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Erich Henry Kiehl

Concordia Seminary, St. Louis, ir_kiehle@csl.edu

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THE JEWISH MARRIAGE CUSTOMS

AT THE TIME OF CHRIST

**A Thesis Presented to
The Faculty of Concordia Seminary
Department of Historical Theology**

**In Partial Fulfillment
of the Requirements for the Degree
Bachelor of Divinity**

by

Erich Henry Kiehl

June 1945

Approved by:

N. H. Reinisch, M. A.

J. E. Kuegler, M. A.

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THE JEWISH MARRIAGE CUSTOMS AT THE TIME OF CHRIST

INTRODUCTION

The family is "the primary social group and the wellspring of all¹ civic and national life." It is the basis of society. It conditions the moral health and tone of a nation, of an age. If the home is corrupted, the nation is on the way to destruction. To raise the moral standards of a nation we must begin with the home. The future of a nation is conditioned by the homes that it fosters. The success or failure of a nation lies in the home.

Marriage is the foundation for the home. Marriage is a sacred institution. In Genesis One and Two we are told of God's institution of this basic unit of society. God created it holy and sacred. When God brought Eve to Adam, he recognized God's love and wisdom. He said:

This is now bone of my bones, and flesh of my flesh: she shall be called woman, because she was taken out of man. Therefore shall a man cleave his father and his mother, and shall cleave unto his wife: and they shall be one

1. Reu and Buehring, CHRISTIAN ETHICS, p278.

²
flesh.

³
God says: "Marriage is honourable in all." Jesus told the Jews: "What
therefore God hath joined together, let not man put asunder."⁴ The bond
of marriage is holy and is not to be broken by man. God protects His
sacred institution with the Sixth Commandment.

The Jews recognized the sacredness of marriage. They termed the
betrothal ceremony "Kiddushim." This word is derived from קדש⁵
to be holy, to make holy, and means literally "sanctification." This
term shows ^{their} reverence for marriage. The explanation of the term is: "He
thus prohibits her to the whole world as a sacred object."⁵ Edersheim
tells us that soul preparation preceded the actual marriage ceremony.
The pious fasted and confessed their sins. Thus it was almost regarded
as a sacrament, and was thought to convey the forgiveness of sins.⁶

Throughout the Bible God has used marriage to symbolize the union be-
tween Himself and His Church, His people. The Song of Solomon uses the
picture of marriage to portray this exalted relationship. In Hosea 2
God castigates Israel for her spiritual adultery. He follows His con-
demnation with mercy, for He says:

And I will betroth thee unto me for ever; yea, I will betroth
thee unto me in righteousness, and in judgment, and in loving-
kindness, and in mercies. I will even betroth thee unto Me
in faithfulness: and thou shalt know the Lord.⁷

2. Genesis 2, 23-24.
3. Hebrews 13, 4.
4. Mark 10, 9.
5. Julius H. Greenstone, "Marriage - In Rabbinical Literature", THE
JEWISH CYCLOPEDIA, VIII, p358.
6. Alfred Edersheim, THE LIFE AND TIMES OF JESUS THE MESSIAH, I,
pp352-355.
7. Hosea 2, 19-20.

Isaiah uses the same picture:

Thou shalt no more be termed Forsaken; neither shall thy land any more be termed Desolate: but thou shalt be called Hephzibah, and thy land Beulah: for the Lord delighteth in thee, and thy land shall be married. For as a young man marrieth a virgin, so shall thy sons marry thee: and as the bridegroom rejoiceth over the bride, so shall thy God rejoice over thee.

The Apostle Paul speaks of this figurative relationship to the Corinthians:

For I am jealous over you with godly jealousy: for I have espoused you to one husband, that I may present you as a chaste virgin to Christ. 9

In his great vision of future time the Apostle John exults:

Let us be glad and rejoice and give honour to him: for the marriage of the Lamb is come, and his wife hath made herself ready. 10

These are but a few of the many passages in Scripture, in which the Church is portrayed as the bride of Christ. Marriage is the best picture to show the intimate and sacred relationship which exists between God and His redeemed.

I. BETROTHAL

A. THE PURPOSE OF MARRIAGE.

God's command: "Be fruitful and multiply" of Genesis 1, 28 was considered the primary purpose of marriage. In the Roman world marriage was considered a duty to the state. This echoes the purpose of the Bible. The Jews considered the primary purpose of marriage to have issue and preserve Israel. This was termed a marriage "in the name of heaven."¹²

8. Isaiah 62, 4-5.

9. 2 Corinthians 11, 2.

10. Revelation 19, 7.

11. T. G. Tucker, LIFE IN THE ROMAN WORLD OF NERO AND ST. PAUL, p292.

12. Edersheim, OP. CIT., p145.

The Code of Qaro lays down the following law:

Every man is bound to marry a wife in order to beget children, and he who fails of this duty is as one who sheds blood, diminishes the image (of God), and causes the Divine Presence (Shekkinah) to depart from Israel. 13

The Essenes disagreed with this principle. If they married at all, it was only for the sake of procreation. Josephus tells us that they had no intercourse during pregnancy; this was considered a violation of their principle and constituted prostitution in their eyes. 14

There were other reasons for marriage beyond that of preserving the race. The rabbinical writings list three beyond the primary purpose of procreation; these were (1) passion (2) wealth (3) honor, connection, and influence. These purposes were also found in the Greek and Hellenistic world, and are still current today. Concerning the issue of a marriage for the sake of passion, the rabbis say that it would be stubborn and rebellious. The second was too often the motive in Judea. The rabbis point to the sons of Eli, who supposedly married for wealth, fell victim to greed, and were punished by the Lord. This was the general curse laid upon marriage for the sake of wealth. The third purpose the rabbis relate to King Jehoram, who married the wicked daughter of King Ahab. Instead of a blessing, this union proved to be a curse. Athaliah killed almost all of the royal seed in order to reign over the land of Judah. A similar malediction was laid upon those who married for this cause. 15

13. "Marriage", CYCLOPEDIA OF BIBLICAL, THEOLOGICAL, AND ECCLESIASTICAL LITERATURE, V, p773.

14. Flavius Josephus, JEWISH WARS, II, iii.

15. Ebersheim, OP. CIT., pp144-145.

In the Old Testament times, marriage was always considered the essential duty of every man. It was a means to attain the most perfect holiness. The New Testament era saw a change in this viewpoint. Some avoided marriage. In the Roman world we find a large proportion of the upper classes following this practice. Marriage was considered an unnecessary burden and interfered with liberty. Their passion could be satisfied without resorting to marriage, for marriage to the Romans was not a hindrance to vice.

At the time of Christ the Essenes arose among the Jews. This order numbered about 4000. Only one party or faction of these entered the state of wedlock. The other considered marriage unclean. The Essenes desired to attain the height of levitical cleanness. Coition, they asserted, made man unclean and necessitated washing in accordance with Leviticus 15, 18. Even then they remained unclean till evening. Because of this they abstained from marriage and rejected it as defeating their purpose.

The Jews considered celibates cursed. Celibacy and Judaism were foreign to each other. The Talmud says in Jebamoth VI, 6:

Niemand soll sich der Fortpflanzung entziehen, es sei denn, dass er bereits Kinder habe, und zwar nach der Schule Schammais bereits zwei Söhne, nach der Schule Hillels mindestens einen Sohn und eine Tochter.

