic Jewish communities since they considered it to be a Sephardic code. Caro, a Sephardic Jew, based the decisions of the Shulchan Aruch upon the pillars of Jewish codification. R. Isaac b. Jacob Al-Fasi (1013-1103), R. Moses Maimonidas (1135-1204) and R. Asher b. Yehiel (1250-1327) and ignored completely the rituals and customs practiced by the Ashkenazic Jews. This defect was remedied by R. Moses Isserlis, known as the Ra'Maa (initials of Rabbi Moses Isserlis), who added these Ashkenazic practices and observances in his glosses on the Shulchan Aruch called Mapath ha Shulchan and thus he made it acceptable to all the Jewish communities of the world.

Tchernowitz, Hayyim, Toledoth HaPeskim, New York, 1947, Vol. 111, pp. 37-73.

Waxman, Meyer, A History of Jewish Literature, Vol. 11, pp. 144-150

Herodetzky, Samuel Aba, L'Kereth Harabanuth, Warsaw, 1910, pp. 81-121.

runner, the "Mishneh Torah"³, with misapprehension. They claimed that such a simplified code, where all tenets of Judaism were reduced to a number of articles and paragraphs would replace the Talmud, the vast Rabbinic literature, terminate the spirit of creativity and the prolific halachic writings. A thorough and comprehensive knowledge of the entire Talmudic and Rabbinic literature was thus a prerequisite for one wishing to render a decision in any legal or ritual question.⁴

Among this group was the well known Talmudist R. Solomon Luriah (1510-1574),⁵ who endeavored to derive all decisions from the original Talmudic sources and discuss them extensively in the light of the later Rabbinic

3. The Mishneh Torah, (the Second Law to the Torah) was the code written by Maimonides. Since it consists of fourteen books and therefore it was often referred to by the name Yad haHazakah (the Mighty Hand) because the Hebrew letters Yed and Dalet~~s~~ are numerically equivalent to fourteen. The Mishneh Torah, in spite of the opposition to it, aroused a great deal of admiration and became one of the most popular books after the Talmud. Numerous commentaries and supercommentaries were written upon the Maimonides Code.
4. Tchernowitz, Hayyim, Teledoth HaPeskim, Vol.111, pp.82-91, 113-117, 120-122.
5. Luriah's reverent attitude towards the Talmud can be seen from the following quotation: "The Written Law is brief and basic. The Talmudic sages elucidated and elaborated the Written Law and thus formulated the Oral Law. The Oral Law merits the measure of sanction accorded to the Written Law. It is the view of the rabbis that the Written and the Oral Law are derived from a common source; the origin of each is Divine. The traditionalists maintain that posterity stood inchoate at the foot of Mount Sinai as G-d transmitted the Law, both Written and Oral. The Written Law is a revelation, disclosed by word of mouth; the Oral Law is a revelation, lodged in the recesses of the mind. It is the revelation and not the medium of revelation which endows the Law with sanctity." Luriah, Solomon, Yam Shel Shlemoh, Hullin, preface, Cracow, 1646.

6

interpretations.

Luriah was very critical of Caro and considered his works to be defective. He charged the author of the Shulchan Aruch with having used halachic sources indiscriminately and for having decided by himself many moot points of the law which he incorporated. The glosses of Isserlis didn't seem to change Luriah's attitude. As far as Luriah was concerned, Isserlis was merely an ach'ron and his opinion had to be considered accordingly. By employing his analytical method of deriving his decisions from the Talmudic

6. Waxman, Meyer, A History of Jewish Literature, Vol.11, pp. 147-148.
 Horodetzky, Samuel Aba, L'Kereth Harabanuth, pp. 135-138.
 Hurwitz, Simon, The Responsa of Solomon Luriah, New York, 1938, pp.2-9.
7. Luriah was very critical of the works of many renown Rabbis including those of Caro, and rejected their opinions unless their views were supported by the Talmud. When Isserlis once challenged the right of Luriah to disregard the decisions of famous scholars, the latter replied: "You waver by what warrant I am empowered to bring certainty into the law. You impunge my authority to disagree with the codifiers. It is the knowledge of the law which invests me with the prerogative to take issue with the halachists and expose their errors. I refer you to the errors committed by Jacob Weil (died about 1456) in "D'Rashath Pessach", 157 and by Joseph Caro in "Orach Hayyim", 498. You will discover more defects in the codes and works of the halachists if you consult my large work".
 Isserlis, Moses, Responsa, Cracow, 1640. No. 5 and 6.
 R. Ezekiel Landau (1713-1793) author of the Nodah BiYehudah, comments about the astutness of Luriah, in his introduction to the Yam Shel Shlomo: "R. Solomon Luriah even challenged the greatest of the Rishonim, for his heart was like that of a lion".
8. Tchernowitz, Hayyim, Toledoth HaPoskim, Vol.111, pp.84-86.
 Waxman, Meyer, A History of Jewish Literature, Vol.11, pp. 147-148.
 Hurwitz, Simon, The Responsa of Solomon Luriah, pp. 13-19.
9. Ibid.
10. In a responsum to Isserlis, Luriah wrote: "Even if you can establish that my decisions clash with those of the recent halachists, I still remain adamant. Nor shall I yield to your own opinions, which command the equal respect and authority accorded the opinions of the ach'ronim. I shall acknowledge my error only in the event that you prove that my decisions are not founded on the Talmud, or that my line of reasoning is not supported by the early Geonim".
 Luriah, Solomon, Responsa, Lublin, 1574. #16.

premises as presented in his book "Yam Shel Sh'lema", the latter seemed destined to replace the Shulchan Aruch.

Another threat to the Caro-Isserlis Code was born from a number of scholars, dissatisfied with the Shulchan Aruch even after it was improved by Isserlis. They began to write their own codes independently. One of these new codifiers was R. Mordecai Jaffe (1530-1612), who attempted to supersede the Shulchan Aruch with his own work "L'vushim". The main fault that Jaffe found with the Shulchan Aruch was that it was brief nor did it supply any reasons for the various laws and observances. This defect he endeavored to remedy by publishing his new code "L'vushim".

11. The Yom Shel Sh'lema (Sea of Solomon) were arranged on seven tractates of the Talmud as a commentary and novellae but served at the same time as a code. They were published in Baba Kamma, Prague 1615; in Betzah, Lublin 1636; in Gittin, Berlin 1761; on Kiddushim, Berlin 1766; on Hullin, Cracow 1646; on Yebamoth, Altona 1740; on the first four chapters of K'tuboth, Warsaw 1850.
 12. Tchernowitz, Hayyim, Toldoth HaPeskim, vol.111, pp.81-87
 13. R. Mordecai Jaffe called all of his ten works L'vushim (Garments) since his name was Mordecai and the Book of Esther VIII, 15, contained the following passage "And Mordecai went out from the presence of the King in royal apparel of blue and white and with a great crown of gold and with a garment of fine linen and purple". He called each book by one of the adjectives of this passage. Five of these L'vushim constituted his code.
 14. Jaffe thought the Shulchan Aruch to be too brief and found the same fault with the glosses of Isserlis. The Beth Joseph of Caro, on the other hand, he considered too lengthy and its discussions too complicated in order to be serviceable as a practical code. In his introduction to the L'vushim, Jaffe stated: "My book will serve as a happy medium (between the Beth Joseph) on one hand and the Shulchan Aruch and the Mapah on the other). It will elaborate wherever there will be a need for explanations and will be concise wherever needed, in order to supply the reader with all the reasons for the laws in a brief manner."
- Horodetzky, Samuel Aba, L'Kereth HaRabanuth, pp. 145-174.
 Tchernowitz, Hayyim, Toldoth HaShulchan Aruch, V'Hitpashtuto, Berlin, 1899, vol.VI, pp. 128-136.
 Waxman, Meyer, A History of Jewish Literature, Vol.11, pp. 150-152.

Among these dissatisfied rabbis, was R. David's own father-in-law, R. Joel Sirkes. He was one of the scholars who considered the "Turim" by R. Jacob b. Asher (1280-1340) much superior to the Shulchan Aruch and wished to give the "Turim" full authority. Sirkes objected to those who based their decisions solely on the Shulchan Aruch. To execute his purpose, he wrote an extensive commentary on the "Turim" entitled "Beth

15. R. Jacob's Code was called Turim (Rows), derived from the four rows of stones in breast plate of the High Priest (Exodus XXVIII 15-16). The Code was supposed to serve as an oracle for judgment just like the breast plate of the High Priest. Like the latter, the Code too, consisted of four parts 1) Tur Orach Hayyim (The Path of Life) dealing with Synagogue, worship, ritual, festival, etc. 2) Tur Yereh Deah (Teacher of Knowledge) embracing the dietary laws, family purity, etc. 3) Tur Eben Haezer (The Stone of Help) dealt with laws governing matrimony and divorce. 4) Hoshen HaMishpat (The Breastplate of Judgment) devoted to civil law. This division was later followed by R. Joseph Caro when he wrote the Shulchan Aruch. R. Jacob unlike Caro quoted differences of opinion and gave the views of the various authorities when they disagreed. He did not decide between the conflicting views although he may show a predilection for a certain view point. R. Jacob made also more use of opinions of the Ashkenazic Rabbis than Caro. From this point of view we can readily understand the reason that many scholars still favored the Turim. It should also be noted that the Turim served for a long time as the code of many Jewish communities and many excellent commentaries were written on it among which were the authors of the Shulchan Aruch themselves. Caro's Beth Joseph Isserlis' Darkei Mosheh. Ibid, pp.140-142; 156-157.
16. Ibid Tchernowitz, Hayyim, Teldoth HaShulchan Aruch V'Hitpashtotho, HaShileach, Berlin, 1899, vol.VI, pp. 319-321.
17. Sirkes mentioned a discussion he had with his Cantor, who maintained that the cantillation of the Torah and Hebrew grammar should occupy the most important part of education, whereas there was no need to emphasize the study of the Talmud since all the decisions of the law were clearly stated in the Shulchan Aruch. Sirkes, however, replied that "It was impossible to decide in most of the law according to the Shulchan Aruch for his statements are not explicit enough, like those of Maimonides, especially then they deal with civil law. In addition we see that numerous doubts have arisen daily. There are also differences of opinion among acknowledged scholars and it is required a great deal of wisdom and a profound erudition to render a decisive opinion. Whosoever is not well versed in the study of the Talmud is unable to make the proper decision. Sirkis, Joel, Responsa Bach HaChadashoth, Kercz, 1785. #46.

18
Hadash!"

R. David saw the converging trends of the opposition and the concentrated challenge to the Shulchan Aruch. He knew that no matter how justified the claims of its critics were, they seemed to destroy the great monumental work of Caro and Isserlis rather than to build something better in its place. The works of Luriah, as profound and as ingenious as they were, failed to satisfy the immediate needs of the common man, since they were too scholarly and elaborate. ¹⁹ The works of Jaffe and Sirkes could only weaken the position of the Shulchan Aruch but had a very slight chance to replace it. This was not only because the Shulchan Aruch was better from a practical point of view and answered that purpose more readily than the works of the others but also because of the fact, which cannot be overlooked that the former was written by the acknowledged and most renowned personalities of the Sephardic and Ashkenazic Jewries. Furthermore, The Shulchan Aruch was still the most popular code and still enjoyed the recognition of ²⁰ the people.

18. In the Beth Hadash (New House), abbreviated Bach, explained the statements of the Turim and made every endeavor to make it serviceable as a code.

A similar work was accomplished by R. Joshua Falk (d. 1614) who also wrote a commentary on the Turim consisting of three parts P'Rishah (commentation), D'Rishah (investigation) and Be'urim (explanations). In the first, Falk explained the text of the Tur; in the second clarified the sources upon which R. Jacob based his statements; in the third he included all the innovations which came after R. Jacob, Caro and Isserlis.

19. A great deal of erudition and concentration was required to master the works of Luriah. They were important for scholars and great intellects but the average man to whom Jewish law was a vital necessity could not afford the luxury of spending all his time on a multitude of complexities and elaborate discussions instead of reading an immediate and conclusive decision. The Sea of Solomon which was intended to serve as a code was too deep for an ordinary man to swim in. This masterful work was suited for the cultural elite. The masses, the lay leaders and the average rabbis preferred the Shulchan Aruch with the Mapah which mapped out their domestic, religious, and social relations.

20. Waxman, Meyer, A History of Jewish Literature, Vol. 11, pp. 145-150.

R. DAVID'S VIEWS

R. David was therefore afraid that the old state of affairs which had existed before the Shulchan Aruch may come back and cause again a great deal of perplexity to the people. In ~~the~~ introduction to his commentary "Turei Zahav" on the "Yereh Desh", R. David described the joy of the people when the Caro-Isserlitz Code was established which clarified to them "when they were allowed to eat and when forbidden, whether guilty or innocent". He continues:

"After having seen in the introduction of our master, the author of the "Beth Jeseph" concerning (the threat) that the Torah might become (particularized into) several Terath as a result of the differences of opinions prevalent among the codifiers and therefore he weighted, examined and clarified these problems. But in our present generation the same threat became eminent again, since there arose the great men in Israel, the distinguished one of our people, the great Gaon R. Solomon Luriah and after him, in our times, the scholars, R. Falk of blessed memory²¹ and my teacher and father-in-law, R. Joel of blessed memory²², who published their works... Everyone according to his ability, one builds²³ and the other destroys, one dreams and the others interprets...

This excerpt showed clearly that R. David's purpose was once again to restore unanimity in Jewish codification which could only come by enhancing the prestige and authority of the Shulchan Aruch. This purpose he intended to accomplish with his commentary.

21. R. Joshua Falk cannot be considered as an opponent of the Shulchan Aruch for he wrote an exhaustive exegetic work on Caro's Hoshen Mishpat entitled, Sepher Meirath Ainayim (The Book which Enlightens the Eye) and frequently referred to by its initials S'ma. But, since Falk's commentary on the Shulchan Aruch was limited only to one part whereas his commentary on the Turim embraced all the parts of that work, the danger of the latter replacing the Shulchan Aruch is evident. R. David, too, didn't agree with many views of Falk as will be discussed later.
22. The reason that R. David didn't mention the threat from the works of Jaffe may be due to the fact that the L'vushim, although they were well organized and written admirably, were found to be full of errors and misquotations and consequently the reputation of Jaffe's code began to wane. It did not present any serious rival in the times of R. David. The latter, however, did devote a great part of his commentary to discuss the views and opinions of Jaffe.
23. Halevi, David, Taz, Yereh Desh, New York, 1945, Introduction.

Although R. David does not describe the method he employed to achieve that aim, it becomes quite clear from an analysis of his commentary. In it he endeavored to meet the numerous challenges, rectify the various imperfections and answer the many criticisms levelled against the Shulchan Aruch not in an argumentive way but in an exegetical one.

SOURCES AND EXPLANATIONS

R. David's first step was to point out the primary sources upon which Caro and Isserl's based their decisions. Thereby, he endeavored to prove that every statement in the Shulchan Aruch had its origin in the acknowledged traditional sources and were not merely conjectural. Thus he traced back every law of the Shulchan Aruch to the Talmud and Rishonim.