The rabbis described the celibate life as being without blessing, good, joy, peace, and protection. To one who pleaded lack of funds, it was

16. Tucker, CP. CIT., p292.

17. John D. Davis, A DICTIONARY OF THE BIBLE, p217.

18. Emil Schuerer, GESCHICHTE DES JÜDISHEN VOLKES IM ZEITALTER JESU CHRISTI, II, p578.

19. IBID., footnote #12.

permitted to sell the law scroll for money to marry.²⁰ Those who desired first to study the Law were exhorted to study it after marriage, when they would be more mature.²¹ Anyone not married at his twentieth year could be forced by court action to become married. It was rare to find someone who remained celibate throught life.²²

B. PROHIBITED DEGREES

"None of you shall approach to any that is near of kin to him, to uncover their nakedness"²³ briefly describes the Biblical laws concerning the prohibited degrees of marriage. To these must be added Leviticus 18, 14; 20,20 which add the wife or husband of a parent's deceased brother or sister. God adds these, because these are in such a relationship which demands special respect, called "respectus parentelae."²⁴ The proscribed marriages of the Levitical Code may briefly be summarized thus:

- I. Through the mother in the ascending line:
 1. Mother and (laterally) 2. Mother's sister
- II. In the ascending line, thru the father:
 3. Father's wife and (laterally) 4. Father's sister and (laterally by marriage) 5. Father's sister-in-law, i.e., father's brother's wife.
- III. In the descending line, through the daughter:
 6. Daughter, 7. Daughter's daughter.
- IV. In the descending line, through the son:
 8. Son's wife, 9. Son's daughter.
- V. In the lateral line, through the brother:
 10. Sister or half-sister.

20. Julius H. Greenstone, "Marriage — In Rabbinical Literature", JEWISH ENCYCLOPEDIA, VIII, p337.

21. IBID., p338.

22. IBID., p337.

23. Leviticus 18, 6.

24. John Fritz, PASTORAL THEOLOGY, p163.

VI. In the lateral line, through the brother:
 11. Brother's wife (without levirate duty)

VII. In the line of affinity, through the wife:
 12. Wife's mother, 13. Wife's daughter, 14.
 Wife's sister (during lifetime of the wife),
 15. Wife's granddaughter.

These prohibitions rest upon the man. This does not mean that the woman is free of guilt in an incestuous marriage, but the Law considers the man who married the woman. Thus when discussing the proscribed degrees of kinship, the direction always starts with the man. All who violate these prohibitions will have their soul cut off from among their people.

Generally speaking the Romans prohibited marriage with all those whom one was permitted to kiss. At first the Romans prohibited marriage up to the sixth degree (second cousin) but later relaxed this law. First cousins were ultimately permitted to marry. In a decree obtained from the Senate by the Emperor Claudius, marriage with a brother's daughter was permitted.

The Jews accepted the Biblical restrictions, and added one link where the line became indirect. Their additions are termed the line of secondary incest. Briefly this addition lists:

- I. The Bible prohibits mother; the rabbis add:
 1. Grandmother and,
 2. Grandmother's mother, ad infinitum,
 3. Grandfather's mother, and according to Luria even
 4. Grandfather's mother's mother.
- II. The Bible prohibits step-mother; the rabbis add:
 1. Father's sep-mother, ad infinitum

25. Louis M. Epstein, MARRIAGE LAWS IN THE BIBLE AND THE TALMUD, pp234-235.

26. Leviticus 18, 29.

27. Tucker, OP. CIT., p295.

28. Edward Westermarck, A SHORT HISTORY OF MARRIAGE, p74.

29. Edersheim, OP. CIT., p156.

2. Mother's ^t sep-mother
 3. Maternal grandmother's step-mother (according to Rebh)
 4. Paternal grandmother's step-mother (according to Isserlein).
- III. The Bible prohibits sister, father's sister, mother's sister; the rabbis include these also:
1. Paternal grandfather's sister,
 2. Maternal grandmother's sister.
- IV. The Bible prohibits brother's wife and father's paternal brother's wife; the rabbis add:
1. Father's maternal brother's wife,
 2. Mother's paternal brother's wife,
 3. Paternal grandfather's paternal brother's wife,
 4. Maternal grandmother's paternal brother's wife (according to R. Asher).
- V. The Bible prohibits daughter and granddaughter; the rabbis add:
1. Great granddaughter, ad infinitum.
- VI. The Bible prohibits son's wife; the rabbis add:
1. Grandson's wife,
 2. Great grandson's wife, ad infinitum, i.e., only if it be the wife of son's son's son, etc.
- VII. The Bible prohibits wife's mother and (by rabbinic inference) grandmother; the rabbis add:
1. Wife's great grandmother, ad infinitum.
- VIII. The Bible prohibits wife's daughter and granddaughter; the rabbis add:
1. Wife's great granddaughter, ad infinitum.
- IX. The Bible prohibits wife's sister, to which the rabbis offer no secondary prohibitions.

In several instances the various Talmuds express different opinions. Altho a Palestinian tradition prohibits the marriage with a wife's step-mother, the Babylonian Talmud permits it. It is not definitely established whether marrying a step-sister is Biblical incest or wrong "because of appearance." The Baylonian Talmud permits marriage with a step-sister. Both Palestinian and Babylonian sources

permit marriage of a step-son's wife, a step-father's wife, a son-in-law's wife, and a nephew's wife.
30

The Jews thought that the Levitical Code forbade marriage with a brother's wife, except for the sake of the Levirate marriage. Josephus records a violation of this law. Archelaus, he writes,

...transgressed the law of our fathers, and married Gaphyra, the daughter of Archelaus (King Archelaus) who had been the wife of his brother Alexander, which Alexander had three children by her; while it was a thing detestable among the Jews to marry the brother's wife. 31

The Biblical prohibitions invalidate marriage. No divorce is necessary, and the issue is illegitimate.
32 In the case of rabbinic prohibitions the marriage was not challenged. The offspring was not considered illegitimate; neither were the parents nor the offspring considered unfit for priestly purposes. The rabbis placed the greater penalty on the woman, perhaps because otherwise they experienced the most leniency. Possibly because of this leniency, the rabbinical law imposed greater penalties on the woman than if she had entered upon the Biblically prohibited marriage. She lost her Ketubah provision; she forfeited the right for support during her husband's lifetime, and alimony if she was widowed. The clauses for ransom, for burial, and for support of minor children were also canceled. She was not entitled to the marriage price, "mohar", but could take only what she could find of her dowry, trousseau, and personal property. She was sent off with

30. Epstein, OP. CIT., pp261-263. See Appendix I.

31. Josephus, OP. CIT., XVII,xiii.

32. J. D. Eisenstein, "Incest - In Rabbinical Literature", THE JEWISH ENCYCLOPEDIA, VI, p574.

a divorce. The latter was compulsory; enforcement was by flagellation or imprisonment. She did have the right to sue for gifts promised her at marriage, but she could not collect for any losses in the value of her dowry or private property used by her husband.

Public sentiment rejected the marriage of an uncle and niece. Such a union was considered incestuous. The Pharisees for years fought this opinion. They insisted that marriage with a niece was permitted and especially meritorious, particularly so if she was the sister's daughter. They took this stand, because they opposed the method of extension of laws by interpretation. They recognized only direct and authoritative legislation. The Biblical code counted kinship from man only, not from woman to man. The Pharisees gave the example of John the Baptist. Altho he protested that Herod had married his brother's wife, he completely ignored the fact that Herodias was his niece. We find that Gamaliel's brother married his niece. Ultimately the rabbis won out. Jewish tradition has consistently been in favor of niece marriage.