24. The following are a mere example of the numerous similar instances where R. David gave the origin for the laws of the Shulchan Aruch:
- "The author of this law is R. Asher" (Taz, Y.D. 44;5)
 - "This is the opinion of R. Solomon b. Aderet (1245-1310) and the Tur is in contingent upon the different versions in the Talmud by R. Solomon Itzhaki and R. Isaac Al-Fasi" (Taz, Y.D. 44;6)
 - "This is the view of Maimonides" (Taz, Y.D. 48;5)
 - "This is the opinion of R. Solomon Itzhaki" (1040-1105) (Taz, Y.D. 51;3)
 - "So wrote R. Solomon b. Aderet and the Tur" (Ibid 51;4)
 - "This is implied from the words of Maimonides" (Taz, Orach Hayyim 3;5)
 - "The Darcho Moshe (Isserl's) gave the reason for the observance of this custom" (Taz, O.H. 8;7).
 - "This is the opinion of R. Asher" (Taz, O.H. 14;4)
 - "This the statement of the B'Rayatha" (Taz, O.H. 16;1)

To the criticism that the Shulchan Aruch was too concise, too brief and not explanatory enough and consequently some of the laws appeared to be without any reason especially for the one who was unfamiliar with the vast Rabbinic literature, R. David attempted to explain the reasons for these laws. Frequently, he quoted the lengthy and elaborate works of Caro and Isserlis, especially the "Beth Joseph" and "Darchei Moshe" where these laws were

-
25. Tchernowitz maintained that R. David distinguished between the importance of the Beth Joseph or the Darchei Moshe on one hand and the Shulchan Aruch and the Mapah on the other, although they were written by the same authors. This distinction is important due to the fact that if R. David was unable to harmonize the views of the former with those of the latter, he considered the pronouncements of the Shulchan Aruch as the ones which were authoritative and binding. The reason for this distinction is not because R. David actually considered the Beth Joseph and the Darchei Moshe to be inferior to the Shulchan Aruch and the Mapah but because he considered the latter to be the Code destined for practical use, whereas the former works were more theoretical, a view which was also shared by R. Joel Sirkes (Responsa Bach HaChadashoth 60). Moreover, since the Shulchan Aruch was considered the Jewish Code, R. David thought that it had to be treated with more sanctity and reverence. Viewing in this light, we can readily understand why the laws of the Shulchan Aruch were preferred by him to those of the more elaborate works of Caro and Isserlis in case of disagreement. Tchernowitz, Hayyim, L'Toldoth HaShulchan Aruch V'Hitpashtutho Hashileach, Vol. VI, pp. 521-522.

thoroughly discussed and fully explained.

By giving the sources and the origins of the laws of the Shulchan Aruch and explaining the reasons for their existence in the light of the Talmud and the authoritative Rabbinic literature the challenge of brevity and obscurity was nullified.

27

26. The following are only a few instances:

"This is the view of the Semag (abbreviation of Sepher Mitzveth Gadol) by R. Moses of Coucy (1200-1260) and the author of the Beth Joseph gives the reason." (Taz, Y.D. 19;13)

"In the Darchei Moshe and the Torah Hatath (by Isserles) was written that R. Solomon Luriah inferred the prohibition to eat poultry with the milky extract of almonds from law governing the blood of fishes." (Taz, Y.D. 87; 4)

"In the Beth Joseph are given two reasons for washing of the meat before it is salted in accordance with the ritual." (Taz, Y.D. 69;1)

"The reason is given in Tur, in the name of R. Asher." (Taz, Y.D. 51;4)

"In order to clarify this law with regard to a case where two livers were found in the body of an animal lets quote at first the words of the Rishonim." (Taz, Y.D. 55;4)

"In order to understand the basis for the controversy of Caro and Isserles I'll review briefly" R. D. discussed here the Talmudic statements" (Taz, Orach Hayyim, 10;9)

"The Darchei Moshe (Isserles) quotes here the Midrash" (Taz, O.H. 11; 10)

"In order to understand this controversy we have to review briefly the Talmudic points" (Taz, O.H. 12;1)

"The reason (of R. Asher) is explained in the Talmud" (Taz, O.H. 18;2)

"The Beth Joseph quoted here the Tosefta" (Taz, O.H. 22;1)

"Gives a full quotation from the Darchei Moshe (Taz, O.H. 43;1)

27. Jaffe said that the laws of Caro and Isserles are like "food without salt although to the people of wisdom these laws will be meaningful, but to the poor people like ourselves they will still be life saltless food for it is as impossible to adjudicate without a reason as it is impossible to eat without salt".

Jaffe, Merdecai, Lvush Atereth Zahav, Introduction

See also Falk, Jeshua, Sepher Meirath Ainayim, Introduction

RECONCILIATION AND HARMONIZATION

Next in order, R. David took the "Turim" which still enjoyed a great deal of popularity and discussed its statements alongside of the laws of the Shulchan Aruch. Thus, his commentary actually served both works. Frequently he would digress from his explanations of the text of the Shulchan Aruch in order to elucidate a point in the Tur.

In his introduction to the Yoreh Deah, R. David explicitly stated that he entitled his commentary "Turei Zahav" because it clarified the words of the Tur and the Shulchan Aruch with the necessary glosses.

Thus R. David brought the Shulchan Aruch in alliance with the Tur so that there was no need for restoring the latter in place of the former, since by R. David's commentary both codes were brought into harmony.

The danger that lurked to the Shulchan Aruch from the independent codes and commentaries, which had appeared by Luriah, Jaffe, Sirkes and Falk was eliminated by R. David's method of quoting frequently their views and opinions and discussing them alongside with the text of the Shulchan Aruch.

-
28. Yoreh Deah 1;2, 1;3, 1;14, 1;15, 2;4, 5;6, 6;1, 10;6, 10;16, 11;4, 13;3, 14;5, 15;1, 15;2, 16;6, 16;8, 16;11, 18;4, 18;12, 18;14, 19;11, 19;13, 20;3.
Taz, Orach Hayyim 2;2, 3;2, 3;3, 3;5, 3;13, 6;1, 9;15, 9;4, 12;1, 12;3, 16;1, 21;1.
29. Golden Rows
30. Halevi David, Taz, Yoreh Deah, New York, 1945, Introduction.

Thus R. David paid considerable attention to the views of the great men who had been finding faults like R. Solomon Luriah, whose opinion he valued highly.

He cited Luriah's statements and frequently incorporated them verbatim into his own commentary without adding any remarks of his own but stated them simply as the decisive view.

The views of Jaffe were also thoroughly discussed in R. David's commentary but it seems that although the latter held him in great esteem and quoted his opinions often, he criticized him severely in most of the cases. Like most of the scholars of that time, R. David found inaccuracies in the works of Jaffe. He proved that Jaffe was not careful in checking and verify-

- 31. Taz, Yoreh Deah 1;16, 1;23, 4;2, 4;4, 5;5, 6;1, 6;2, 6;4, 8;1, 9;2, 10;3, 10;6, 10;10, 10;16, 12;1, 12;2, 17;4, 18;1, 18;2, 18;14, 20;2, 20;5
Taz, Orach Hayyim 1;7, 3;3, 8;3, 14;4, 14;4, 14;5, 14;6.
- 32. Taz, Yoreh Deah 6;4, 9;2, 10;3, 18;1, 18;2, 18;14, 20;2, 20;5.
- 33. R. David praised Jaffe for a correction of an error in Rashi's commentary "which was undoubtedly entered by the mistake of a student" (Taz, Y.D. 160; 11)
"And so I heard from R. Mordecai Jaffe" (Taz, Y.D. 39;23)
R. David mentioned a dispute with Sirkes concerning the permissibility of an animal which had a redishness in its esophagus. He brought this problem to Jaffe for a decisive opinion. (Taz, Y.D. 33;8)
See also Taz, Y.D. 23
R. David called Jaffe a "Zaddik" (righteous) (Taz, O.H. 162;7)
- 34. Taz, Orach Hayyim 8;13, 162;7, 179;2.
Taz, Yoreh Deah 14;10, 28;11, 33;8, 89;2, 147;2, 160;9, 177;36.
- 35. Taz, Orach Hayyim 162;7, 179;2
Taz, Yoreh Deah 14;10, 28;11, 89;2, 147;2, 177;36
- 36. Jaffe was considered a great scholar and played a leading role in the affairs of Jewry of his time. Some even credit him to have been instrumental in organizing the supreme tribunal for Polish Jewry "The Council of Four Lands." His works, L'vushim, however, were discredited by many authorities, since Jaffe wrote his book in exile after he had fled his native Bohemia on account of the violent anti-Jewish outbreaks in 1561. This fact is largely responsible for the numerous inaccuracies in his works since he was not always in a position to consult certain books and had to rely on memory alone.
Tchernowitz, Hayyim, Toldoth HaPoskim, Vol. 111, pp. 110-112.

ing the sources for his material and consequently misquoted or copied numerous mistakes. R. David even accused Jaffe of overlooking obvious Talmudic statements, a fact which was inexcusable for any famous Rabbinic authority. He also accused Jaffe of giving his own reasons for certain laws which were ill-founded.

R. David devoted a great deal of space to discuss the views of his father-in-law, Joel Sirkes and also those of Joshua Falk. Although the former was his teacher, whom he revered, and referred to as "My Master and father-in-law" in his commentary and in spite of their close association, R. David did not hesitate to challenge many of R. Jeel's opinions. R. David protested particularly when Sirkes spoke lightly of the Shulchan Aruch.

37. "In the L'vush, it is written that the need to wait an hour (between eating meat and that of dairy products) which is mentioned by R. Moses Isserles has its origin in the works of Sepher Mitzvoth Gadol, but this is a mistake." (Taz, Y.D. 89;2)

"The L'vush quoted these words from Isserles, but this doesn't constitute any proof, since he would quote from any form of writing which came before him, without first examining it." (Taz, Y.D. 131;7)

"In the L'vush he (Jaffe) quoted these words as they were written and this is a mistake."

38. "All this is a gross error and (Jaffe) did pay attention to Talmud but rather expressed his own views which were erroneous." (Taz, Y.D. 28; 11)

"I regret that such a righteous man (Jaffe) should have made such a mistake for it is forbidden to say so." (Taz, O.H. 162;7)

"And the L'vush gave a different reason of his own which is not correct at all." (Taz, Y.D. 177;36)

"The L'vush did not see the source of this law" and therefore he gave a mistaken reason. (Taz, Y.D. 14;10)

39. Halevi, Isaac, Responsa Mahari Halevi, Neuwied, 1736. #45.

40. Taz, Yereh Deah 1;11, 1;14, 1;17, 1;23, 4;2, 5;3, 5;4, 5;5, 10;7, 10;10, 10;16, 11;1, 14;7, 15;2, 17;4, 18;3, 19;1.

Taz, Orach Hayyim 3;5, 3;3, 8;15, 15;3, 15;4, 22;1.

41. Sirkes, Joel, Responsa Bach HaChadashoth #17

Halevi, David, Taz, Orach Hayyim 128;18, 461;10.

42. Taz, Orach Hayyim, 586;3.

Taz, Yereh Deah 396;2.

R. David's attitude to R. Joshua Falk was similar to his attitude to Sirkes. He discussed Falk's opinions. But on numerous occasions he rejected them.⁴³ This was evident especially in his commentary on the Hoshen Mishpat.⁴⁴

POSITION REGAINED

Having answered the challenges of the critics, R. David enhanced the authority of the Shulchan Aruch and once again restored unanimity in Jewish codification. He not only explained and expounded the text of the Shulchan Aruch, but also clarified the origins of the various laws, indicated their primary sources and the reasons for their enactment. By analyzing the statements of the Shulchan Aruch together with the opinions of R. Jacob, Luriah, Jaffe, Sirkes, Falk and others, testing their arguments and incorporating some of their views and decisions into his commentary as additions or slight modifications of the Caro-Isserles Code, the latter's position was reaffirmed and its authority re-established and became completely independent from the works of the other codifiers.⁴⁵

After summarizing the various attacks on the Shulchan Aruch, which were the *raison d'etre* for R. David's commentary, seeing the arguments he had to contend with, and viewing his answers through his commentary, it must be ascertained that this was no mean labor. In full appreciation, therefore, it should rightfully be said that to R. David belonged the honor of ultimately having brought the Shulchan Aruch to stand proudly on terra firma, independent of any other code and adapted to every man's use.

43. Taz, Orach Hayyim 108;1
Taz, Yoreh Deah 221;36, 221;37, 228;27.
Taz, Hoshen Mishpat 67;2, 322;2, 354;1, 356;2, 363;6, 390;2, 391;1, 391;4, 391;12.

44. Tchernowitz, Hayyim, Teldeth HaPeskim, vol. 111, p. 142. note 2
Falk's only commentary on the Shulchan Aruch was on the part Hoshen Mishpat and was completed before that of R. David. This could have been one of the reasons that R. David criticized more than the other views of Falk. The latter frequently opposed the opinions of Jaffe but R. David, in spite of being critical of Jaffe himself, made every possible endeavor to uphold the views of the latter on the Hoshen Mishpat over those of Falk. Ibid. pp. 118-119

45. Tchernowitz, Hayyim, Teledeth HaPeskim, vol. 111, pp. 154-158.

Chapter Four - Taz on Yereh Deah -

Sabbatai Gehen's Rival Commentary -

Commentary on the Orach Hayyim -

Taz on Heshen Mishpat -

Taz on Eben Haezer -

Divrei David and Responsa

CHAPTER FOUR

No discussion of purpose, method, content and aim of any literary feat is complete without a discussion of its publication. Therefore, this chapter will present in detail the facts regarding the publications of R. David's commentaries.

It should be noted that the commentaries will be taken up here according to their ranking in importance and acceptance by Talmudical academies and scholars, for R. David's commentaries are of unequal calibre in this respect.

To keep this order, R. David's publication of the commentary on the Yereh Deah will be discussed first. This was truly his masterpiece and since the publication came within his own lifetime and was done by himself, neither its quality nor quantity can be accredited to or blamed on any editor or intermission between the actual writing of the work and its publication. The scrutiny employed for works published by editors rather than the original authors, or works published many years after the authors' death, or after the original writing, is unwarranted and unnecessary for R. David's commentary on the Yereh Deah.

However, what is necessary to employ in reading about the publication of the commentary on the Yereh Deah, is one simple truth about publications of any literary achievements, namely that when an author is still alive and his work appears he must be ready to meet all criticisms be they admirable or adverse, for they're sure to come. And the seventeenth century was no different from any other. With this simple truth in mind, R. David's debates and to-and-fro arguing with R. Sabbatai Cohen will not come as a surprise nor seem to be superfluous, nor will the comparison and discussion of R. Cohen's commentary with R. David's seem misplaced.

Be that as it may, such enlivened discussion which ensued after R. David's publication of the commentary on the Yereh Deah did not follow

the publications of his other works for R. David was no longer alive to refute any arguments. Thus, in reading this presentation of the publications of R. David's commentaries on the Orach Hayyim, Hoshen Mishpat and Eben HaEzer, Divrei David, it must be borne in mind that much time had passed between R. David's death and their publication, consequently, between their writing and publication. Also to be considered, concerning these publications^s is the editors and their attitudes towards the materials and their regard for the author. For, as will subsequently be pointed out, the publications of these commentaries were subjected to various periods and various editors which helped add to or subtract from the popularity and acceptance of the works.

And now to the discussion proper of the publication of R. David's commentary on the Yoreh Deah.

TAZ ON YOREH DEAH

In the introduction to his commentary on Yoreh Deah, R. David related how reluctant he was to publish his work. The nature of his commentary committed him to decide on various ritual or legal questions or to show his predilection for the statement of one rabbinic authority over the other. Thus, R. David seemed unwilling to assume this serious responsibility. Therefore, he kept these notes for himself.