In addition to prohibitions because of incest, both the Bible and rabbinic tradition have added others. God forbade whoredom among the Children of Israel. Neither was money gained thru whoredom accepted as a sacrifice. Josephus interprets this to mean that an Israelite could marry a slave, because God would not accept the sacrifices of one who had prostituted her body. The Tannaitic literature interprets it to mean that God would accept sacrifice from an harlot, but not the money which she received for her prostitution. Philo is of the opinion that an

33. Epstein, OP. CIT., p263.

34. IBID., pp251-253.

Israelite might marry a repentant harlot. However, the offspring of such a union would be considered bastards.³⁵

Rabbinic literature makes a special case of the marriage with a slave girl. Her betrothal and marriage was termed a "yi'ud"; this meant that she was betrothed either to her master or his son. The marriage procedure was almost regular thruout. The usual marriage formula was used. The girl's consent was necessary. The one distinctive feature was that no ring or coin was given, because her purchase price included her marriage price. If the father of the girl married her to another after she was sold, the master could still marry her. The other marriage was void. One restriction was that she could not be sold to one who could not marry her because of incestuous kinship. Nor could she be sold with the understanding that neither the master nor the son would marry her.³⁶

The rabbis forbade marriage with any one who was a mamzer, i.e., one born of an incestuous or adulterous union, (Deuteronomy 23,2). Neither the castrated male nor born eunuchs were permitted to marry a Jewish woman (Deuteronomy 23,2). The divorced wife was also not permitted to return to her first husband after she had been married to another (Deuteronomy 24,4).³⁷ Imbeciles and insane could not marry, because they were not considered legal personalities. Marriage was a legal contract,³⁸ entered into only by legal personalities.

A hus^h-child also came under this prohibition. A hus^h-child was one

35. Samuel Belkin, PHILLO AND THE ORAL LAW, pp237-238.

36. Epstein, OP. CIT., pp55-56.

37. IBID., p279.

38. Greenstone, "Marriage Laws", THE JEWISH ENCYCLOPEDIA, VIII, p343.

who knew his mother but not his father. The mother was permitted to testify to the child's purity of birth or could even identify the father. Her testimony was valid for the status of the child, but not in respect to the father. The father's acknowledgement gave the child full legal paternity, and removed him from marriage prohibitions.

The Jews also spoke of foundlings. A foundling who knew neither of his parents could not marry into a Jewish family. Anyone could lay claim on him as long as he was not branded a foundling. The midwife could testify to the pure birth of the child. Once his status was clear, it was difficult to change. Definite proof was necessary to alter it. The testimony of the parents was accepted, if the territory had suffered a famine. This was considered sufficient reason for the abandonment of the child and their prolonged silence.

If a child was found in a city of mixed population, the foundling must go through the ritual of circumcision. If the child was found circumcised or with definite evidence of parental care (oiled, salted, wrapped) or if he was put in a safe place or in front of a synagogue, he was termed a ³⁹parentless child.

The rabbis also opposed marriage between an old man and a young woman or vice versa. They advised against marriage with a divorced woman or a ⁴⁰widow. As a guard against morality, a divorced woman could not marry her seducer, nor could the man marry the woman to whom he had brought

39. Epstein, OP. CIT., pp286-289.

40. Greenstone, "Marriage -- In Rabbinical Literature", THE JEWISH ENCYCLOPEDIA, VIII, p338.

letters of divorce, or in whose divorce case he had testified. No one was permitted to marry in the state of drunkenness. Minors were not permitted to marry. Neither was marriage under fraudulent conditions
41
valid.

Special restrictions applied to priests and the High Priest. A priest "shall not take a wife that is a whore, or profane; neither shall they take a woman put away from her husband: for he is holy unto His
42
God." This forbade him marrying from anyone who had been divorced, assaulted, or who had been a prostitute. He also could not marry a widow who had been refused marriage by a brother-in-law. He could not marry one who had been a captive, unless witnesses established that she had not been assaulted. The same held true if his wife had been captured after their marriage. If her purity could not be established, he was forced to put her away. Crosselytes and free-women came under the sacerdotal restrictions. If he was childless, he was also prohibited from marrying anyone who was known to be barren.

Thus, the priest was forced very carefully to investigate the family of his prospective wife. In the case of a priest's daughter, he was
43
bound to investigate four generations of the family on both sides. Edersheim feels this did not obtain where the bride's father was in
44
actual service or a member of the Sanhedrin. In the case of a Levite
45
or Israelite another degree was added.

Certain restrictions were also placed on those who were permitted

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- 41. Edersheim, OP. CIT., p156.
 - 42. Leviticus 21, 7.
 - 43. Schuerer, OP. CIT., II, p228-229.
 - 44. Edersheim, OP. CIT., pp156-157.
 - 45. Schurer, OP. CIT., p229.

46

to marry the priest's daughter.

More severe restrictions obtained in the case of the High Priest. Leviticus 21, 13-15 specified that he was to marry only a virgin, and was not to profane "his seed, his children, among his people." Philo DE in his/SPECIALIBUS LEGIBUS, I, pp107-108 gives the law thus:

Let the high priest, therefore, take a pure virgin to be his wife; ⁴⁷ I say a virgin, meaning not only one with whom no other man has ever been connected, but one with whom no other man has ever been named in reference to marriage... even though her body may be pure....

This meant that a girl whose betrothed had died was restricted to him. Reference is here made to post-betrothal intercourse. Hence, there might be a suspicion that she no longer was a virgin. ⁴⁷ It was specified that the high priest's bride should not be older than six months beyond puberty. ⁴⁸ If the high priest were betrothed or married to a widow, he was not held to divorce her. ⁴⁹

Mixed marriages were prohibited in both the Levitical and rabbinical codes. In Exodus 34, 16, Deuteronomy 7, 3-4, Joshua 23, 12, 1 Kings 11, 2-4 God prohibited marriage with other than the Jewish race. ⁴⁸ In the early Tannaitic period Deuteronomy 7, 1-4 applied to all nations. Philo also agrees to this. Such marriages were considered invalid. Children were considered non-Jews and could not inherit their father's possessions. This goes back to Ezra 10, 3. The Jerusalem Talmud

46. Schuerer, OP. CIT., p229.

47. Belkin, OP. CIT., p249.

48. Edersheim, OP. CIT., p157.

49. W. P. Paterson, "Marriage", HASKING'S DICTIONARY OF THE BIBLE, III, p268.

definitely states that this was the innovation of Ezra. Philo treats such offspring (in his case between Jew and Egyptian, or Jew and slave-girl, but generally referring to marriage with non-Jews) νόθοι. In Greek law these had no claim to inheritance nor did they have anything in common with legitimate children. He wishes to convey his conviction that such children are legitimate.

50

Touching a heathen itself brought on defilement. To discourage any mating between Jews and non-Jews, chaperonage was imposed between the sexes. Those caught in the act could be killed after the manner of Numbers 25, 7-8. Those who became guilty of such prohibited intercourse were subject to flagellation and other penalties. No matter what ceremonies and guarantees were tried, such a union was never marriage. The children, as in the case of those born of captives and slaves, always followed their mother. They had no family kinship with their father, and hence were illegitimate.

51

52

Ezra 2, 59-66 was interpreted to mean that all who had foreign blood in their veins were not to be admitted into the congregation of pure-blooded Hebrews. This was opposed by the Pharisees. Only priestly and certain aristocratic families clung to this tradition. Thru rabbinic influence the priests finally accepted the rule that if one parent of a proselyte was Jewish, the offspring could marry into a priestly family.

Both Hillel and Shammai agree that Israelites might marry proselytes. ~~To a certain extent the proselytes were subject to Jewish mar-~~

50. Belkin, OP. (1 T.), pp232-235.

51. Epstein, OP. GER., p173.

52. IBID., p62.

riage. Both Hillel and Shammai agree that Israelites might marry proselytes. To a certain extent the proselytes were subject to Jewish marriage laws. A proselyte was permitted to marry one who was born of an adulterous or an incestuous union; in that case the offspring became mamzers like the one parent. On the same basis, a female proselyte might marry a castrated Israelite. Some extended this to a castrated priest.

C. AGE FOR MARRIAGE

In certain respects there were similarities between the Roman and Jewish customs. Altho girls became of legal age at twelve, they were marriageable between thirteen and eighteen. The age varied according to the northern and southern provinces. Altho this was late for the modern age, marriage was considered best when the girl was eighteen. If a woman had no child when she was twenty, she could be subject to legal action.

In the middle and lower classes marriage under eighteen or twenty was an exception. Half-grown boys were not to be married. In the senatorial class he might be twenty-five, holding a quaestorship or some other office. Tucker's view is that the young man could be married when the father permitted him to wear the "toga of a man" and enter the Forum. Nero was sixteen when he married Octavia.

Among the Jews the boy was expected to marry at sixteen or seventeen. Unless he was engaged in study, he could not remain single

53. Ibid., pp199-201.

54. Tucker, OP. CIT., p294.

55. Friedlaender, ROMAN LIFE AND MARRIAGE, I, pp232-234.

56. Tucker, OP. CIT., p294.

after his twentieth year. However, it was considered better to marry and neglect study for married life. Money cares were dreaded, and were compared to a millstone (cf. Luke 17, 2).⁵⁷ The youngest permissible age was thirteen years and a day.

The youngest age for girls was twelve years and a day.⁵⁸ Up till then she was a minor. Before this time her father could betroth her or give her away.⁵⁹ However, she could afterwards insist on a divorce.

D. COURTSHIP

In Proverbs 31, 10-30 God gives us a picture of an ideal wife. The qualifications are set high by the inspired writer. Rabbinical literature warned against marriage with those who constantly at war with each other or call each other by shameful names, or are known for their acts of unkindness or cruelty. Those suspected of impure descent and of an ignorant family should also be avoided. The rabbis rank the qualified maidens thus: 1. of a scholar, 2. of the most prominent man of the community, 3. of the head of the congregation, 4. of the collector for charity, 5. of a teacher of children.⁶⁰

Physical beauty was sought in Galilee and in Jerusalem; in Judea wealth was too much regarded.⁶¹ Beautiful eyes were also desired. Similar stature and complexion were not favored. Meekness, modesty,

56. "Marriage", CYCLOPEDIA OF BIBLICAL, THEOLOGICAL, AND ECCLESIASTICAL LITERATURE, V, p775.

57. Ebersheim, OP. CIT., p147.

58. IBID., p144.

59. Greenstone, "Marriage Laws", JEWISH ENCYCLOPEDIA, VIII, p347.

61. Alfred Ebersheim, THE LIFE AND TIMES OF JESUS THE MESSIAH, I, p149.

shamefacedness were desired qualities.

Edersheim gives us an interesting observation, which sheds much light on the Jewish viewpoint of woman.

...man must seek after woman, and not a woman after a man; only the reason which they (Rabbis) assign for it sounds strange. Man, they say, was formed from the ground -- woman from man's rib; hence, in trying to find a wife man only looks after what he has lost! This formation of a man from soft clay, and of woman from a hard bone, also illustrated why man was so much more easily reconcilable than woman. Similarly, it was observed, that God had not formed woman out of the head, lest she should become proud; nor out of the eye, lest she should lust; nor out of the ear, lest she should become curious; nor out of the mouth, lest she should be talkative; nor out of the heart, lest she should be jealous; nor out of the hand, lest she should be covetous; nor out of the foot, lest she be a busybody; but out of the rib, which was always covered. Modesty was, therefore, a prize quality. 63

The Rabbis gave advice to those who were seeking a wife. "Hasten to buy land, deliberate before taking a wife; descend one step in choosing a wife; ascend one step in choosing the best man." They advised to establish a home and plant a vineyard first and then marry. They stressed marrying a daughter of a respectable family. The man was exhorted to sell his goods to marry the daughter of a learned man. Great blessing was to come to those who gave their daughters to learned men. Again came the warning not to marry of higher rank, for "a shoe that is larger than my foot I do not desire."⁶⁴

It is interesting to note that the Latins had no words for "woo" and "court". The girls were betrothed in early childhood. The arrange-

62. Greenstone, "Marriage - In Rabbinical Literature", THE JEWISH ENCYCLOPEDIA, VIII, p338.

63. Edersheim, SKETCHES OF JEWISH SOCIAL LIFE, p146.

64. Greenstone, OP. CIT., p338.

ments were made thru intermediaries or marriage brokers, who made this their regular business. Often the pair did not know each other till after marriage. ⁶⁵ In theory mutual consent was required. But the law prescribed that the son or daughter could not act independently of their father as long as he lived or had not emancipated them. Usually there was paternal pressure for marriage. Marriages based on mutual attraction ⁶⁶ were exceedingly few.

Among the Jews the story was somewhat different. Social intercourse among the sexes was rather unrestricted. As far as Eastern manners permitted, the young man could take personal choice of his bride. ⁶⁷ If the woman was not a minor, her consent was necessary to make the betrothal and marriage valid. This consent was to be free and voluntary. This was made more possible by the custom observed on the Day of Atonement and the Fifteenth of Ab. The maidens would borrow and immerse white garments to ward off pollution. Glad in these they would go out and dance in the vineyards singing:

Young man, lift up thine eyes, and see what thou art about to choose; fix not thine eye upon beauty, but look rather to a pious family; for gracefulness is deceit, and beauty is vanity, but the woman that fears the Lord, she is worthy of praise.

The young man could go directly or thru his father inform the girl's father of his choice. In the case of the minor the parents could do as they chose. ⁶⁸ Solkin puts the beginning of the majority at twelve years

65. Friedlaender, OP. CIT., pp234-235.
 66. Tucker, OP. CIT., p296.
 2 67. Ebersheim, OP. CIT., p143.
 68. "Marriage", CYCLOPEDIA OF BIBLICAL, THEOLOGICAL, AND ECCLESIASTICAL LITERATURE, V, p774. *Quoted from Megilla, IV, 8 in

and six months, five months longer than the usual figure. There is a difference of opinion whether the mother or brother(s) could give the daughter into marriage after her father's death during her minority. The Shammite school accepted that they had the right. They refused the girl the right to annul the marriage when she reached her majority, if she chose. The other viewpoint is that the mother and her brothers might, with her consent, give her into marriage during her minority. Should she refuse to live with her husband in her majority, the bond was automatically dissolved.⁶⁹

E. BETROTHAL

Betrothal and marriage were two separate rites. This is evident from Matthew 1, 18-19, where Joseph is told to take Mary his wife to himself. According to the Mishna three modes of betrothal were possible. The second was the conveyance of a letter or contract either in person or by messenger to the maiden -- if she was a minor, to her father. The first specified a money payment to the bride. In the case of these first two procedures, the presentation of the money or letter by proxy was possible if it had been expressly stated before witnesses, that the man thereby intended to sanctify the woman as his wife.⁷⁰ The third was that of cohabitation. The latter meant that the betrothal formula was spoken in the presence of two witnesses and then the two could retire to a separate room. This procedure was considered immodest. The man

⁶⁹ Selkin, *OP. CIT.*, pp226-227

⁷⁰ Eidersheim, *OP. CIT.*, p151.

71
was scourged because of his action.

In Rome betrothal was very solemnly and festively celebrated. Very
72 often these became extremely costly. Friends of both houses were present.
The regular form of words were spoken between the prospective groom and
the father of the girl. He then placed a ring on the fourth finger of his
73 fiance's left hand. Very often he also added some other jewelry. The
dowry was the chief consideration. The completion of the legal aspects
74 saw the beginning of the festivities.

The betrothal קִדּוּשׁ was formally made with great rejoicings
in the home of the bride under the tent or slight canopy erected for that
75 purpose (Ps. 19, 4-5). Before two male witnesses, the future groom
gave his bride a piece of money, however small, or of money's worth for
76 use. This coin might even be the perutah, a smaller copper coin of
Palestine. This was followed by the words: "Be thou consecrated to me,"
77 hence the term "kiddishim". Some gave a letter instead of the money. 78

There is some doubt as to when the use of rings came into use.
79 The ring was not known in the Old Testament, however, rings were used
80 in Ancient Rome as a gift to the fiancé. The use of the ring may have

71. "Marriage", CYCLOPEDIA OF BIBLICAL, THEOLOGICAL AND ECCLESIAS-
TICAL LIFE, V, p774.