1. R. David told of the fulfillment of his prayers for intellectual creativity in the fields of rabbinic exegesis or codification. He continued, however, "I said to myself: Keep these innovations to yourself and don't spread them to others, for who am I to teach other people. I, nevertheless decided to write them down for future reference." When approached with the request to publish his commentary he was overcome by fear "since it is unpleasant for a man to carry his own responsibility let alone to assume the responsibility of others". For one might rely on an explicit or implicit decision of his work and thereby involve the author in an indirect way.
Halevi, David, Taz, Yoreh Deah, Introduction, New York, 1945, Introduction

It will be remembered from the first chapter that after a long period of hesitation, R. David finally yielded to the pleas of the students of his Academy in Ostrog and published his commentary on the Yoreh Deah in 1646 in Lublin. He entitled it "Turei Zahav", because as he said "it clarified the words of the Tur and the Shulchan Aruch with the necessary glosses and also as a symbol of his name which is equivalent to the word "Zahav".

The commentary on the Yoreh Deah constituted the best work of R. David from point of view of style, form and content. However, R. David did not remain unique in this endeavor.

SABBATAI COHEN'S RIVAL COMMENTARY

After weathering all the storms that such a work as his commentary on the Yoreh Deah encountered, R. David found that lo and behold, in the same year that his commentary was published, a young and comparatively unknown scholar, R. Sabbatai Cohen (1622-1663), often referred to by his initials, "Shach", published a similar work called "Sifte Cohen".

2. Ibid
3. Turei Zahav means Golden Rows. The first part of the title is the same as R. Jacob's work Turim (Rows).
4. The numerical value of the Hebrew letters David and Zahav is equivalent. Both amount to 14.
5. Tchernowitz, Hayyim, Teldoth HaShulchan Aruch V'Hitpashtuto, Berlin, 1899, Vol. VI, pp. 521-522
Waxman, Meyer, A History of Jewish Literature, New York, 1933, Vol. 11, p. 153
6. R. Sabbatai Cohen was only twenty four years old when he published his monumental work. He was exceedingly diligent. In a letter to his critic, he wrote about the hard labor he invested in his commentary. Said S. Cohen, "I did not write even one word or even one letter until I first sifted it like pure flour".
Dembitzer, Hayyim, Nathan, Klilath Yofi, Cracow, 1888, pp. 64a and b.
In the introduction to his commentary on the Yoreh Deah, R. Sabbatai said, "Whosoever was not with me will hardly believe the great effort I had in searching through the sea of the Talmud and the Codes until I clarified everything. I looked through (these works) not only once or twice but more than a hundred times. How hard I did work! I refrained from all material concerns nor have I slept adequately for many years until my thoughts became reality."
Cohen, Sabbatai, Shach Yoreh Deah, New York, 1945, Introduction.
7. The title, Sifte Cohen, (Speech of Cohen) abbreviated "Shach") is an allusion to the Biblical phrase, "The lips of the priest guard knowledge" (Malachi 11;7). This commentary on the Yoreh Deah was published in Cracow, 1646.
Cohen, S. Shach Yoreh Deah, Introduction

It appeared to be an extremely brilliant commentary and in many ways even surpassed that of R. David.⁸

Although both commentaries were written and published independently, nevertheless they bore a striking similarity to one another.

Like R. David, S. Cohen, too traced the laws of the Shulchan Aruch and the Mapah to their original Talmudic and Rabbinic sources and explained the reasons for the decisions. He, too discussed the Tur,⁹ although to a¹⁰

-
8. Tchernowitz, Hayyim, Toldoth HaShulchan Aruch, V'Hitpashtutho HaShil-coach, vol.11, pp. 523-528.
Waxman, Meyer, A History of Jewish Literature, Vol.11, p.160.
 9. The following are only a few examples taken from the first chapter of Shach, Yoreh Deah.
"Thus wrote the Agur (Agur was a code compiled by a German Rabbi, Jacob Baruch b. Judah Landau, XV century. Shach Y.D. 1;1.
"Isserless learned this law from a responsum by R. Solomon b Aderet." Shach, Y.D. 1;7.
"This is implied from the Talmud." Shach, Y.D, 1;15.
"So wrote R. Asher, R. Yeruham (1300-1340, disciple of R. Asher and author of a code, Toldoth Adam V'Hava) and also the view of the author of the Beth Joseph." Shach, Y.D. 1;18.
"So it seems in Asherei Beth Joseph and is also implied in Darchei Moshe," Shach, Y.D. 1;19.
"Thus it is in Or Zarua, (a code by R. Isaac b. Moses of Vienna XIII century) and in the glosses of Asheri.
"Or Zarua quoted (ibid 1;36,37). Give the explanation of R. Asher and R. Yeruham (ibid, 1;38).
"So it is in the responsum of R. Solomon b. Aderet." (ibid 1;39)
 10. Examples from the first five chapters of Shach Yoreh Deah.
1;2, 1;16, 1;26, 1;31, 1;34,1;37, 2;3, 2;11, 2;18, 4;1, 4;2, 4;5, 4;10, 5;6.

less extent than R. David, and the works of Luriah, Jaffe, Sirkes and
14
talk, alongside of the text of the Shulchan Aruch. Thus, like R. David,
he incorporated some of their opinions in his commentary and warded off the
criticisms levelled against the Caro-Isserles Code and made it acceptable
to everybody.

Although occasionally R. Sabbatai Cohen was critical of Caro and
Isserless, his aim towards the Shulchan Aruch was by and large practically
the same as that of R. David, namely, to strengthen its position and
15
authority of the Shulchan Aruch over that of its critics. Furthermore,

11. Examples from the first five chapters of the Shach Yoreh Deah, 1;6, 1;8, 1;15, 1;25, 1;28, 1;41, 2;4, 2;11, 2;16, 2;17, 2;23, 2;26, 2;30, 4;1, 4;2, 4;8, 5;5, 5;6, 5;9.
12. Examples from the first five chapters of Shach Yoreh Deah. "Not like the L'vush Atereth Zahav. Shach, Y.D. 1;7. Found a mistake or misprint in Jaffe's statement (ibid, 1;19). The author of the Atereth Zahav omitted this note and I don't know the reason for it (ibid, 1;34) 2;4. Jaffe was contradicting himself (ibid 2;11). As can be seen from these few examples, R. Sabbatai, like R. David and the other scholars of their time were critical of Jaffe's views and opinions. Many a time, R. Sabbatai said that Jaffe's words "are incorrect here and in many other places", (ibid, 126) or that he copied mistakes (ibid 94)
13. Examples from the first five chapters of Shach Yoreh Deah. 1;2, 1;4, 1;12, 1;15, 1;21, 1;25, 1;26, 1;36, 1;41, 2;10, 2;14, 2;15, 2;16, 2;22, 2;23, 2;30, 4;1, 4;2, 4;3, 4;5, 4;8, 4;10, 5;5, 5;6, 5;9.
14. Examples from the first five chapters of Shach Yoreh Deah 1;2, 1;30, 2;13, 2;14, 2;15, 2;16, 2;18, 2;22, 4;2, 4;5.
15. Tchernowitz, Hayyim, Teldoth HaShulchan Aruch V'Hitpashtutho Hashil-each, Vol. VI, pp. 525-526.
Waxman, Meyer, A History of Jewish Literature, Vol. 11, pp. 160-161.

he even tried to reconcile the opinion of Caro and Isserles in places of
16
disagreement.

The fact that the commentaries of R. David and R. Sabbatai had so many points in common and were similar in aim, method and approach entailed the danger of one of the commentaries being pushed aside to avoid duplication. A serious tension resulted in the relationship between these two
17
scholars and a long struggle between their respective followers.

R. Sabbatai Cohen was more apprehensive that his commentary, "Sifthei Cohen", would be ignored since he was still a young man whose reputation was not well founded while the author of the "Turei Zahav" was at that time a recognized authority in the field of Halachah and the spiritual
18
leader of one of the foremost Jewish communities.

As a means of defense of his commentary, R. Sabbatai composed the
19
"N'Kudoth HaKessef", a set of critical notes on the "Turei Zahav", in which he subjected the commentary of R. David to rigorous criticism. In his introduction to the "N'Kudoth HaKessef", R. Sabbatai made the following

16. Ibid

It should be noted that in spite of R. Sabbatai's defense of the Shulchan Aruch, he was many a time very critical of some opinions of Caro and Isserles. But this was due to fearlessness of R. Sabbatai who like Luriah dared to challenge even the Rishonim like Maimonides, R. Asher, R. Mordecai b. Hillel (author of the Code Mordecai, d.1298). Cohen, Sabbatai, Sach H.M. 28. 81;37, 38;1, 46;46, 55;5, Y.D. 94

17. Ibid

18. Ibid

Dembitzer, Hayyim Nathan, K'Lilath Yofi, p. 61b.

19. N'Kudoth HaKessef means "Studs of Silver", taken from the Biblical expression: "Plaits of gold with studs of silver" (Song of Songs 1;9). Since the Hebrew expression Terei Zahav meaning Golden Plaits sounded like R. David's title of his commentary Turei Zahav (Golden Rows) R. Sabbatai called his critical notes N'Kudoth HaKessef.

statement:

"The reader of this book should not think that I had any controversy with the author of the "Turei Zahav" nor do bear within me any grievances towards him which would give me reasons for criticizing his book. It is well known to all that we liked one another and I was a host to the author of the "Turei Zahav", who spent three days with me during which time I honored him so greatly that it is indescribable. He too, was so honored with me that he kissed my head and rejoiced with me as if in the joy of the "Festival of the Water Drawing".²⁰ The Lord G-d knows the truth that I have not written the book "N'Kudoth HaKessef" but for the sake of Heaven to demonstrate the truth clearly".²¹

But the hospitality that R. Sabbatai had accorded to R. David in former years did not mitigate the severity of the criticism levelled at the "Turei Zahav" now. In the "N'Kudoth HaKessef", R. Sabbatai did not take issue with R. David's Halachic outlook but he disagreed with him on a number of scattered points, many a time involving differences in ritual-
22
istic decisions.

20. The second night of the Festival of Tabernacles was called the Festival of the Water Drawing (Simchath Beth HaSheevah). In the days of the Temple a libation of water was offered together with the pouring out of wine. The Mishnah states that "Whoever did not witness the joy of Festival of the Water Drawing never witnessed a greater joy in his life" (Mishna, Succah V;1). Hence this expression became to denote to any great joyous occasion.

21. Cohen, Sabbatai, Shach, Yoreh Deah, Introduction

22. The case are too numerous to mention. A few examples will suffice to point out some of these differences. R. David maintained that the meat of animal slaughtered by a certified shochet, who was found upon examination, to have forgotten the laws governing ritual slaughtering, to be trephah, R. Sabbatai Cohen disagreed with that view. (NeKudoth HaKessef 1;6). R. David and R. Sabbatai differed concerning a shochet who slaughtered several animals without examining the knife before each one separately whether he was obliged to pay the owner of the knife was found ritually unfit (NeKudoth HaKessef 18;8). Differences prevailed with regard to certain obstructions during the slaughtering that makes the animal unfit to eat. (NeKudoth HaKessef 18;11)
See about more differences and criticisms in the NeKudoth HaKessef Y.D. 34;2, 35;2, 35;10, 36;1, 36;11, 36;14, 36;16, 36;21, 37;3, 37;4, 37;14, 37;16, 38;2, 38;4, 39;14, 39;22, 39;23, 40;3, 40;4, 41;2, 43;2, 43;8, 44;14, 46;6, 48;5, 48;12, 48;13, 48;17, 48;18.
See Nekudoth HaKessef edited with Shulchan Aruch, Yoreh Deah, vol.1, 11, 111 New York 1945

The effects of the "N'Kudoth HaKessef" were not felt for a long time until 1677 when it appeared in print in Frankfurt-am-Main.

R. David took R. Sabbatai's criticism calmly. Without engaging in polemics, he merely added a "Last Page" entitled so, to his extensive commentary in which he either refuted the R. Sabbatai's criticism or explained the reasons for his views as stated in his work,²³

In the last page R. David failed to refer to his opponent by name but rather discussed his challenge anonymously in the following fashion "Some mistakingly say", "Some ask", "This is without foundation" etc. Whether this was done intentionally in order to deprecate R. Sabbatai's importance, or because he did not deign him great enough to debate with him as with an equal or due to the youth and lack of renown of R. Sabbatai, it remained done. At any rate, R. Sabbatai felt offended. The latter was so enraged over the omission of his name in the "Last Page" that he openly attacked R. David.

This severe criticism of R. Sabbatai was embodied in his "Last Cuntres"²⁴ in which he said:

23. R. David clarified in his "Last Page" the following points of his commentary on Yoreh Deah: Taz, Y.D. 13;5, 27;1, 35;1, 48;3, 68;11, 94;5, 98;2, 103;7.
See Shulchan Aruch Yoreh Deah, vol.1, pp.531-533, New York 1945.
24. The word cuntres became popular in the French and German Talmudical schools where the students took notes of their teachers' lectures. Those notes became known as cuntresim, a mispronunciation of the Latin word commentarius.

"In the "Last Page" he (R. David) goes round and round fearing to mention my name. But it is clear to all that whatever he wrote in the "Last Page" and all his labor there referred to me. With Heaven as my witness, I can truly say that after reading twice and thrice well all that is written there, I relished it greatly and it brought pleasure to my heart. Without doubt, whoever has a palate for tasting will see and understand that all his (R. David) words are vain talk. It was all done to vex me and to overwhelm me with citations.²⁵ This showed that from now on (R. David's works) must undergo an examination. As a result of all this I set about to examine wherever I possibly could."²⁶

Following these planned lines R. Sabbatai criticized R. David's arguments stated in the "Last Page", disregarding all courtesies with reference to his opponent.²⁷

R. David's reply to this renewed challenge was one of silence. But, it seemed the silence did not destroy the tension. The struggle lingered on for many years after the publication of their respective commentaries on the "Yoreh Deah" and continued for a long time even after the death of the authors.

25. A Talmudic expression implying that he came to overwhelm him with citations of which he will prove him to be ignorant. See Kiddushim 52b.
26. See Shulchan Aruch, Yoreh Deah vol. 1, p. 531, New York, 1945.
27. R. Sabbatai took issue with the following points made by R. David in the Last Page and his criticism is quite sharp: Dissatisfied with the correction of Taz, Y.D. 13;5, "I am surprised at him that he confesses words" (35;1). "He wants to answer what I asked in Shach Y.D. 69;33... It seems to me that he did see all the references quoted in the Shach there" (68;11). "He dwelt at great length in order to answer my questions in Shach Y.D. 94 and whoever has any understanding will realize that he (R. David) wrote words which were contrary to sound logic... There is no need for me to continue for I am certain that anyone reading it with a clear mind will see that all his words against me were incorrect and that there is nothing in them" (94;5). "He wants to answer my question in Shach Y.D. 98;6, but there is nothing to what he says (98;2). Disagrees with R. David's not on Taz 103;7 See Shulchan Aruch, Yoreh Deah, vol. 1, pp. 531-533.

At the beginning, the commentary of R. David was in a more favorable position than that of R. Sabbatai mainly, as was already pointed out, because R. David's reputation as a great scholar and halachic authority was already well established while R. Sabbatai was comparatively unknown. The attitude towards R. David was much more generous. Even R. Ahron Samuel Kaidanover (1614-1676) who was very critical of the commentators of the Shulchan Aruch was more favorable disposed towards R. David and referred to his decisions as "thus taught the Sage".

28. Dembitzer, Hayyim Nathan, Klilath Yofi, p.61a.
29. In a responsum to R. Samuel b. David, R.A.S. Kaidanover showed his disapproval of the commentators of Shulchan Aruch. He wrote "Your honor pays attention to the books Turei Zahav and Sifthei Cohen. My chief occupation, however, is with the codes of the Rishonim, Talmud... For the Achronim (R. David and Sabbatai) confuse the logic and memory". He assured to demonstrate to everyone "bundles of mistakes in every page of their books and therefore I don't want to wish them at all. Your honor ought to sell their books and buy instead the Four Turim with the commentary of the Beth Joseph. Samuel b. David, Nachlach Shiv'ah, Warsaw, 1898. R.50
30. While R.A.S. Kaidanover disregarded the opinion of R. Sabbatai (See Samuel b. David, Nachlath Shiv'ah R.52 and R.A.S. Kaidanover, Emunath Samuel R. 23 and 45, Lemberg 1884) he was inclined to accept the views of R. David (Nachlach Shiv'ah R.43). Even with regard to "watering" geese (Hal'atah) where R. David was lenient in contradistinction to many other rabbinic authorities R.A.S. Kaidanover nevertheless accepted his opinion. (Emunath Samuel R. 34, Lemberg, 1884) Similar was the attitude of R. Gershon Ashkenazi who at times criticized the view of R. Sabbatai (Avodath HaGershmeni, Frankfurt-am-Main, 1699) #16, #17) but spoke with humility with regards to the opinions of R. David (Hidushei Hagershmeni Y.D. 316 printed in Shulchan Aruch, Y.D. New York 1945)
31. Ibid
The phrase is taken from the Talmud. The remark was originally made by Rabbi Judah the Prince (135-219) about his late friend R. Yosi Sabbath p. 51a.

R. Sabbatai's works in the meantime waited for recognition which was extended to him neither easily nor speedily.³²

The controversy flared up again with new intensity ten years after the death of R. David and fourteen years after the death of R. Sabbatai. It came as a result of the publication of the latter's critical notes "N'Kudoth HaKessef" on the "Turei Zahav" by his son, Mosheh Katz in Frankfurt-am-Main, 1677.

The effect was enormous for it revolutionized all rabbinical circles hereto unfavorably disposed toward R. Sabbatai. The admiration for the author of the "Shach" grew to such an extent that it actually threatened to supercede the works of R. David.³³

Fortunately, R. David's grandson, R. Joel b. Gad (d.ca. 1689), an eminent Talmudist, rallied to the defense of his venerable grandfather by publishing a book "Maginei Zahav" in which he shielded R. David's views from the attacks of his opponent. In it he made every possible attempt to answer and refute the criticism stated in the "N'Kudoth HaKessef".³⁴

32. In a responsum written on the 23 of Kislev, 5423 (1663) in the same year of R. Sabbatai's death, R. Mendel Bas, former student of Sirkes and rabbi of Frankfurt-am-Main, referred to the Sifthei Cohen, seventeen years after its publication, as a new book.

33. Tchernowitz, Hayyim, Toldoth HaShulchan Aruch V'Hitpashtuto Hashiloach, vol. VI, pp. 527-528. Dembitzer, K'lilath Yofi, pp. 63a-65b.

34. Dembitzer maintains that R. Joel's book Maginei Zahav was published approximately forty years after his death (K'lilath Yofi p. 64b.) Since the publication took place in the year 1720 it would seem that R. Joel died about the year 1680. But the approbation of the Council of Four Lands issued on Adar 12, 5443 (1683) does not refer to R. Joel as of blessed memory. This fact would not fix the date of death prior to 1683.

35. Maginei Zahav means Golden Shields. Since the Hebrew word Zahav is equivalent to the name David it consequently denoted the Shield of David which was defense of his grandfather's works.

This book received the warm support from the members of the Council of the Four Lands, who considered it imperative to enhance the prestige of R. David. The Council proclaimed that "the statements of the author of the "Turei Zahav" should not be invalidated on account of the criticism of the author of the "N'Kudoth HaKessef" for two reasons: firstly, because he (R. David) was a sage, prominent and known as a great scholar, outstanding in his generation; secondly, because his grandson wrote a book in which he refuted all the challenges of the "N'Kudoth HaKessef".

Unfortunately, this brilliant defense was not published until 1720 which allowed forty-three years for R. Sabbatai's opinion to go unchallenged and reign supreme. Nevertheless, the words of the Council of the Four Lands aided greatly to the re-establishment of R. David's halachic authority.

In 1677, both commentaries were published together around the text of the Shulchan Aruch entitled "Ashlei Ravr'vei" in Wilhelmsdorf and were published again in 1694 in Prague.

Gradually, with the passing of time the heated controversy between the respective followers of R. David and R. Sabbatai subsided. Both commentaries were accepted in the rabbinic circles and in the academies for higher Talmudic learning and were accorded equal standing.

-
36. Haberin, Israel, Pinkas Va'ad Arba Aratzoth pp.182-183 Jerusalem 1945
37. The Maginei Zahav was not published during R. Joel's life-time, but by his grandson also named Joel about thirty-seven years after the author's death. In the meantime a large part of the manuscript was lost and only the remainder was printed in Prague, 1720.
Dembitzer, Hayyim Nathan, Klilath Yofi, p. 64b.
38. Ibid. p. 65a
39. Ashlei Ravr'vei meaning big trees in whose shade the Shulchan Aruch dwells.

COMMENTARY ON THE ORACH HAYYIM

As was mentioned at the beginning of this chapter, the commentary on the Yoreh Deah was the only one R. David was privileged to publish during his life-time. The other parts of his commentary on the rest of the Shulchan Aruch were published posthumously. As it can be expected in such cases, the manuscripts underwent changes and revisions. Some parts thereof were lost or deteriorated and the subsequent attempts to reconstruct them were not always successful or done in the spirit of the author.

The time that had elapsed between the writing of the commentary and that of its publication detracted a great deal from its importance since in the meantime other commentaries were published which gained wide acclaim in the rabbinic circles and the academies of higher Talmud learning.

The commentary on the "Orach Hayyim" presents an exception in this case. It rates next to that on the Yoreh Deah from point of view of style, form and content. Here, R. David endeavored to explain the text of the Shulchan Aruch although he frequently digressed to discuss related views of other authorities.⁴⁰

Although the exact date of its writing is unknown, it most likely took place after 1650, since R. David mentioned there his stay in Moravia⁴¹ and also his previous commentaries on the Yoreh Deah⁴² and Hoshen Mishpat.⁴³ It seemed that he wrote his commentary on the Orach Hayyim at least in two drafts for in some places he referred to his comments on later chapters.⁴⁴

40. Tchernowitz, Hayyim, Teldoth HaShulchan Aruch V'Hitpashtuthe Hashileach, Vol. VI, p. 520

Waxman, Meyer, History of Jewish Literature, Vol. 11, p. 159

41. Taz, Orach Hayyim, 271;19, 363;20.

42. Taz, Orach Hayyim, 32;5, 32;24, 39;5, 74;1, 140;4, 143;1, 161;3.

43. Taz, Orach Hayyim 141;1.

44. In Taz O.H. 190;3, R. David referred to his explanation on O.H. 486 and in Taz O.H. 279;2, he made reference to what he wrote in 309.

Various attempts were made to publish the Taz on Orach Hayyim which were unsuccessful. ⁴⁵ It was not until 1692 when R. David's commentary was published in Dybarrenfurth. ⁴⁶

Luckily, no other standard commentary on the Orach Hayyim was published until R. David's appeared. The attempts in this direction that were made in the interim by some scholars failed to gain the proper recognition. In 1646, R. Zvi Katz, a student of Sirkes, published such a commentary entitled "Nachlath Zvi V'Atereth Zvi" but it was rejected since the critics considered it faulty and accused the author of plagiarizing his father. ⁴⁷ The commentary "Olath Hatamid V'Olath HaShabath", published by R. Samuel b. Joseph in Amsterdam, 1681, fared much better and for a while seemed to gain popularity in Talmudic circles but when it was strengly criticized by R. Abraham Abele Gombiner (d. 1682) its doom was sealed. ⁴⁸

R. David's commentary on the Orach Hayyim was finally published. It appeared together with the commentary of R. Abraham Abele Gombiner. ⁴⁹ The former was called "Magen David" ⁵⁰ and the latter "Magen Abraham". ⁵¹ The common title of both commentaries when published together became known as "Maginei Eretz." ⁵²

These commentaries like the one on the Yoreh Deah had a great deal in common, but unlike the latter, did not stir up any controversy. Perhaps it was due to the fact that when they were published both authors were no longer alive. The "Maginei Eretz" were accepted in all circles of higher Jewish learning as the standard commentaries on the "Orach Hayyim."

45. Dembitzer, Hayyim Nathan, Klilath Yofi, pp. 67a-73a.

46. Tchernowitz disapproved the opinion that the Taz on O.H. was published in 1683. See his essay in Hashileach Vol. VI, p. 520, note 2.

47. Dembitzer, Hayyim Nathan, Klilath Yofi, pp. 67a-68a

48. Ibid

49. R. Abraham Abele Gombiner was Rabbi of the Jewish community of Kalisz and was one of the most outstanding Talmudists of his time. His commentary Magen Avraham on the Orach Hayyim ranked as the best in that field.

50. Shield of David

51. Shield of Abraham. R. Gombiner's work was previously called Ner Israel (The Light of Israel) but when published posthumously by the son of the latter, R. Hayyim, the name was changed into Magen Abraham. In order to conform to the title of R. David's commentary originally called Turei Zahav or abbreviated Taz O.H. was now called Magen David. Dembitzer, Hayyim Nathan, Klilath Yofi, p. 71a-73a.

TAZ ON HOSHEN MISHPAT

Coming to the elaboration of the facts about R. David's commentary on the Hoshen Mishpat, reference must again be made to the introductory comments to this chapter. Especially, must it be remembered that quite a few years passed between the actual writing of the manuscript and its appearance in print. Also, to be remembered is the fact that R. David's commentary on the Hoshen Mishpat exhibits in full what was mentioned in general in the early part of this chapter, namely that the editor of a work may try to instill his own ideas and attitudes into that which he is editing. With these points in mind, the following facts and statements will be more feasible.

R. David's commentary on the "Hoshen Mishpat" was probably written prior to or at least at the same time as his commentary on the Yoreh Deah since in the introduction to the latter in 1646 he already mentioned that he had his commentary on the Hoshen Mishpat prepared.

The actual publication did not take place until 1692. The manuscript which was already partially deteriorated by that time was published in Hamburg by R. Zvi Hirsh Ashkenazi with numerous corrections and glosses.

R. Ashkenazi did not act as a mere editor but frequently took issue with the statements of the text which he published and included his comment in the text setting them off only by parentheses, which made it quite

53. "May I be privileged also to publish my commentary on the Shulchan Aruch, Hoshen Mishpat which I already prepared with gratitude to the Lord, including many novellae." Taz, Yoreh Deah, Introduction.
54. R. Zvi Hirsh Ashkenazi (1668-1711) was a native of Poland. Having pursued his studies in Salonika, Constantinople, he received the title Haham, hence he became known as Haham Zvi. He served as Rabbi in many Jewish communities of various countries like Sarajevo, Amsterdam, London and finally became Rabbi of Lemberg.
55. Dembitzer, Hayyim Nathan, Klilath Yofi, pp. 73a- 75a.

cumbersome. It seems that the editor did not possess the complete manuscript and therefore published only up to chapter 246. The rest of the commentary was published in Berlin in 1761 by R. Samuel Zanvil of Sterlitz

The Taz on the Hoshen Mishpat, in the form that it came down to us is fragmentary with confusing notes from the editor. Many chapters of the Hoshen Mishpat were left out altogether, either because they were left unexplained by the author or because parts of the manuscript were lost.

In this commentary, R. David continually attacked the "Sepher Meirath Enayim" of R. Joshua Falk. He even tried frequently to justify R. Mordecai Jaffe of whom he was critical otherwise, when Jaffe differed with Falk.

The time element played an important role in establishing the standing and the popularity of R. David's commentary on the Hoshen Mishpat. Until its publication other commentaries had appeared, especially the one already mentioned, that of R. Joshua Falk and another by R. Sabbatai Cohen, well-known opponent of R. David. These commentaries which were much superior in form and content, preceded that of R. David in time and R. David's work to become a book of secondary importance.

56. This part was called Erech Lechem.

Ibid. p. 75a and b.

57. Ibid

58. Examples from Taz, Hoshen Mishpat 67;2, 322;2, 354;1, 356;2, 363;6, 390;2, 391;1, 391;4, 391;12.

59. Tchernowitz, Hayyim, Toldoth HaPeskim Vol. 111, p. 142. Note 2. pp. 118-119

60. R. David, in his work on the Hoshen Mishpat discussed the related views of various Rabbinic authorities but didn't explain adequately the text of the Shulchan Aruch.

See Tchernowitz's essay in Hashiloach VI, pp. 519-520.

61. R. Joshua Falk's commentary on the Hoshen Mishpat, Sefer Meirath Enayim was published in Prague in 1614 and R. Sabbatai Cohen's work appeared in Amsterdam in 1663.

Mention should also be made that Ashkenazi's edition of the Taz on the Hoshen Mishpat was published in a separate book and not together with the text of the Shulchan Aruch while the other commentaries were printed around the text. This was an additional factor in giving R. David's commentary a secondary ranking.

TAZ ON EBEN HAEZER

Rabbi David's commentary on Eben Haezer further bears out all the pitfalls of posthumous publication and consequential loss of popularity and acceptance. Here too, as in the commentary on the Hoshen Mishpat, part was lost and part deteriorated prior to publication, again deeming improvisations from the editor. This commentary too, was published a long time after R. David had passed on. All, which was in the final analysis, detrimental to the wide acclaim of the commentary by generations to come.

The commentary on the Eben Haezer was probably written by R. David after the year 1648 since he on many occasions mentioned the sufferings caused by the Chmielnicki rebellion.

The commentary was written by the author in two drafts. The second one, which was undoubtedly an improvement on the first, was lost. Samuel b. Uri of Furth still saw it and quoted from it frequently.

62. In 1741, the Taz on the Hoshen Mishpat was printed with the commentaries of R. Joshua Falk, R. Sabbatai Cohen and notes Be'er Hagolam of R. Moses Rivkash (1600-1660) together with the text of the Hoshen Mishpat in Hamburg. The Taz H.M. was completed up to chapter 246 according to the edition of R. Ashkanzi. The common title for that edition was Urim V'tumim. In this form it was published again under the common name Terath Cohanim in Furth in 1767.
63. Taz, Eben Haezer 156;8.
64. Dembitzer, Hayyim Nathan, Klilath Yefi, pp.75b-76b. Tchernowitz, Hayyim, Toldoth HaShulchan Aruch V'Hitpashtuto, Hashileach, Vol.VI, p. 520.
65. R. Samuel Uri of Furth (1640-1690) wrote an important commentary on the Eben Haezer entitled, Beth Samuel (House of Samuel), Furth, 1694. In it he analyzed the sources of the laws and discussed related opinions.
66. Dembitzer, Hayyim Nathan, Klilath Yefi, p. 76a.