72. Friedlaender, OP. CIT., p234.

73. Tucker, OP. CIT., pp296-297.

74. Friedlaender, OP. CIT.

75. W. P. Paterson, OP. CIT., p271.

76. Edersheim, LIFE AND TIMES OF JESUS CHRIST THE MESSIAH, I, p149.

77. Westermarck, OP. CIT., pp166-167.

78. Edersheim, OP. CIT., p354.

79. "Marriage", CYCLOPEDIA OF BIBLICAL, THEOLOGICAL AND ECCLESIAS-
TICAL LIFE, V, p776.

80. Westermarck, OP. CIT., p168.

been of some antiquity. The procedure sanctioned by the Talmud demanded that the bridegroom hand the bride an article of value; such as a ring, or a written document, adding: 'By this ring, etc., may she be consecrated (or betrothed) to me.'⁸¹

Whether money or a letter was given directly or indirectly, betrothal always included a legal document, which specified the dowry, gifts, and mutual obligations.⁸²

In Patriarchal Days we find that Rebekah brought female slaves with her when she came to marry Isaac. Judges 1, 15 speaks of Caleb's gift of a field of springs to Achsah, Othniel's wife and his daughter. Just when the giving of a dowry was instituted cannot be determined. In Talmudic days it was considered a "long established custom."⁸³

The father was bound to provide a dowry for his daughter in conformity to her station in life. The second daughter could claim a portion equal to that of her elder sister, or one-tenth of all immovable property. The Jewish law provided that the sons, who were the sole heirs of their father, were bound to maintain their sisters after their father's death. This they were obliged to do even if they themselves would be thrown upon public charity. They were to endow their sisters with a tenth part of the estate.

The dowry, whether in money, property, or jewelry, was entered into the legal document (Shitre Krusin) and later also into the marriage contract. In reality the dowry belonged to the wife. If it con-

5 -81. Paterson, OP. CIT., p270.

82. Hershman, OP. CIT., p354.

83. Greenstone, "Dowry", THE JEWISH ENCYCLOPEDIA, IV, p645.

sisted in money or money's worth, the husband was obliged to add to it one half more. If it consisted in jewelry, he had to assign to her four-fifth of its value. Should they separate (not divorce), he was bound to allow her a proper alimony and to readmit her to his table and house on the Sabbath-eve. A wife had the right to use one tenth of the dowry for pin-money.

In the case that the father failed to specify the dowry, he was bound to give her at least fifty sus. If he expressly stated that she should have no dowry, it was "delicately enjoined" upon the groom to supply his bride before the marriage with sufficient money to buy the necessary outfit. Orphans were entitled to a dowry of at least fifty sus from the parochial authorities.

Other provisions were also made to protect the interests of the woman. If the father was unable to pay the dowry, the groom was either to marry or divorce her. If the bride herself provided the dowry, the groom could let her wait as long as he cared. In case the groom died after betrothal and before marriage, the father of the bride need not pay the dowry promised the deceased to his levirate brother.

A husband could not oblige his wife to leave the Holy Land nor the city of Jerusalem. Neither could he force her to change a town for a country home, or vice versa, nor a good house for a bad. These are but a few of the many legal protections given in the betrothal documents. The groom paid the costs for the legal fees.

84. Edersheim, SKETCHES OF JEWISH SOCIAL LIFE, ppl49-150.

85. Greenstone, CP. CIT.

86. Edersheim, CP. CIT., ppl48-150.

Generally a betrothal feast followed, but this would not be
 87
 sumptuous. Betrothal feasts were not the rule in Galilee. Habits
 were more pure and simple. Consequently they avoided that which might
 88
 lead into sin. After the legal matters were finished, or after the
 feast, a benediction, such as the following was spoken:

Blessed art Thou, O Lord, our God, King of the World, who
 hath sanctified us by His commandments, and enjoined us
 about incest, and forbidden the betrothed, but allowed us
 wedded by Chuppah (the marriage-baldachin) and betrothal.
 Blessed art Thou, who sanctifiest Israel by Chuppah and
 betrothal....

This was perhaps concluded by a benediction over the statutory cup of
 89
 wine, which was in turn tasted by the betrothed.

In Rome the betrothal held as long as both behaved reasonably, or
 as long as the man or the fiance's father did not openly flout public
 opinion. There were no legal compulsions. Both were free to break up.
 The only requirement was to "send back a refusal or a counter-notice."
 Any change of circumstance, even an improved prospect for either was
 sufficient cause for divorce. In other words, betrothal was a matter
 90
 of convenience observed as long as deemed profitable and wise. En-
 gagements in America are similarly observed.

Matthew 1, 18-19 shows that betrothal was considered almost equal
 to marriage. Deuteronomy 22, 22-24 brings out this fact. In the case
 of adultery, the guilty woman was stoned just as a married woman. By
 all means was it considered more binding and solemn than engagements of

87. Ebersheim, THE LIFE AND TIMES OF JESUS CHRIST THE MESSIAH, I,
 p149.

88. IBID., p354.

7 89. IBID., pp149-150.

90. Tucker, OP. CIT., p297.

91
 our modern age. A formal divorce was necessary if either of the two desired to break the betrothal.

It seems generally assumed that intercourse during the betrothal period was prohibited. The status of the betrothed was fixed by the customs of the various towns and localities. 92 In some cases it was permitted that the woman could be taken to her future husband's home. 93 Generally it was implied that physical relations were not begun till after the nuptials.

There is another theory which should be noted. The Jerusalem Talmud in Ket. 25c is quoted by Belkin to say:

In the former days they (the Gentiles) decreed religious persecution in Judah and they raped the daughters of Israel. They decreed that the local ruler should come upon her first (that is, upon the newly married woman). They (the sages) therefore ordained that the husband should have marital relations with the betrothed while she was still at her father's house (before the nuptials).

This was to have continued in Judah, but discontinued in Galilee. After the Maccabean Period a change of population took place; this is 94 given as the reason for the discontinuation of this custom in Galilee. In this connection we are reminded of the prohibition against the high priest marrying anyone who had at some time been betrothed to someone, 95 to assure that he would be marrying a virgin.

A child born to a betrothed pair who had prenuptial sex relations

91. Belkin, OP. CIT., p241.

92. "Marriage", CYCLOPEDIA OF BIBLICAL, THEOLOGICAL AND ECCLESIASTICAL LITERATURE, V, p774.

93. Greenstone, "Marriage -- In Rabbinical Literature", THE JEWISH ENCYCLOPEDIA, VIII, p337.

94. Belkin, OP. CIT., pp246-247.

95. Epstein, OP. CIT., p331.

was given the rank of a doubtful manzer (child of an incestuous or adulterous union). The mother was given the right to testify to the legitimacy of the child.⁹⁵

The marriage followed the betrothal after a longer or shorter period. The limits were fixed by the law.⁹⁷ Geikie suggests that it might have been weeks, months, or even a whole year before the final nuptial ceremony was observed. The interval gave the bride time to prepare herself, to soften the pain of parting from her friends, also perhaps to give them longer benefit of her household services.⁹⁸

II. MARRIAGE

A. PREPARATION

The Romans were very superstitious and made certain that the date of the marriage would be auspicious. For this reason weddings were never contracted during the months of May, early May, or June.