R. Joel, (d. 1754) grandson of the author of the "Maginei Zahav", wished to edit the first draft of the commentary on the "Eben Haezer" in the absence of the second. The manuscript that was in his possession, even more than that on the "Hoshen Mishpat", was partly deteriorated and some parts were completely missing. Therefore, the editor tried to reconstruct the text the best he could, and intersperse it with notes in which he either explained the obscure passages and the statements of the commentary or defended them against criticism. In contradistinction to R. Ashkenazi, who edited the Taz on the "Hoshen Mishpat", R. Joel always endeavored to justify his great-grandfather, especially when the latter was challenged by R. Samuel b. Uri.

The publication of this fragmentary commentary was prevented by the premature death of R. Joel in 1753 and only in the subsequent year was it published in Zalkeva by the latter's son, Moshe Gad.

In spite of the glowing praise that R. David's commentary on the "Eben Haezer" had received from the renown scholars at the time of its

67. Ibid, p. 75b-76a

68. Ibid

69. Ibid, p. 76b

70. Many a time R. Joel complained that certain passages of R. David's commentary as quoted by the latter were not to be found there. This can be easily explained by the fact already mentioned that R. Samuel b. Uri quoted from R. David's last second draft on the Eben Haezer of which R. Joel didn't have any knowledge.

Ibid, p. 76b.

71. It should be noted that the explanation of the Eben Haezer 129 as well as the list of names were arranged in alphabetical order found the collection of Responsa Sa'agath Aryeh V'Kel Shachal (Salonica 1714) were written by R. David and erroneously attributed to his stepson, R. Judah Areyeh (1630-1714).

Ibid.

72

publication, it nevertheless did not enjoy great popularity. The reasons are not difficult to understand. As it was pointed out previously, R. David's commentary on the Eben Haezer was published eighty-seven years after the death of its author and when it was published it was even more fragmentary than that on the "Heshen Mishpat". It had many supplementary notes around and within the text which made it confusing and cumbersome. In the interim, other commentaries were published which were far superior to that of Rabbi David, as the "HelKath M'hokek" by R. Moses Lima⁷³ and the "Beth Samuel" by R. Samuel b. Uri⁷⁴.

By the time the Taz on the Eben Haezer was published, the other commentaries were already fully established in Talmudic circles and shifting R. David's work to a secondary position.

DIVREI DAVID AND RESPONSA

In addition to his extensive commentary on the Shulchan Aruch, R. David also wrote a supercommentary on Rashi of the Pentateuch entitled "Divrei David"⁷⁵. This work R. David wrote in his advanced age⁷⁶ and it was published posthumously by R. Moshe of Shinova in Dyhernfurth in 1689.

- 72. See approbation to the edition of the Taz on the Eben Haezer Zalkova, 1754.
- 73. R. Moses b. Isaac Judah (d. 1651) Lima's commentary HelKath M'hokek (The Portion of the Law Giver) was very extensive and concentrated to explain the text of the Shulchan Aruch. It was published in Cracow 1670. R. Moses was Rabbi of Vilna.
- 74. Published in Furth 1694.
- 75. The Words of David.
- 76. See introduction to the Divrei David by R. Moshe of Shinova, Dyhernfurth, 1689.
In the Divrei David, the author mentioned his commentary on the Yoreh Deah (see p. 52a) and also the suffering during the Chmielnicki rebellion, (see p. 78b).

In the "Divrei David", the author attempted to elucidate numerous points in Rashi's commentary in the light of the Talmud, Midrash and the subsequent Rabbinic literature. Many a time his remarks were scintillating, esoteric and philo⁷⁷sophical. He often ⁷⁸quoted the commentaries of Nachmanides, ⁷⁹Hezkuni, ⁸⁰R. Abraham Ibn Ezra and ⁸¹R. Eliahu Mizrachi. R. David defended Rashi against their criticism especially of the latter.

With these literary endeavors, R. David also left a number of responsa some of which he incorporated in commentary and some are scattered throughout certain collections of responsa. ⁸²It seemed that there was a collection of ⁸³responsa by R. David himself entitled "Tshuvoth David" which remained in ⁸⁴manuscript and was never published.

77. The physical earth did not sin but its spirit did. (Divrei David 2b) The angels are jealous only of man, (Ibid, 3a) Free will and determinism (Ibid 2lb). God's outpour of Grace is contingent upon the power of the people to receive it. (Ibid 62b). The power of God to create new things which were not present at the time of creation (Ibid 62b).
78. Moses b. Nachman (1194-1270), known by his initials as Ramban was a noted Bible commentator and Talmudist. See Divrei David pp. 11b, 12b, 13b, 14a, etc.
79. Ibid pp. 9b, 16b, etc.
80. Abraham Ibn Ezra (1093-1167), grammarian, Bible commentator, poet, philosopher and astronomer. Divrei David, p. 33a.
81. R. Eliahu Mizrachi (1450-1525) wrote an extensive supercommentary on Rashi's commentary on the Pentateuch, Divrei David, pp. 9b, 10b, 16a, etc.
82. Jeshua Heshel b. Joseph, Responsa P'nai Joshua, Lemberg, 1860, Responsum 11.
Sirkes, Joel, Responsa Bach HaYeshanoth, Frankfurt-am-Main, 1697, Responsum 113.
Sirkes, Joel, Responsa Bach HaChadashoth, Korzec, 1785, Responsa 17, 78.
Judah Aryeh Leib b. Samuel Zvi Hirsh, Responsa Geonei Bathrai, Prague, 1816, Responsa 7, 8, 9, 15, 16.
83. David's Replies.
84. See introduction to the Divrei David by R. Moshe of Shinova, Dyhernfurth, 1689.
Dembitzer, Hayyim Nathan, Klilath Yofi, p. 77a.

Recently a few poems, attributed to R. David were found in the town of Olik, dealing with the fate of the Jews during the Chmielnicki pogroms. They were written in an alphabetical acrostics - bearing also his name in the beginning of the stanzas. ⁸⁵ Several ordinances, too, were published supposedly issued by R. David during his stay in Ungarish ⁸⁶ Brody.

-
85. Biber, M.M. Yalkut Menachem, Wilno, 1903. pp. 5-14
86. Frankl-Grun, Adolf, The Ordinances of the (Author of the) Turei Zahav, HaZofeh 111 (1914), pp. 180-190.
Baron, Salo W. The Jewish Community, Philadelphia, 1945, Vol. 111, p. 210.

Chapter Five - Halachah and Cabbalah -

Quest for Truth -

Compromise and Moderation -

Custom and Law -

Textual Corrections -

Students and Influence

CHAPTER FIVE

Upon a close analysis of R. David's works, it can be realized that he was mainly a halachist, deeply concerned and vitally interested in every aspect of Jewish law and minutiae of ritual observance. Unlike many other Talmudists, R. David did not make any excursions into other fields of endeavor like these of philosophy or mysticism beyond the confines of halachah.

This apparent indifference toward these branches of Jewish learning was not due to R. David's lack of knowledge for he seemed to have had a familiarity with philosophy, Cabbalah and Hebrew grammar. It seems, however, that he did not deem them on par with the halachah to which he devoted all his life. R. David instead utilized his knowledge of these fields to illustrate and elucidate certain halachic points.

1. Among the noted Talmudists who wrote famous books on philosophy were Saadiah b. Joseph Al-Fayyumi (892-942), Moses Maimonides (1135-1204), R. Moses Isserles (1520-1572) too was favorably inclined towards philosophy and a great deal of his work Torath Ha'olah is written in this vein. See Herodetzky, Samuel Aba, L'Koruth HaRabanuth, Warsaw, 1910, pp.84-93. Tchernowitz, Hayyim, Toldoth HaPoskim, New York 1947, Vol. III, p.68.
2. Among the important halachists who excelled in both Rabbinics and Cabbalah were Joseph Caro and Moses Isserles. Herodetzky, Samuel Aba, Ibid, pp. 94-101. Tchernowitz, Hayyim, Ibid, pp. 68-70.
3. R. David quoted the opinion of Maimonides as expressed in the Guide to the Perplexed. Taz, Orach Hayyim, 8;3.
4. Taz, Orach Hayyim, 3;5, 4;12, 11;16, 25;2, 25;9, 27;8, 31;1, 51;1, 61;2, 91;1, 127;4, 128;6, 132;1, 167;18, 144;9, 240;2, 260;2, 288;2, 585;7, 591;3, 606;5, 670;1. Taz, Yoreh Deah 116;6, 265;6, 265;12, 339;4.
5. Taz, Orach Hayyim 216;12, 288;7, 260;2, 292;2. Taz, Yoreh Deah 276;7.

HALACHAH AND CABBALAH

But although R. David has to^{4c} considered as an exponent of halachah it would be incorrect to maintain that he was completely immune to the cultural trends which were prevailing in his time, especially that of the Cabbalah.

It was the time when the ideas of the famous Cabbalists, Moses⁶ Cerdevero, Isaac⁷ Luriah Ashkenazi, Hayyim⁸ Vital Calabrese, Joseph⁹ Caro, Menachem¹⁰ Reccanti and above all the Zohar¹¹ became extremely popular in Poland. Native Cabbalists arose, among them the noted R. Nathan b. Solomon¹² Shapire, Isaiah b. Abraham¹³ Hurwitz and his son Sheftal¹⁴

6. Moses Cerdevero (1522-1570), disciple of R. Joseph Caro, author of the Pardes Rimmonim (The Garden of Pomegranates), Elima Rabbata (The Large Elim), Shiur Komah (Measure of Height) and Or Nearav (The Mixed Light).
7. Isaac Luriah Ashkenazi (1534-1572) known as the Ari, signifying greatness, abbreviation for Ashkenazi Rabbi Yitzhaki or Adenenu Rabbi Yitzhak i.e., our master Rabbi Isaac. He was the founder of the famous Lurianic School in Jewish mysticism.
8. Hayyim Vital Calabrese (1543-1620), disciple of the Ari and disseminator of his master's teachings. Author of the Cabbalists books Etz Hayyim (The Tree of Life), Otzroth Hayyim (The Treasures of Hayyim), Safer HaGilgulim (The book of the transmigration of the Souls) ascribed to the Ari himself and the Sefer HaHegyonoth (The Book of Visions).
9. Joseph Caro published a book on the Cabbalah entitled Magid Mesharim (The Preacher of Righteousness) which contained revelations supposedly revealed to him by a Spirit whom he called magid i.e., Preacher.
10. Menachem Reccanti (ca.1320), a Jewish mystic from Italy. He wrote the Ta'amei haMitzvoth (The Meaning of the Precepts), Perush AlhaTerah al Derech haEmeth (The Commentary on the Pentateuch in the True Way).
11. The Book of Zohar (Splendor) is the major work of Jewish mysticism and is attributed to the Tana R. Simon b. Yohai. The book became known at the end of the thirteenth century.
12. Dubnow, Simon M. History of the Jews in Russia and Poland, Philadelphia 1916, Vol. 1, pp. 133-135.
13. R. Nathan b. Solomon Shapire (d. 1633) Rabbi of Cracow and author of the book M'Galeh Arnukoth (Revealer of Secrets).
14. R. Isaiah b. Abraham Hurwitz (1570-1630) Rabbi of the communities Frankfurt, Pesen, Prague and Cracow, author of the Book Shriei Luboth Habrith (The Tablets of the Covenant). He is also known by the abbreviation of his book as Shlah.

15

Hurwitz, who added momentum to the spread of mysticism.

R. David did not write a special treatise on the Cabbalah but the influence of this esoteric movement can be discerned in his halachic works. He quoted the Zohar on many occasions and explained many things in its light. The views of R. Isaac Luriah Ashkenazi as well as those

15. Sheftal Hurwitz (d. 1650) son of R. Isaiah was the author of the book Shefa Tal (Abundance of Dew)
16. A man should sleep with head toward the east and his feet toward the west. Taz, Orach Hayyim 3;5.
A man should not sleep long. Taz, Orach Hayyim 4;12.
One should don the Talith first and subsequently the Tphillin. Taz, Orach Hayyim, 25;2.
R. David remarks that R. Asher b. Yehiel did not see the Zohar and therefore was unaware that the latter prohibits the donning of phylacteries during the intermediate days of Passover and Tabernacles. Taz, Orach Hayyim, 31;1.
One should keep his eyes closed during prayer for whoever opens his eyes during prayer the angel of death appears to earlier at the time of death. Taz, Orach Hayyim 91;1.
Anything written in Aramaic should not be recited in public. Taz, Orach Hayyim 132;1.
R. David explained in the light of the Zohar the miracle that had occurred with the jug of oil during Hanukkah, which according to the Talmud was burning for eight days. The miracle of the first night consisted in the fact that there was a little oil and consequently there was something to begin with in order that a miracle should be able to occur, since no miracle can take place where there is nothing to start with. Taz, Orach Hayyim 670;1.
17. Mentioned the usage of the Ari and advocated to accept it. Taz, Orach Hayyim 11;16.
"In the book Kawanoth Ha'Ari is said in the name of R. Isaac Luriah that he used to coil his phylactery on the arm seven times and then he put on the one on the head, He wrote that it had an esoteric significance." Taz, Orach Hayyim 25;9.
"In the Kawanoth Ha'Ari is written to wind the coil of the phylacteries twice around the lowest joint of the middle finger and the third on the middle joint and he explained it in accordance with the Cabbalah." Taz, Orach Hayyim 27;8.
R. David proved that the Ari was not quoted properly. It is interesting to note the reverential phrase he employed with regard to the Ari "and it seems that these words did not emanate from the sacred mouth of R. Isaac Luriah. May the righteous and the holy one be of blessed memory." Taz, Orach Hayyim 174;9.
Quoted an ethical injunction of R. Isaac Luriah. Taz, Orach Hayyim 240;2
It is the custom to confess in the ritual bath before prayer and then to immerse in the water three times in accordance with the tradition maintained by R. Isaac Luriah. Taz, Orach Hayyim, 606;5.

of R. Moses Cordovero , R. Hayyim Vital Calabrese, R. Menachem Reccanti
 21
 and others are ~~also~~ cited many a time.

While these quotations don't entitle us to consider R. David as a
 Cabbalist they do show an important influence. There is no doubt that
 R. David did possess a certain inclination towards mysticism. This can be
 seen from the fact that he did not ignore completely the pseudo-Messianic
 movement of Sabbatai Zvi nor did he voice his opposition to it but deemed
 it important enough to dispatch a delegation to far-off Turkey in order
 22
 to investigate the matter carefully.

This inclination of R. David towards mysticism can also be seen from
 the fact ^{that} he believed that many things were revealed to him in his dreams. 23

- 18. Quoted from the Pardes Rimonim , Taz, Orach Hayyim 591;3.
- 19. Quoted from the Etz Hayyim. Taz, Orach Hayyim 127;4/
- 20. Taz, Orach Hayyim 339;4, 167;18.
- 21. Taz, Orach Hayyim 128;6
 Taz, Orach Hayyim 288;2
 Taz, Yoreh Deah 265;6
 Taz, Yoreh Deah 116;6
- 22. Sasportas Jacob, Zizith Nevel Zvi
- 23. Once the explanation of the following Biblical phrase was revealed
 to him in his dreams "With trumpets and the sound of the horn shout
 before the King, the Lord" (Psalms 98;6) The interpretation was if the
 people should sound the shofar before G. will sound His own shofar
 of judgment on Resh Hashanah. Taz, Orach Hayyim 585;7.
 R. David maintained that the solution to a difficult Talmudic problem
 was revealed to him in his dream. Taz, Hoshen Mishpat 88;27.
 When the Jewish community of Olik was besieged by the Cossacks, I
 dreamed of having heard a Heavenly voice heralding to him the Biblical
 sentence "I will defend this city for Mine own sake and for the sake
 of My servant David" (Kings 11, XLX;34). He interpreted the name
 David as referring to himself.
 Biber, Menachem Mendel, Yalkut Menachem, p. 5, Vilno, 1903.

QUEST FOR TRUTH

In halachah R. David made every possible effort to remain objective and strive to achieve the truth. He labored very hard over each point and unearthed a wealth of Talmudic and Rabbinic material in order to find the correct halachic interpretation.

Neither his admiration and respect which he held for the leading Rabbinic authorities nor his great reverence for them could deter him from pursuing the truth in halachah. R. David lived up candidly to the declaration made in the introduction to his commentary on the Yoreh Deah, that he will be guided solely by the truth rather than by the predilection for personalities important as they may be.

This determination is particularly evident in his attitude to Caro and Isserles, the pillars of the Shulchan Aruch. For although R. David wished to enhance the prestige of the latter and made every possible endeavor to make the standard authoritative Code of Israel, nevertheless he did not follow Caro or Isserles blindly and did not accept their ^{views} and opinions without a careful examination and critical analysis. While he paid tribute to the greatness of Caro and considered him to be the "Ruler with his interpretations and decisions the world over" and ²⁶ these words were the sacred truth, ²⁷ it did not prevent R. David from criticizing his views when he thought that they were incorrect.

24. R. David objected to a decision which was made by some great rabbinic authorities since he came to the conclusion that it was contrary to the view expressed by the Talmud. Said R. David "although this problem was introduced and concluded by great rabbis, nevertheless (I oppose it) since this is Torah and we are at liberty to reexamine it". Taz, Yoreh Deah, 218;3.
25. Halevi, David, Taz, Yoreh Deah, Introduction.
26. Taz, Orach Hayyim 507; 5.
27. In one of his remarks, R. David referred to Caro decisions as Divrei Elohim Hayyim. Taz, Yoreh Deah 396;2.

Thus R. David maintained that on certain occasions Caro's point was not well taken, that he made a mistake, that he contradicted himself or overlooked primary sources or that he even did not quote

28. "It is surprising that the author of the Beth Joseph decided in accordance with the opinion of the Tur at the time when the matter is highly controversial and there is a strong opposition against it." Taz, Yoreh Deah, 10;16.
- "My opinion seems to coincide with that of R. Solomon b. Aderet, who declared so himself and the explanation is simple indeed as I mentioned before. And the author of the Beth Joseph who was followed by the Bach (Sirkes) of blessed memory did not study the matter carefully" Taz, Yoreh, Deah, 189;43
29. "Therefore I say that the words of the great Master, author of the Beth Joseph, were written without careful examination." Taz, Yoreh Deah, 70;2
- "And I say that although our Master Joseph is the ruler with his interpretations and decisions the world over but here the rule made a mistake." Taz, Orach Hayyim, 507;5
- "Our Master R. Joseph was not careful here" Taz, Orach Hayyim, 11;9
- "The author of the Beth Joseph was in possession of an incorrect text...and he dwelt at great length to explain it, which was unnecessary for in the editions is written clearly as I had mentioned." Taz, Yoreh Deah, 161;9.
30. "Nor only are his (J. Caro) views contrary to those of the Talmud but they are also contrary to his own". Taz, Yoreh Deah 218;3
31. "The words of the Shulchan Aruch here are incorrect and the L'vush (Jaffe) followed him...It is clear that he did not see the responsa of the Mahari K (R. Joseph Colon, 1410-1480) article 7, which is the source of this law" Taz, Yoreh Deah, 257;6
- "R. Solomon b. Aderet too belongs to those who are inclined to forbid.. and the Beth Joseph did not quote his opinion for if he did he would not have decided contrary to his opinion" Taz, Yoreh Deah, 52;11
- "It is a surprise that the Beth Joseph saw the statement of Rava and did not see the subsequent challenge to that statement" Taz, Yoreh Deah, 149;1
- "It is a surprise that the Beth Joseph did not see the opinion of Asheri" Taz, Yoreh Deah, 216;2.
- "There is a great surprise that the Beth Joseph did not see these words of Asheri otherwise he would not have written in this manner" Taz, Yoreh Deah 226;1.

32
properly.

The same objective attitude that R. David had assumed with regard to the opinions of Caro he also assumed towards those of Isserles. He certainly³³ venerated the latter and considered his words to be the pure truth. R. David even accepted Isserles' views against his own.³⁴ Nevertheless, where he had definite evidence which pointed against the views of Isserles and³⁵ required a stricter ruling R. David dared to oppose him, as he put it

-
- 32. "What the Beth Joseph wrote that this statement was to be found in the book Rokeah I did not find in our edition of the Rokeah"
Taz, Orach Hayyim, 167;13
 - 33. "And I say Moses is true and his teaching is true"
Taz, Yoreh Deah, 99;1.
The original phrase is in Baba Bathra 74a and Numbers Rabba 18;20 and refers to the children of Korach, who finally acknowledged the truth of Moses and the Torah. R. David used this phrase with regard to Isserles whose name was also Moses.
 - 34. Although R. David agreed with R. Leib of Prague, who permitted to use the meat of a slaughtered animal, whose neck was cut after the windpipe and the gullet had been cut, he was reluctant to render such a decision since Isserles prohibited it.
"It seems to me to be very obvious but I can't be lenient in a case where R. Moses Isserles was strict." Taz, Yoreh Deah 87;5.
R. David tends to be strict even in a case where Isserles seemed to be undecided. Thus he said: "Therefore it seems to me not to be lenient in the decision of the Shulchan Aruch since R. Moses Isserles was undecided" Taz, Yoreh Deah, 1;4
Taz, Yoreh Deah 5;7
Taz, Yoreh Deah 40;2
 - 35. R. David discussed at great length the views of Isserles and the Agudah and voiced his opinion against their decision. "And therefore I say that although this problem was taken up by great scholars for the author of the Agudah decided in favor of permitting it and R. Moses Isserles quoted his decision it is nevertheless concluded by humble ones like myself due to the proofs we have brought for prohibition."
Taz, Yoreh Deah 1;6

"although the words of R. Moses Isserles are beloved by us and we drink with thirst his words in most of the places, nevertheless, this opinion is unacceptable." ³⁶ The esteem in which he held Isserles did not prevent him to be outspoken and critical when he thought that the latter was wrong or overlooked an essential point. R. David was quite frank about it and commented accordingly. ³⁷

It was already pointed out that this objective attitude which Rabbi David maintained towards Caro, Isserles and the other Rabbinic authorities helped to enhance the authority of the Shulchan Aruch. R. David showed their weak points as well as their strong ones and discussed them with frankness, logic and keen analytical acumen. His objectivity in the quest for the pure truth in halachah demonstrated clearly that R. David was neither narrow minded nor one sided, nor did he try to support the views of Caro and Isserles blindly and without reservation but that he was guided solely by his fervent desire to establish unanimity and certainty in Jewish law.

COMPROMISE AND MODERATION

The attitude of compromise and moderation is characteristic of practically every halachic phase R. David dealt with. It is evident in all the aspects of his commentary. This is particularly true with

36. Taz, Yoreh Deah 190;41

37. "I say with all due respect that the Master committed an error in the words of the Mordecai from which this note is taken... And the words of R. Moses Isserles here are like a mistake which emanated from a ruler. I told this to my father-in-law and teacher of blessed memory and he agreed with me and told me explicitly that R. Moses Isserles made a mistake." Taz, Yoreh Deah 204;5.
"It seems to me that had R. Moses Isserles seen what we have mentioned he would not have decided in this case to be lenient."
Taz, Yoreh Deah 221;42

regard to his attitude towards Humroth. Generally R. David was conservative and inclined to accept the humroth of the great Rabbinic authorities whether Rishonim or Achronim. Even when those scholars were undecided whether to pursue a strict or lenient interpretation, R. David ordinarily followed the stricter one. The same conservative tendency R. David pursued with regard to the humroth of Caro and Isserles whose rigorous opinion he accepted even ^{when} it was contrary to his own. For while R. David may have differed with them and tended to be lenient theoretically, he was nevertheless reluctant to go against their opinion so far as practical application was concerned.

R. David also objected to any leniency with regard to a law unless

-
- 38. Humroth or severity is considered a restrictive measure taken in order not to violate a specific prohibition. The Talmud many a time advocated a stricter practice where there was a doubt about a prohibition based on danger to health (Hullin 9b) or in the case with a doubt about a ritual prohibition (Betza 3b)
 - 39. R. David refuses to go contrary to the views of the Sefer Hatrumah, Sefer Mitzvoth Gadol and the Hagahoth Maimoni. Taz, Yoreh Deah 91;12 "Who would dare to be lenient against the decision of Asheri, Isserles and Maimonides". Taz, Yoreh Deah 142;4
Rejects leniency in a case where the Merdecai is strict.
Taz, Yoreh Deah 122;5
 - 40. R. David accepted the views of R. J. Weil, "who was an achron". Taz, Yoreh Deah 21;2
R. David rejected the view of Sirkes, who followed R. Solomon b. Aderet since it was against the decision of the Hagahoth Sha'arei Dura, R. J. Weil and Isserles. "And they are the achronim, whose water we drink." Taz, Yoreh Deah 187;10
 - 41. R. David is strict in a case where R. Solomon b. Aderet (Rashba) and R. Abraham b. David (Raabad) were undecided.
Taz, Yoreh Deah 124;8
 - 42. Taz, Yoreh Deah 24;2
Taz, Yoreh Deah 87;5
Taz, Yoreh Deah 1;4
Taz, Yoreh Deah 5;7
Taz, Yoreh Deah 40;2
 - 43. "Although I am not worthy to differ with them, nevertheless, I say that their words are astounding...All this seems clear theoretically but not for practical purposes since the Beth Joseph and Isserles are inclined to be strict." Taz, Yoreh Deah 5;7

it had been stated so by the earlier codifiers.

At the same time however, R. David objected to humroth at random. He insisted that a humroth must be based on a law and must have a definite basis either in the Talmud or in the Rabbinic Codes in order to be valid and binding.⁴⁵

This moderate view of R. David concerning humroth can also be seen from his attitude towards the notorious controversy which ensued the permission granted by his father-in-law, R. Joel Sirkes, to eat non Jewish "hadash"⁴⁶ in the Diaspora.⁴⁷ When the latter declared that such "hadash" was permissible, he met with strong opposition from many leading

44. "It is certainly permissible but since it is not mentioned explicitly in the codes." Taz, Yoreh Deah 16;13

"I am nevertheless afraid to be lenient since we don't find it explicitly stated in the codes." Taz, Yoreh Deah 43;9

45. "I don't know any source or event or hint () for this humrah... therefore I say that there is nothing to fear about this humrah". Taz, Yoreh Deah 18;5

"My Master and father-in-law invented a humrah... but according to my humble opinion there is no basis for such a humrah." Taz, Yoreh Deah 20;7

"My Master and father-in-law made restriction concerning those who send poultry through a non-Jew to a slaughterer and the latter signs (that he performed it in accordance with the ritual). He said that it was forbidden since the slaughterer did not sign on the meat of the beef. And I say that the one who is strict in such a case shall be blessed but I don't know of such a prohibition." Taz, Yoreh Deah 1;15

"Since the reason for this prohibition is only a restriction we should not make more severe since it is not mentioned in the Talmud... And told it to R. Merdecia Jaffe of blessed memory and he agreed with me." Taz, Yoreh Deah 33;7

"There is no basis for this humrah and to be more strict than R. Selemo Luria was in this case. And whosoever opines to impose restrictions on cases which are not to be found neither in Talmud nor in the codes is obliged to prove his view." Taz, Yoreh Deah 93;2

46. "Hadash (new), the new cereal crop, which may not be eaten before the waving of the Sheaf (omer) (Leviticus XXIII, 10-14). The prohibition of hadash operated in the Diaspora as well as in Palestine and applied to Jewish as well as to non-Jewish produce. (Kiddushin 37a -39b).

47. Sirkes, Joel, Baith Hadash, Tur Yoreh Deah 293.

Rabbinic authorities. R. David neither sided with his father-in-law nor with his opponents but assumed a position of compromise. In his commentary on the Yereh Deah, he prohibited non-Jewish "hadash"⁴⁹ but was inclined to permit⁵⁰ "unknown hadash."

This moderate attitude of R. David was also demonstrated with regard to Isserles' ruling concerning leniency in certain cases of humroth where a "substantial material loss"⁵¹ was involved if the prohibition was carried

- 48. Joshua Heshel b. Joseph, Responsa Pnei Joshua, Lemberg, 1860, Vol. 11, #34
- Sirkes, Joel, Responsa Bach HaChadashoth, Korzec, 1785. #48, 49.
- Judah Aryeh Leib b. Samuel Zvi Hirsh, Responsa Geonei Bathrai, Prague, 1816. #1, 2.
- 49. Taz, Yereh Deah 293;2.
- 50. Taz, Yereh Deah 293;4.

"Unknown Hadash is considered a produce of which is not known whether it is hadash or not.

51. The Talmud made a distinction in cases where a substantial material loss (Hefsed M'rubah) was involved. (Sabbath 123b. Psachim 20b). The Sages of the Talmud said in some instances that the "Terah was considered where a loss of Jewish money was concerned" (Hullin 49, 77) or took into consideration certain extraordinary circumstances (Brachoth 9, Erubin 46, Gittin 19, Nidah 9). It seems, however, that Isserles made extensive use of this ruling so that it became elastic and could be applied in numerous situations. Unlike R. Joseph Caro, who employed it only in two instances (Yereh Deah 92 and 113), Isserles made it an important principle in halachah and provoked thereby a great deal of opposition, especially from his contemporary R. Hayyim b. Bezalel of Friedberg (1530-1588), who criticized sharply Isserles' views in his book Vikuah Mayyim Hayyim, Amsterdam (1711). The elastic ruling inherent in the term substantial material loss became a controversial issue in course of time due to its vagueness. For what may be considered a substantial loss to one person may not be considered so to another one. (Eisenstadt, Abraham Zvi Hirsh, Pischei Tshuvah, Yereh Deah, New York, 1945. #31;2)

out according to its strict interpretation. It is interesting to note⁵² that although R. David accepted in this matter Isserles' point of view, he was nevertheless reluctant to be lenient in such cases where two concessions had to be made on account of permitting a "humrah" involving a⁵³ "substantial material loss".

R. David refused to be lenient in halachic issues which involved experimentations which were not explicitly permitted by the Sages of the Talmud or by the codifiers.⁵⁴ And even where such experiments were permitted by the early Rabbinic authorities, R. David followed in the steps of Isserles, who prohibited such leniencies which came as a result of experimentation due to our present lack of knowledge and skill to execute them⁵⁵ properly, and the danger of bringing about an infringement or even a direct violation of a law.⁵⁶ At the same time, however, R. David due to his middle-of-the-road policy, objected to unwarranted examinations which would bring⁵⁷ about new prohibitions not stated otherwise.