Certain other dates were also considered taboo. During such inauspicious periods neither the state nor the priest would function nor sanction the marriage.⁹⁹

The common wedding day for Jewish maidens was a Wednesday afternoon. This allowed the first days of the week for preparation. It also gave the husband, if he so desired, the opportunity to prefer charges against the previous chastity of his bride before the local Sanhedrin, which sat every Thursday. The marriage of a widow was celebrated on Thursday afternoon; this left three days of the week

96. IBID., p288.

97. Edersheim, SKETCHES OF JEWISH SOCIAL LIFE, p151.

98. Cunningham Geikie, THE LIFE AND WORDS OF CHRIST, p74.

99. Tucker, OP. CIT., p297.

100. Edersheim, OP. CIT., p151.

for "rejoicing with her."

Rabbinical literature sketches other prohibited seasons. Thirty days of mourning were to be observed after the death of a near relative. A widower was to wait three festivals after the death of his wife. If he had little children who needed care, or if he had no children from the previous marriage, he might marry after seven days. Except when urgent cases demanded it, Sabbaths, holy days, also week-days of the Holydays were not permissible periods. The first nine days of the month of Ab were mourning days, and hence no marriages might be consummated. Some prohibited the three weeks from the 17th of Tammuz to the Ninth of Ab. Only on specified days during the time from the Passover to the Shabu'at were marriages permitted. In some localities it was customary
101
to wait only till the 33rd day of Omer.

Josephus reported this custom. If anyone would take a woman captive either a virgin or married, he was not to marry her immediately. Rather was he to give her the opportunity to mourn, to shave her head, and put on mourning clothing. After thirty days marriage was permitted. However, if, after lust was satiated, he would find no desired for her, he
102
was to free her and not make her a slave.

We know very little about the religious preparation for marriage. Geikie tells us that both bride and groom fasted all day before marriage,
103
and confessed their sins in prayer, as on the Day of Atonement.

B. ROMAN MARRIAGE

Many preparations for the marriage were made in Rome. The homes of

101. Greenstone, CP. CIT., p338.

9 102. Josephus, ANTIQUITIES, IV, viii.

103. Geikie, CP. CIT., p330.

both were festively lit up; the ancestral cupboards were opened and
 decorated with carpets, wreaths, and green twigs. ¹⁰⁴ The vestibules
 of both houses were garlanded with leaves and boughs. Friends and
 clients gathered at the bride's home. ¹⁰⁵

The bride's dress was usually the gift of the groom. Fliny the
 Younger sent one Quintillion a gift of fifty thousand sesterces to help
 him provide the service and trousseau for his bride. Rich brides wore
 ornaments and jewelry which were usually included in the outfit. The
 principal part of the bridal robes was a square flaming headdress,
 falling down to her sides with her face exposed. ¹⁰⁶ The bride wore her
 hair in six plaits or braids with a coil on the head, parted by a spear-
 resembling instrument. A bridal wreath of flowers was placed on her
 coiffure. She was to have gathered these flowers herself. She wore
 low yellow shoes. Previously the bride had dedicated her dolls to the
 household gods to indicate her maturity to them and her family. ¹⁰⁷

In early days the bride entered the groom's house at the rise of
 the evening star. Later this custom was changed. The procession was
 held sometime during the evening. Streets were crowded with specta-
 tors. Bonfires were lit in the streets. ¹⁰⁸ Before the procession
 there was a pretense of carrying the bride off by force. The bride
 was followed by bearers of the spindle and the distaff. She herself
 was led by two pretty boys. The groom scattered nuts or confetti

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104. Friedlaender, OP. CIT., p235.
 105. Tucker, OP. CIT., p298.
 106. Friedlaender, OP. CIT.
 107. Tucker, OP. CIT.
 108. Friedlaender, OP. CIT.

before them.

The bride was carried across the threshold. The marriage contract was signed and sealed before witnesses in the reception hall. The bride was then led by younger married women to the groom. These spoke a formula comparable to "Good luck to you!"¹⁰⁹ The couple went to the household altar and sacrificed.¹¹⁰ The groom gave fire and water to the bride to signify their common share in goods. She then prayed to the gos.¹¹¹ This was looked upon as the introduction to married life. A wedding dinner followed, the two sitting together. The feasts became so luxurious that they had to be restricted by law. Great numbers of entertainers and doles were present. Huge sums of money were used as gifts to all of these.¹¹²

C. MARRIAGE PRELIMINARIES

The Jewish bride was veiled from head to foot. The reference in Revelation 19, 8 would seem to indicate a veil of fine white linen. This was in accordance with the Eastern idea of propriety and also as a symbol of her subjection (1 Cor. 11,10). She was dressed in a peculiar girdle. This was always a part of her dress, and the "attire" which she could never forget. Jeremiah speaks of this in verse 32 of chapter two. If she had not been married before, her hair was left flowing but was covered with the veil. Her whole dress was perfumed. She glittered with all the jewels of which her family boasted. If she was poor, she would borrow some for the occasion. She wore a wreath of myrtle leaves, either real, of gold, or gilded. This wreath

109. Tucker, OP. CIT., pp298-300.

110. Friedlaender, OP. CIT.

111. Tucker, OP. CIT.

112. Friedlaender, OP. CIT.

became so indispensable that it became a term for the bride herself.¹¹³
 The eyelids and eyebrows [according to Thomson] were blackened with kohl.
 Her eyes were made to appear almond-shaped. This gave peculiar brilli-
 ancy to the eye. It caused a languishing, amorous cast to her whole
 face. Her cheeks were sometimes colored with cosmetics.¹¹⁴

The bridegroom wore a crown, often of flowers. Of this crown it
 is said in the Song of Solomon 3, 11: "the crown wherewith his mother
 crowned him in the day of his espousals, and in the day of the gladness
 of his heart."¹¹⁵ He "decked himself with ornaments...."¹¹⁶

Also essential for the marriage festivities in Judea were "the
 friends of the bridegroom." We would call them groomsmen. This was
 strictly a Jewish custom and not to be found in Galilee. In Matthew 9,
 15 "children of the bridechamber" are mentioned. This was a general
 term for all those who attended the wedding.

(In John 3, 29 "the friend of the bridegroom" is mentioned.) In
 Judea two groomsmen were at every wedding; the one served the groom,
 the other the bride. Before the marriage they acted as intermediaries for
 the couple. At the wedding they offered gifts, waited upon the bride
 and groom.¹¹⁷ One of these also acted as master of ceremonies.¹¹⁸ They
 also attended the couple to the bridal chamber to attest, as it were,
 the chastity of the bride. The latter custom sometimes degenerated

114. W. M. Thomson, THE LAND AND THE BOOK, II, p189.

115. Geikie, OP. CIT., p330.

116. IBID., p331.

117. Edersheim, OP. CIT., pp152-153.

118. Paterson, OP. CIT., p272.

into coarseness. After the marriage it was the duty of the groomsmen of the bride to maintain the proper relations between the couple, and especially to defend the good fame of the bride against all accusations. Exodus 19, 17 speaks of Moses as the "friend of the bridegroom" who leads out the bride. Jehovah in Psalm 68, 7 is described as the bridegroom meeting His Church at Sinai. Certain mystic writings also describe God as acting as "the fixed of the bridegroom" at the meeting of our first parents in Eden. An ancient Rabbinical commentary states that God Himself took the cup of blessing and spoke the benediction, while Michael and Gabriel, the archangels, acted as "the bridegroom's friends." to our first parents when they wedded in Paradise.

Ordinary Jewish custom demanded that the groom with his groomsmen and friends go to the bride's home to get his bride with her attendant maidens and friends and bring her to his own or his parent's home. The groom usually went to get his bride in the evening. Fluteplayers or singers went before the group. The groomsmen and others carried flaring torches or lamps. According to Jewish authorities, ten such lamps were standard for such processions. These lamps were round receptacles for pitch or oil for the wick. These were placed in hollow cups or deep saucers, fastened by pointed ends into long wooden poles and carried aloft.

The bride was led from her paternal home to that of her husband.