52. Taz, Yoreh Deah 20;2.
Taz, Yoreh Deah 48;11.
Taz, Yoreh Deah 55;7.
Taz, Yoreh Deah 76;10
53. Taz, Yoreh Deah 91;12.
54. Taz, Yoreh Deah 101;15
55. Rrua, Yoreh Deah 37;15.
56. R. David objected to the opinion of a scholar who maintained that if water was found in the head of a sheep and became trephah thereby because it is unknown which was the sheep since all the heads were severed. The scholar suggested to examine the spinal columns of all the sheep and the one that had water in the head will also have water in the spinal column. Said R. David: "It seems to me that we cannot on this basis permit an uncertainty in trephah since it is not stated explicitly in the Talmud and in the Codes." Taz, Yoreh Deah 101;15.
R. David objected to experiment, with a lung in which a splinter of a bone was found, to find out whether it was pierced through or not in order makes ritually permissible. Taz, Yoreh Deah 39;23
57. "It doesn't seem to me to increase new enactments of trephah".
Taz, Yoreh Deah 39;24.

It is interesting to note that R. David was inclined to be lenient in cases which involved agunah problems. Thus he allowed a woman, who claimed that her husband was killed before the death of her son, both murdered in the Chmielnicki massacres in the Polish city of Szczebrzeszyn to remarry in opposition to other rabbis. R. David even absolved her from the halitzah procedure which was insisted upon by the others.⁵⁸

R. David had also ruled in such a case that the woman could remarry without halitzah even if there was one witness who contradicted her testimony and claimed that the death of the son had occurred before the death of the husband.⁵⁹

R. David was also lenient by granting permission to a husband to remarry without requiring of him to divorce his previous wife, who was baptized forcibly. The problem concerned a disciple of R. Gershon Ashkenazi, author of the "Avedath HaGershuni" by the name of Joel, who had escaped from the Ukraine to Helischau. His wife was carried off by the Tartars and witnesses testified that she was converted forcibly. Since one of the wealthy men in the city wanted to give him his daughter in marriage, the question arose whether Joel had to divorce his converted wife in order not to violate the Herem d'Rabenu Gershom by remarrying.⁶⁰ R. David on his stay in Helischau declared that Joel was permitted to marry again,⁶¹ a decision which^{was} upheld by R. Gershon Ashkenazi with the modification that he had to divorce her in absentia.⁶² This decision drew

58. Taz, Eben Haezer 156;8

Responsa Geenei Bathrai 7

59. Taz, Eben Haezer 156;8

Responsa Geenei Bathrai 8

60. R. Gershen b. Jehudah (960-1028) surnamed Maer HaGelach (The Light of the Exile) instituted the ban on bigamy among the Jewish people and subjected the violator to excommunication (Herem). Hence the term Herem d'Rabenu Gershom (The Ban of R. Gershom).

61. Ashkenazi, Gershen, Responsa Avedath HaGershuni 36

62. Ibid

fire from R. Menachem Mendel, Chief Rabbi of Nickelsburg and the Province of Meravia, who vehemently criticized and opposed the verdict of R. David.⁶³

CUSTOM AND LAW

The custom has always played an important role in Jewish law. Many a time when a problem arose about which the halachah was silent it was left to the custom to decide. It was the belief that the custom undoubtedly had a certain valid basis although the original reason was veiled in obscurity.⁶⁴ The custom was considered to be the creation of the collective genius of the people and therefore had to be respected.

Many scholars went to the extreme in their reverence of the customs and said that even a custom which had been observed by our old women is of greater consequence than six hundred thousand proofs which show to the contrary.⁶⁵

A "Jewish custom was considered law"⁶⁶ and "just as fines were imposed for the violation of a law so they were imposed for the violation of a

63. Krochmal, Menachem Mendel, Responsa Zemach Zedek 70
R. Krochmal mentions that at the end he found out that the woman was never converted and that she was redeemed in Constantinople. As it seems R. Ashkenazi's disciple Jeel, did not accept his wife.
64. In the Jerusalem Talmud is stated that "if you are uncertain about a certain law leave it to the practice of the Jews for although they are not prophets, they are, nevertheless, the descendents of prophets." Jerusalem Talmud, Peah 7;6
There are numerous references about the importance of customs.
"Do not deviate from the practice of your departed sires."
Jerusalem Talmud, Psachim 4;1
"One should not deviate from the custom of the country"
Tosefta, Ktuboth 6
"One should not deviate from the custom" Baba Metzia 86
"Wherefrom do we know that a custom is important? said Rava b. Aba in the name of R. Johanan in the name of Rav, for it is written "Heed my son the chastisement of thy father and do not forsake the teaching of thy mother". R. Achai Sheilteth Vayakhel #66.
65. This statement is attributed to R. Solomon b. Aderet. (See S.A. Herdetsky L'Kereth HaRabanuth p. 120)
66. Shulchan Aruch, Yoreh Deah 376;4

67
custom".

The great importance that some Talmudists attached to the custom can also be seen from the fact that a popular and well established custom took precedence over a law even in such serious cases as divorce, halitzah and dietary laws. Such a custom could supercede a law and "even if Elijah, the Prophet, should insist about changing such a custom he ought to be ignored".

Among the great scholars who elevated the custom to the rank of law were R. Moses Isserles and R. Solomon Luriah.

-
- 67. Jerusalem Talmud, Baba Metzia 87;1. Psachim 84;3.
 - 68. Bruna, Israel Responsa, Stettin, 1860. #23
Weiss, I.H. Der Dor V'Dorshav, Wilne, 1911. Vol. 11, pp. 68-71.
 - 69. A statement by R. Joseph Kelen (see S.A. Herodetzky L'Kereth HaRabanuth p. 119)
A similar statement is found in the Talmud that the Prophet Elijah cannot change the customs practiced by the people during the halitzah ceremony. Yebamoth 102.
 - 70. "This decision is superfluous since the custom gained a great deal of popularity in these countries, whose Jewish inhabitants are the descendants of the Jews from Germany and France."
Isserles, Moses, Darchei Moshe, Yereh Deah #23
"I follow the custom although there is no reason for its rigorous practice."
Ibid #93
See also Herodetzky S.A. L'Kereth HaRabanuth pp. 112-121
Weiss I.H. Der Dor V'Dorshav, Vol. 11, pp. 194-195.
 - 71. "A custom supercedes a halachah and a law enacted by the Sages of the Talmud, although the law has support in the Scriptures. This applies not only to a custom practiced by men of learning but also to one that is observed by shippers or donkey drivers."
Luriah, Solomon, Yam shel Shlomo Baba Kama, Chapter 10 #42.
"A custom that came down from our fathers is considered on par with the Torah"
Luriah, Solomon, Responsa #63.
Herodetzky S.A. L'Kereth HaRabanuth pp. 134-135.

R. David as a Polish Rabbi and an admirer of Isserles and Luria subscribed to the importance of the custom in Jewish life. It goes without saying that he was extremely careful with the customs which Isserles upheld. ⁷² R. David cited frequently local customs which he either saw them practiced in various places he visited or that he practiced them himself. ⁷³

Some of the customs were not of a halachic nature but had their origin in the Midrash or emanated from Cabbalistic sources, whose influence was increasing in Poland. Thus he brought customs which were based upon the Zohar ⁷⁴ or upon Lurianic teachings ⁷⁵ and even upon the ⁷⁶

72. Taz, Yoreh Deah 24;2

73. If the circumcision of a child took place on Resh Hashanah, R. David advocated the blowing of the Shofar without wiping the lips from the blood of the circumcision and thus unite both precepts. Taz, Orach Hayyim 584;2.

R. David related the customs he used to practice when circumcizing his own children. Taz, Yoreh Deah 265;1.

R. David recommended a custom which he practiced namely, to read the entire weekly portion from Sacred Scroll rather than from a Printed Bible and then read it again when it is read in the Synagogue. Taz, Orach Hayyim 285;2

R. David advocated one of his practices to fill the cup of Havdalah so that it should spill over. Taz, Orach Hayyim 296;1

74. He used to recite daily while the Cantor chanted Sim Shalom the following verses: "Be not afraid of sudden fear, neither of the desolation of the wicked, when it cometh. Take counsel together and it shall come to naught; speak the word, and it shall not stand; for G-d is with us. And even to your old age I am He; and even to hear will I carry you; I have made and I will bear; even I will carry and will deliver you".

A practice based on Midrashic story that these were the phrases Mordecai received as a reply from the children he had met after the issuance of Haman's evil decree against the Persian Jews.

Taz, Orach Hayyim 132;2

75. R. David favored the practice of reciting a certain Biblical verse at the time a child is brought into the Synagogue for circumcision. The origin of the practice is found in the Zohar.

Taz, Yoreh Deah 265;12

76. "At present many are accustomed to confess in the ritual bath before they pray in accordance with the tradition of R. Isaac Luria, of blessed memory and they also immerse three times."

Taz, Orach Hayyim 606;5

traditions of R. Judah the Pious.

The importance R. David attached to the custom is evident from the fact that he justified it even when it seemed to court the risk of violation of a law.⁷⁸

Nevertheless, R. David did not sanction all customs. Some of them he considered as unjustifiable and some were either in contradistinction to the law or not in the Jewish spirit.⁷⁹ Such customs R. David condemned unequivocally for while he appreciated customs which emanated from a positive source of the people's creative genius,⁸⁰ he objected to those of a negative origin which were superstitious.⁸¹

77. R. David quoted a tradition from R. Judah the Pious about the days when one is forbidden to let blood by cutting a vein. Taz, Yoreh Deah 116;6
R. Judah b. Samuel of Regensburg (ca.1200) was called R. Judah HeChassid (the Pious). He wrote a book entitled Sefer Hassidim (the Book of the Pious) which was a book of practical ethics and permeated with an intense religious feeling.
78. R. David permitted to continue the practice of watering geese although it was to fear that by forcing the food it might pierce the lining of the esophagus and make it trephah. Taz, Yoreh Deah 33;¹⁸
79. R. David rejected the view of R. Joel Sirkes who upheld the custom, which prohibited cohabitation during the first forty days after a woman had given birth to a boy and eighty days after she had given birth to a girl. He also rejected the practice to abstain from cohabitation during the first night after the birth of a boy and during the eighty first night after the birth of a girl. Taz, Yoreh Deah 194;3
80. R. David refused to endorse the practice of carrying the Sacred Scroll to the Synagogue on the Sabbath by circumventing the prohibition against carrying on the Sabbath day in the following manner: Everyone carried the Scroll less the four eels (permitted on the Sabbath) and then handed it over to somebody else who transmitted it to another until it reached the Synagogue. This practice was also employed in many communities with regard to a child who had to be circumcised on the Sabbath in the Synagogue, and R. David objected to it too, since he considered it a violation of the law. Taz, Orach Hayyim 349;1
81. R. David objected to the superstitious practice of putting the money collected as donations towards charity, when someone was ill, into the Holy Ark. Taz, Orach Hayyim 334;15
82. R. David objected to the superstitious belief mentioned by David b. Joseph Abudraham of Seville (1300-1345) that people should abstain from drinking water during the change of season, since a drop of blood falls then down from heaven which makes it poisonous. He quoted Abraham Ibn Ezra (1093-1167) against such superstitious customs and beliefs. Taz, Yoreh Deah 116;4

R. David also objected to a custom which was based on a wrong
premise.⁸³ He rejected customs which were not fully accepted by the
people and over which there was no unanimity.⁸⁴ R. David was against
innovating new benedictions others than those which were stated in the
Talmud, but wherever such a custom was prevailing, he granted permission⁸⁵
to follow the accepted practice.

R. David tried to reconcile the differences between the customs
practiced of the Ashkenazic Jews and those of the Sephardic Jews.⁸⁶ But
he objected to introduce the liturgy which was followed exclusively in
the Sephardic ritual into Ashkenazic prayer books, although he endorsed⁸⁷
them for the Sephardic Congregations.

TEXTUAL CORRECTIONS

Although R. David greatly esteemed the views of R. Moses Isserles
and valued highly his opinions he, nevertheless, took exception to the
latter's attitude to the correction of mistakes that somehow were to be
found in the texts of the Talmud or the subsequent Rabbinic literature.
Isserles followed in the footsteps of R. Gershom, the Light of the Exile,
who issued a ban upon those who dared to make changes or corrections in
the Rabbinic texts.⁸⁸ R. Jacob Tam, one of the leading Tosafists, too
objected to such corrections. Isserles was reluctant to make any changes⁹⁰
although the reading of text seemed to warrant it.

83. Taz, Orach Hayyim 14;5

84. Taz, Orach Hayyim 25;16

85. Taz, Orach Hayyim 46;7

86. Taz, Orach Hayyim 32;26

87. Taz, Orach Hayyim 46;9

88. Weiss, I.H. Der Dor V'Dorshav Vol. IV, Chapters 29,30.

89. Ibid

90. Isserles, Moshe, Responsa Cracow, 1640. #100.

Isserles, Moshe, Darchei Moshe, Heshen Mishpat, 65;3. 420;10
(Printed with many recent editions of the Turim.)

Isserles, Moshe, Darchei Moshe, Orach Hayyim 548;2

Luriah on the other hand was very radical in this respect. He was very critical of the texts of the Talmud which came down to him and found them to be full of mistakes and errors. With his keen perception and analysis of the material he was fearless in pointing out mistakes and made corrections and emendations when necessary. ⁹¹

R. David with his vast knowledge of Talmudic and Rabbinic literature followed in the footsteps of Luriah rather than Isserles, which was also the method of R. Joel Sirkes. ⁹²

The change in attitude towards textual criticism may have been due to the extensive usage of printed books, which while it aided to the dissemination of knowledge, it caused at the same time that a mistake or a series of mistakes should be multiplied in thousands of copies. The former copyists were learned men, whereas the printers were people, who possessed a mere technical skill without understanding or interest in the text and consequently the mistakes were more frequent and serious than heretofore and necessitated therefore corrections. The view of textual criticism as espoused by Luriah, Sirkes and R. David was in course of

-
91. Luriah, Solomon, Hochmath Sh'lomo, Erubin, 45, 61. Sanhedrin 38. (Printed with many recent editions of the Talmud)
92. R. Joel Sirkes wrote a set of textual corrections on the Talmud called Hagahoth HaBach. (Printed with the Vilne edition of the Babylonian Talmud)

time accepted as the prevalent opinion.

Many a time R. David went even further in this respect than his father-in-law who was famous for his textual corrections.

R. David never accepted secondary sources and never relied upon quotations as cited by others. He always checked and verified the original

93. Said R. Israel b. Samuel Ashkenazi of Shlav (ca. 1770-1839), a disciple of Vilna:

"It seems to me that all the words of the Rabbenu Tam, R. Gershom, Light of the Exile and Nachmanides (against textual corrections) concern only the Babylonian Talmud which was in constant use by the Saboraim and the early and latter Gaonim...There is also another reason that during the time of the early Rabbis and the Tosafists the printing press was unknown and the Oral Law memorized by the people and they used to repeat it (by heart) one hundred and one times or forty times...(and therefore they remembered it well) and consequently errors were not frequent. But since the appearance of the printed press and all the learning is done from printed books, there are not any more such diligent students who should study and repeat (by heart) many times and therefore we see that numerous errors crept into the print. For the printers are not educated and explain the abbreviated words as they see fit wilfully or negligently. There are mistakes and changes in lines, words and letters which are interchangeable, especially in the Jerusalem Talmud, Tosefta, that people don't study (frequently) and are not accustomed to the language and therefore can certainly not be explained without critical corrections."

1836.

R. Israel b. Samuel Ashkenazi, P'ATH HASHULCHAN, Introduction, Safed,

94. In his commentary on Orach Hayyim 286, R. David remarked:

"In the Tur is written that in Spain was customary to recite the first chapter of Mishnayeth (on Sabbath morning) and in the article 292 is written that in Spain they used to recite Pirkei Aboth (Ethics of the Father) on Sabbath morning. If that be the case, why is it mentioned here? I heard that some render here the following correction namely, that instead of the expression first chapter, the words Pirkei Aboth. For there was an abbreviation כ'ו meaning Pirkei Aboth but the copyists made a mistake and wrote Perek Echad (first chapter)."

This interpretation seemed to have been considered too radical by R. Joel Sirkes and therefore he opposed the correction, but one of the later scholars, Judah Bachrach, upheld R. David's opinion. Says he:

"With regard to the problem that the Bach (Joel Sirkes) wrote that the Rabbenu Tam and other great rabbis excommunicated for that (textual corrections) it must be stated that it was only in their times for most (people) used to copy in writing and it was assumed that the copyist was very careful as it was proper for educated people...not so now with regard to books from the printing press which are abundant in mistakes and it is well known to anybody who saw printing and the printing press as being operated by unintelligent people...and for the above mentioned reasons we may say that R. David refused to accept his father-in-law's views in this matter against his better judgment."

Bachrach, Judah, HaGahoth HaGrif, Orach Hayyim 286. Johannesburg 1862

sources. In this matter he did not respect neither Caro, nor Isserles,
95
not even the famous early Rabbis. Many a time he pointed out that even
the foremost authorities overlooked certain sources, sometimes very obvious
96
ones. R. David guided himself in his textual criticism either by checking

95. R. David pointed out that R. Joseph Caro and even R. Solomon Luriah, who was one of the most outstanding textual critics, copied a mistake made by a copyist of the work of R. Solomon b. Aderet.
Taz, Orach Hayyim 498;1
The copyist made a mistake in the words of the Tur.
Taz, Orach Hayyim 507;5.
Caro followed an incorrect text and therefore his explanations were futile. Taz, Yoreh Deah 161;9
R. David maintained that Caro and R. Jacob b. Asher did not see the Terath HaBaith of R. Solomon b. Aderet and therefore the statement was incongruous. Taz, Yoreh Deah 2;7
R. David found that a certain statement attributed to R. Isaac b. Moses of Vienna (XIII century) is not to be found in the latter's book Or Zarua. Taz, Yoreh Deah 37;3
R. Jacob b. Asher did not see the Terath HaBaith Ha'Aruch.
Taz, Yoreh Deah 52;5
R. David proved that a scholar overlooked a statement of R. Isaac b. Reuben of Duran (ca. 1200), author of the Shaarei Dura and a similar view of anonymous author of the book Issur V'Heter. Taz, Yoreh Deah 55;7
R. Mordecai Jaffe copied a mistake from the Beth Joseph.
Taz, Yoreh Deah 87;3
R. Mordecai Jaffe attributed erroneously a certain view to R. Moses of Genoa (1200-1260) author of the Sepher Mitzvoth Gadol. Taz, Yoreh Deah 89;8
R. Mordecai Jaffe copied a mistake. Taz, Orach Hayyim 179;2
"Certainly a student made a mistake in the name of Rashi and such an error did emanate from the mouth of the righteous one."
Taz, Yoreh Deah 160;11
A mistake in the words of R. Joshua Falk. Taz, Hosh Mishpat 354;1
R. Joshua Falk attributed a certain statement to R. Asher b. Yehiel which is not to be found there. Taz, Hosh Mishpat 362;6
96. R. Joseph Caro was unaware of a statement of R. Solomon b. Aderet
Taz, Yoreh Deah 52;11
R. Jacob b. Asher did not see the Terath HaBaith of R. Solomon b. Aderet and seemed to have overlooked a point in the Tosephta.
Taz, Yoreh Deah 124;3
Caro overlooked a point in the Talmud. Taz, Yoreh Deah 199;1
Caro seemed to have overlooked a statement of R. Asher b. Yehiel.
Taz, Yoreh Deah 216;2, 226;1.
R. Joseph Kolen overlooked Rashi's explanation on the Pentateuch.
Taz, Yoreh Deah 240;20
Isserles overlooked a statement of R. Asher b. Yehiel.
Taz, Hoshen Mishpat 333;5
R. Mordecai Jaffe seemed to have overlooked a point in the Talmud.
Taz, Yoreh Deah 28;11

and comparing various manuscripts or by analyzing the content and proving that the text was incorrect.

Analyzing thus the works of R. David we see that practically all cultural trends which were prevalent during his time in the Jewish community of Poland were reflected in them. R. David was mainly a halachist, but was not oblivious of the works of the Cabbalists; he revered the views of his predecessors but was an ardent exponent of textual criticism; he was conservative in his decisions but at the same time liberal, accepting the views of the other scholars; he was a follower of the Shulchan Aruch but accepted the valid criticism of its opponents and commented accordingly. All these apparently opposing trends were blended in him harmoniously. His subtle way of compromise between seemingly opposing and contradictory views his middle-of-the road policy in halachic thought and in practical Rabbinic decisions paved the road for the acceptance of the Shulchan Aruch as the standard of the Jewish people the world over. His "Golden Rows" became one of the main supports of the "Table" prepared by Caro and the "Cover" spread upon it by Isserles around which all segments of traditional Jewry meets.

- 97. R. David compared two editions of the Tur and proved that R. Joseph Caro had an incorrect copy and R. Mordecai Jaffe copied the mistake. Taz, Orach Hayyim 633;4
- R. David showed that in some editions a phrase was not printed in the proper place. Taz, Yereh Desh 64;13
- R. David said that there was a mistake in an older edition of Maimonides. Taz, Yereh Desh 147;2
- R. David compared an erroneous edition that Caro used, with a recent edition where the error was corrected. Taz, Yereh Desh 161;9
- R. David said that the editions of the Tosafoth were full of mistakes. "You should not wonder that I corrected their words since the Tosafeth are abundant with mistakes to everyone who reads them. Taz, Yereh Desh 217;30
- "The book of R. Yerucham is full of mistakes." Taz, Eben Haezer 17;1
- R. David compared the version in Rashi and R. Hananel. Taz, Heshen Mishpat 333;1
- 98. R. David proved from the content that R. Isaac Luriah Ashkenazi did not make the statement. Taz, Orach Hayyim 174;9
- R. David proved that it was impossible that Isserles should have made the statement "but the error was written by a student." Taz, Yereh Desh 64;3
- R. David proved that a statement was printed in the wrong place. Taz, Yereh Desh 64;13.
- R. David pointed out that there was a mistake in the text of the Tur and although he seemed reluctant to make that correction and said "Had I not been afraid to make the

STUDENTS AND INFLUENCE

R. David had many students during his life-time. In course of time some of them became well-known rabbis serving Jewish communities. Among them were his stepson, Judah Aryeh Leib, his nephew, Israel b. Samuel, Samuel b. David Halevi and Menachem Mendel b. Zvi Hirsh.

The followers and admirers of R. David were, however, not limited to those living in his own time only. Many scholars in subsequent generations followed in his footsteps and studied his works carefully. Some great Rabbinic authorities wrote glosses on his commentary and discussed his views and opinions at great length. Noted among them were R. Joseph Teumim, R. Samuel Halevi of Celenge, R. Abraham Zvi Hirsh Eisenstadt, R. Jacob Lissa, R. Ezekiel Landau and others.

R. David's work never ceased to be of major importance to all students of Jewish law and will always remain an authoritative commentary on the Shulchan Aruch as long as Jews will subscribe to the tenets of traditional Judaism.

- 99. Taz, Yoreh Deah, Introduction.
- 100. Dembitzer, Hayyim Nathan, Klilath Yefi, pp. 58a - 59b.
- 101. Ibid
- 102. R. Samuel referred to R. David as his teacher. See Samuel b. David Nachlath Shiv'ah, part 11. pp. 48, 57, 63, 65, 81, 89.
- 103. Dembitzer, Hayyim Nathan, Klilath Yefi, pp. 58b - 59a
- 104. R. Joseph Teumim (d.1792) wrote a supercommentary on the Turei Zahav and Sifthei Cohen which he entitled Pri-Megadim (Sweet Fruit). The part devoted to a detailed discussion and explanation of R. David's views he called Mishbtzoth Zahav (Settings of Gold). R. Teumim held R. David in great esteem and when the latter was once criticized by R. Sabbatai Cohen, R. Teumim wrote "one should beware of suspecting the Light of Israel of not being careful in his writings." Teumim, Joseph, Pri Megadim (printed together with the Shulchan Aruch, Yoreh Deah), New York, 1945. 45;12.
- 105. R. Samuel Halevi of Celenge wrote a supercommentary Machtzith HaShekel (Half a Shekel). Although most of the work is devoted to the explanation of the Magen Abraham on Orach Hayyim and the Sifthei Cohen on the laws pertaining to meat salting and family purity, he also discussed a great deal of the opinions of R. David. Halevi, Samuel, Machtzith HaShekel, Wien, 1807.
- 106. R. Abraham Zvi Hirsh Eisenstadt wrote a commentary called Pitchei T'shuvah (The Gates of Responsa).
- 107. R. Jacob Lissa (d.1838) wrote a supercommentary entitled Havath Da'ath (Opinion).
- 108. R. Ezekiel Landau (1713-1793), Rabbi of Prague who wrote in addition to his monumental work Zelach. the abbreviation of the word Zelach

L'Nefesh Hayah (A Monument to A Living Soul) and Neda B'Yehudah (Famous in Judah) also notes Dagul Meruvah (Chosen among Thousands) in which he commented on the Turei Zahav. Printed with the editions of the Yereh Deah.

109. About R. David's influence on the afore mentioned scholars and numerous others. See Tchernowitz, Hayyim, Toldeth HaPeskim, New York, 1947, Vol. lil, pp. 192-330.

Bibliography

BIBLIOGRAPHY

- Ashkenazi, Gershon, Avodath HaGershuni, Frankfurt-Am-Main, 1699.
- Back, S., "Die Halachistische Litteratur Vom 15 bis 18 Jahrhundert".
Die Judische Litteratur Seit Abschluss des Kanons, Vol. 11, Berlin
1887.
- Balaban, Majer, Zydzi Lwewscy Na Przelecie XVI : XVII, Wieku, Lwow, 1909
Historja i Literatura Zydowska, Vol. 111. L'Toldoth Hatnuah
HaFrankith
- Baren, Sale W., A Social and Religious History of the Jews, Vols. 11 and 111.
New York, 1937
The Jewish Community, Vols. 11 and 111, Philadelphia, 1945.
- Berenfeld, Simen, Sefer Hadmaoth, Vol. 111, Berlin, 1926.
- Biber, M.M., Yalkut Menachem, Wilno, 1903.
- Bruna, Israel, Respensa, Stettin, 1860.
- Buber Solomon, Anshe Shem
- Caro Jecheskiel, Geschichte Der Juden in Lemberg, Cracow, 1894.
- Caro Joseph, Beth Joseph, printed with the editions of Turim
- Chenes, Toldoth HaPeskim Aruch.
- Cohen, Sabbatai, Sifthei Cohen, printed with the editions of the Shulchan
Nekudoth HaKessef, printed with Yereh Deah, New York 1945.
Kuntres Achron, printed with Yereh Deah, New York 1945.
- Dembitzer, Hayyim Nathan, Klilath Yefi, Cracow 1888.
- Dubnow, Simon, The History of the Jews in Russia and Poland, Vol. 1 and X
Philadelphia 1916.
- Eliezer b. Joseph Ha Cohen, Kinath Sefrim, Lemberg 1882.
- Falk, Joshua, Sefer Meirath Enayim, printed with the editions of the
Heshen Mishpat.
Drishah U'Prisha, printed with the editions of the Turim.
- Frankl-Grun, Adolf, The Ordinances of the Author of the Turei Zahav
HaZofeh 111 (1914), pp.188-190
- Gombiner, Abraham Abele, Magen Abraham, printed with the editions of the
Orach Hayyim.
- Graetz, Heinrich, Geschichte der Juden, Vol. X, Leipzig 1882

- Halevi, David, Turei Zahav, Yoreh Deah. Magen David (Taz), Orach Hayyim
Turei Zahav, Hoshen Mishpat. Turei Zahav, Eben Haezer.
Printed with the editions of the Shulchan Aruch.
Divrei David, Dyhernfurth, 1689.
- Halevi, Isaac, Siyach Itzachak, Basle 1627. Responsa, Neuwied 1736.
- Halperin, Israel, Pinkas Va'ad Arba Aratzoth Jerusalem, 1945
- Hanoch Henoch, Hinuch Beth Yehudah, Frankfurt-am-Main 1708.
- Hayyim b. Bezalel, Vikuach Hayyim Hayyim, Amsterdam 1711.
- Horedetzky, Samuel Aba, L'Koroth HaRabanuth, Warsaw 1910.
- Hurwitz, Simon, The Responsa of Solomon Luriah, New York 1938
- Isserles, Moses, Darchei Moshe, printed with the editions of the Turim.
Torath Hatath, Cracow 1569. Torath Haelah, Prague 1569.
Responsa, Cracow 1640.
- Jaffe, Mordecai, L'Vushim, Lublin 1594, Prague 1603, -9, 10.
- Joel b. Gad, Maginei Zahav, Prague 1720.
- Joshua Heshel, Responsa Pnei Joshua, Lemberg 1860.
- Judah Arie Leib b. Samuel Zvi Hirsh, Responsa Geonei Bathrai, Prague 1816.
Responsa Sha'agath Arie Leib V'Kol Shachal, Salonica 1714.
- Kahanah, David, Toyim Umathyim Hashileach Vol. V.
- Knebel, S., Toldoth G'Dolei Hora'ah
- Krochmal, Menachem Mendel, Responsa Zemach Zedek, Amsterdam 1675
- Lewin, Isaac, Fun Amohl un Heint, Ledz 1939. Przyczynki Do Dziejow i
Historji Literaturny Zydow w Polsce, Lwow 1935.
- Lima, Moses, Helkath M'Hokek, printed with the editions of the Eben Haezer.
- Lew, Judah b. Bezalel, Nethivoth Olam, Warsaw 1884.
- Luriah, Solomon, Yam Shel Shlomo (Hullin), Cracow 1646. Hechmath Shlomo
printed with the editions of the Babylonian Talmud.
Responsa, Lublin 1574.

- Mirsky, Samuel K., "Joel Sirkes, Author of the Bach" Horeb, Nov. 1941
Vol. VI.
- Samuel b. David, Responsa Nachlath Shiv'ah, Warsaw 1898.
- Samuel, Uri, Beth Sh'muel, printed with the editions of the Eben Haezer.
- Sasportas, Jacob, Zizith Nevel Zvi
- Schipper, Isaac, Yiddishe Geshichte, Vol. IV, Warsaw 1930.
- Schorr, Moses, Organizacja Zydow w Polsce, Lwew 1899.
- Sirkes, Joel, Baith Hadash, printed with the editions of the Turim.
Responsa Bach HaYeshanoh, Frankfurt-am-Main 1697.
Responsa Bach HaChadashoh, Korzec 1785
- Tchernowitz, Hayyim, Teldoth HaShulchan Aruch V'Hitpa^shtutho,
Hashiloach, Vols. IV, V, VI, Berlin 1887-1889.
Teldoth HaPeskim, 3 vels. New York 1947.
- Waxman, Meyer, A History of Jewish Literature, vol. I, II, III, New York
1933
- Weiss, Isaac Hirsh, Dor Der V'Dorshav, vol. IV, Wilno 1911
- Zinz, J.M. Yir Hatzedek, Lemberg 1874.