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119. Edersheim, OP. CIT., pp153-154.
 120. Edersheim, THE LIFE AND TIMES OF JESUS THE MESSIAH, II, p455.
 121. Geikie, OP. CIT., p330.
 122. Edersheim, OP. CIT.

First came the sound of music; then came those who distributed wine and oil among the people, and nuts among the children. The bride, covered with her bridal veil, was surrounded by her companions. She was led by "the friends of the bridegroom", and "the children of the bride-chamber" (guests). Everything breathed a festive spirit. Some carried the lamps previously mentioned. Those nearest wore myrtle branches and chaplets of flowers. Every one rose to salute the procession. In fact, it was deemed almost a religious duty to break into praise of the beauty, the modesty, or the virtues of the bride. ¹²⁵ The Talmud has preserved us a few lines of the songs sung by the bridesmaids and girls as they danced before the bride:

Her eyelids are not stained with blue,
 Her red cheeks are her own;
 Her hair hangs waving as it grew,
 Her grace were wealth, alone! 124

When she arrived at her new home, she was led to her husband.

"Some such formula as 'Take her according to the Law of Moses and of Israel,' would be spoken...." The two were then crowned with garlands. ¹²⁵

D. THE KETUBAH

While still at the threshold, the formal legal instrument was signed. This instrument was called *Kethubah* (כתובה) ¹²⁶ It set forth that the groom would "work for her, to honour, keep, and care for her, as is the manner of the men of Israel...." Other financial and legal

123. IBID., p354.

124. Geikie, OP. CIT., p331.

125. Ederheim, OP. CIT.

126. "Marriage", CYCLOPEDIA OF BIBLICAL, THEOLOGICAL, AND ECCLESIASTICAL LITERATURE, V, p776.

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matters were included.

The origin for the Ketubah was claimed on the basis of Genesis 25, 6. It is said that Keturah's sons were sent away, because Sarah had the Ketubah, but Keturah had none. The Talmud also says this of David's wives and concubines. Maimonides says that it was established by "the Grek Sanhedrin in order that a Jewish wife should not be light in her husband's eyes." Hillel supposedly adopted it as a safeguard against the matrimonial irregularities of the Alexandrians. The Mishnah speaks of three different forms: that of Jerusalem, of Judea, and of Galilee. 128

Under the Ketubah laws, the minimum for virgins was placed at two hundred sus, for non-virgins at one hundred, for priest's daughters at four hundred. 129 The amount could be increased. The noble families of Jerusalem doubled them. Also mentioned in the Ketubah was the amount of the dowry and the additions of the husband. All the ordinary obligations of the husband to his wife were included. 130

The Ketubah was a most important part of the marriage ceremony. The Rabbi stipulated that no conjugal relations could be established till the Ketubah was ready and the full sum stipulated by them for the individual cases had been met. If lost, it could be replaced by action from the court. In addition to the two concerned, two or three witnesses were required to sign the new document. A record of the loss

127. Edersheim, OP. CIT., pp354-355.

128. Elkin N. Adler, "Ketubah — Archaeologic and Paleographic", THE JEWISH ENCYCLOPEDIA, VII, p474.

129. Edersheim, SKETCHES OF JEWISH SOCIAL LIFE, p149.

130. Greenstone, "Ketubah", THE JEWISH ENCYCLOPEDIA, VII, p472.

and a request by the husband to replace the loss was to be recorded. Also noted was the date of the first. If this was impossible, the date of the second was inserted.¹³¹

By the Ketubah all property of the husband, real and personal,¹³² was mortgaged. This was a later development. At first it was a lien on all real estate owned by the husband during his lifetime. If he had none at his death or at the divorce, the lien fell on everything he had sold. Arbitrary divorce practices forced heavier restrictions. At first marriage settlement was made with the wife's father. Then it was converted into some valuable household goods of which the husband had the use, but they were entrusted to the wife. Later the amount stayed with the husband, but a lien was made against his property.¹³³ Finally his entire personal estate was made liable to the Ketubah.

The woman had the right to sell or give away. However, she could not release her husband from all or part of the Ketubah. It was her inalienable right and protection. If there was no written Ketubah, she could collect the minimum sum, depending on whether she had been a virgin, a non-virgin, or a priest's daughter. If the husband refused his wife the conjugal rights, the Ketubah was increased 36 grains of silver every week of the default by the court.

The husband or his heirs were legally bound to fulfill certain conditions. If the mother died before her husband, her male children

131. IBID., pp472-473.

132. W_ostermark, OP. CIT., pp174-175.

133. Greenstone, OP. CIT., p472.

inherited the Ketubah. If he had children by other wives, the amount of the Ketubah was first subtracted from the inheritance and given to the heirs on the mother's side. Then the remainder was divided equally among all the sons. The daughters had to be supported from the estate until they either married or became of age. Unless the widow married or left her husband's house, she had the legal right to live in her deceased husband's house. In some localities, the phrase was inserted:¹³⁴
 "until the heirs shall be willing to pay her the amount of the Ketubah."

The Ketubah could be claimed only at the death of the husband or in case of a divorce. Advances could be made to the wife during his lifetime. Unless he had renounced these rights before marriage, he in turn controlled all her property from the time of their betrothal.¹³⁵

Further conditions were attached to the Ketubah. If the document was in the possession of the woman, she could collect many years after his death or divorce, even if she were married to another. If it was not in her possession, and she had left his house and married again, she retained the right to collect only for twenty-five years. Thereafter she waived the right. The law read that the Ketubah was always to be claimed at divorce. Before the widow could collect, she was forced to swear that her husband had never paid her all or a part, and that she had not taken it without his knowledge.¹³⁶

In the case of a divorce, the court, after payment of the Ketubah or Get, tore it crosswise, and wrote on it these words:

134. *IBID.*, p474.

135. "Marriage", *CYCLOPEDIA OF BIBLICAL, THEOLOGICAL AND ECCLESIASTICAL LITERATURE*, V, p776.

136. Greenstone, *OP. CIT.*, p474.

which would make it impossible for the woman to claim the amount of the
 137
 Ketubah at some other time.

If the woman was found a non-virgin at the first intercourse, and her husband made a case of it, she lost one hundred dinars or sus of her Ketubah. This would place her on the same level with a non-virgin or
 138
 widow. The marriage, however, remained valid. If the wife refused conjugal rights, the court sent her a warning that she would lose the Ketubah. If she remained obdurate, the fact was announced in the synagogue for four Sabbaths. Another warning was issued. Then the husband was relieved of the duty of supporting her. After twelve months a
 139
 divorce followed.

The Ketubah could be forfeited for less serious wrongs, such as serving her husband forbidden food; cohabiting with him during her unclean period; breaking her vows; uncovering her hair in the street; flirting with strangers; cursing her husband's parents in his presence; having made vows before her marriage; refusing to follow her husband from one place in the same country; or from any country to Palestine;
 140
 or from any Palestinian city to Jerusalem.

E. THE MARRIAGE ITSELF

After the Ketubah was duly written and signed, the prescribed
 141
 washing of hands and the benediction followed. The feast now observed was considered an essential part of the ceremony, for it
 142
 meant a sacrificial eating together. At the celebration, parched corn

137. Greenstone, "Get", THE JEWISH ENCYCLOPEDIA, V, pp646-647.

138. B. Ikin, OP. CIT., p129.

139. Greenstone, "Ketubah", THE JEWISH ENCYCLOPEDIA, VII, p474.

140. IBID. See Appendix III.

141. Ederheim, THE LIFE AND TIMES OF JESUS THE MESSIAH, I, p355.

142. Paterson, OP. CIT., p272.

143

was distributed among the guests if the bride was a virgin. The bride, shrouded in her long white veil, sat apart with the women. The celebration was a time of great mirth (Jeremiah 7, 34). There was singing, music, dancing, merry riddles, and a play of wit. The riddles remind us of that which Samson posed to the Philistines at his wedding. Usually the festival lasted seven days, for it was considered a religious duty to give merriment and pleasure to the new couple.

The marriage supper was usually ended with the cup of thanksgiving. Over it was spoken the solemn prayer or bridal benediction, also known as the seven-fold cup of benediction. This was spoken by the bridegroom in the presence of at least ten persons, provided the feast was small. sometime during the feast, very probably after this benediction, either the "sons of the bridegroom" or the parents led the bride to the bridal chambers (chedar) and the bridal bed (chuppah). The bride went with hair unloosed but the veil was not removed till the bride and the groom were together in the bridal chamber.

F. MARRIAGE DUTIES

Among the Romans, the woman by marriage passed from the nursery to the married state, from constant surveillance to absolute freedom.

143. "Marriage" CYCLOPEDIA OF BIBLICAL, THEOLOGICAL AND ECCLESIASTICAL LITERATURE, V, p776.

144. Geikie, OP. CIT., p331.

145. Edersheim, SKETCHES OF JEWISH SOCIAL LIFE, p152.

146. Edersheim, THE LIFE AND TIMES OF JESUS THE MESSIAH, I, p335. See Appendix IV for the "Seven-Fold Blessing".

147. "Marriage" CYCLOPEDIA OF BIBLICAL, THEOLOGICAL AND ECCLESIASTICAL LITERATURE, V, p776.

148. Peterson, OP. CIT.

149. Edersheim, SKETCHES OF JEWISH SOCIAL LIFE, p154.

150. Geikie, OP. CIT.

151. Friedlaender, OP. CIT., p232.

The woman managed the home and family. Short of actual infidelity, she was permitted to live her own life. As long as she conformed to accepted etiquette her husband had little power over her. There were various factors which kept such a marriage from shattering. These were home influence, Roman pride, joint interests, sometimes even esteem and affection. Little information on the lower classes is available. In the upper classes the husband usually saluted his wife as "madam" when with her in public.

According to Exodus 21, 9-10, the husband owed at least three duties to his wife. In the words of Scripture these are:

And if he have betrothed her unto his son, he shall deal with her after the manner of daughters. If he take him another wife; her food, her raiment, and her duty of marriage, shall he not diminish.

Jewish law spoke of seven more. These include her settlement, medical treatment in the case of illness, redemption from captivity, a respectable funeral, the right to live in his home as long as she remained a widow and had not been paid the dowry, the support of her daughters till they were married, and a final provision that her sons should also share in her part in addition to receiving a portion of their father's inheritance.

The wife had the right of board at her husband's table. Even if he gave her sufficient money for her support, he could not send her away against her wishes. She had the right to leave the house if

152. Tucker, *OP. CIT.*, pp290-291.

153. *IBID.*, p301.

154. Eiersheim, *OP. CIT.*, p158.

he maltreated her or lived in a bad neighborhood. In this case he had to support her where she lived. If her husband left her temporarily, he was liable to support her from his property. If she sold his property without his consent, the sale was valid. Her husband was liable for money she might borrow for her own support. No one could collect money from her; this also was true in case the husband became insane.

Further laws were formulated on the matter of support. The poorest had to give his wife bread at least twice a day. He was obliged to give her sufficient oil for eating and lighting, also wood for cooking. She was entitled to fruit and vegetables, also wine where it was customary. On the Sabbath Day he was bound to give her three meals of fish and meat. Every week she was to receive one silver coin (ma'ah) for her pocket money. If the husband was unable to comply with these regulations, some favored a divorce; others held that he was forced to hire himself out as a day-laborer, to provide for her support. If he refused to support her, court action could be taken.

The law also protected her in respect to her clothing and lodging. The home was to be suitably furnished. Her raiment was regulated by her custom and station in life. She was to be provided a wardrobe for the various seasons of the year. Each holy day should see her wearing, or at least having, new shoes. She was also entitled to the customary perfumes and ornaments. Failure to provide these made divorce imperative.

By any virtue of her marriage, she was assured the payment of all medical expenses. Altho it was not legally necessary, humane action demanded the full payment of expenses in case of a long illness.

The husband had certain duties in regard to ransoming his wife, should she become a captive. Even if the ransom was above the sum stipulated by the Ketubah, the husband was obliged to pay. A priest was forbidden to live with her, unless he could definitely establish her purity. Nevertheless, he was required to ransom her, restore her to her father's house, and pay her the sum of the Ketubah. Should both be captured, she was to be ransomed first from their property sold by court action.

Her burial was to be in accordance with the prevailing customs and her station in life. He was to hire mourners. If custom demanded, he was obliged to erect a tombstone and whatever else was necessary. Court action followed refusal to observe these regulations or to absent himself from her funeral.

The Talmud added further advice to the husband. He was advised to love and honor her more than himself, to get her counsel in earthly matters, to cause her no sorrow, and to maintain a democratic, loving home. He who divorced himself from the wife of his youth was held in contempt. The Rabbis said that he was hated by God. The death of the wife was likened unto the destruction of the Temple. The saying went:
155
"The wife dies in the husband's death; he in hers."

Cohabitation was regulated by the rabbis in accordance with the occupation of the husband. The continued refusal of cohabitation was
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adequate reason for divorce. There were different interpretations of the Levitical law still held. After cohabitation they restricted
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the priest from touching or eating consecrated things till evening.

155. Greenstone, "Husband and Wife -- Legal Relations", THE JEWISH ENCYCLOPEDIA, VI, pp509-510.

156. IBID.

157. Belkin, OP. CIT., pp223-225.

The wife had certain obligations over against her husband. The housework was her responsibility. She was obliged to nurse the children. If twins were born to her, she nursed one and secured a wet nurse for the second. A large dowry freed her from most of the work. If she desired, she could do only such work which gave ease and comfort to her husband. However, she was always to be doing something.

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All her gains belonged to her husband, also her inheritance. Her husband had the usufruct of her dowry. He could use the gains made thru her dowry, but was responsible for its loss. He was her sole heir by law.

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As a married woman, she was obliged to live with her husband. Should she refuse conjugal relations, he could divorce her as previously stated. He had the right to refuse her a divorce and the payment of the Ketubah. However, he did not have the right to force her to go with him from a large city to a small town. Unless she reasonably pleaded the danger of travel on certain roads, she was bound to accompany him to live in Palestine.

160

The Talmud advised her not to go out so much, lest she give a bad impression. When alone with her husband, she was to be modest. She could best show her praise by fulfilling her husband's desires. This was considered more effective than a verbal effusion of admiration and

158. Greenstone, OP. CIT.

159. Kdersheim, OP. CIT., pp158-159.

160. Greenstone, "Domocil" THE JEWISH ENCYCLOPEDIA, IV, pp634-635.

161

praise.

To get the correct picture of Jewish marriage one must consider the Jewish view of the worth of woman. In distinction from other Orientals, she mingled freely with others both at home and abroad. She was not subjected to a social inferiority, but rather took an influential and often leading part in all movements. This was especially true in those of a religious character. Classical literature abounds with sickening private and public immorality. In Israel the woman was spared from such immorality. Significant is this fact:

Among Israel woman was pure, the home happy, and the family hallowed by a religion which consisted not only in public services, but entered into daily life, and embraced in its observances every member of the household. 162

In I Peter 3, 5 the Apostle refers to "the holy women" "in the old time." This was thoroughly in accordance with Talmudic views. The Rabbinical writings quote Genesis 18, 12, and point to Sarah as a pattern of respect and obedience for the women of that day.

The Rabbis comment on the creation of woman from the rib of Adam thus: "It is as if Adam had exchanged a pot of earth for a precious jewel." Caustic Jewish wit added: "God cursed the woman, yet all the world runs after her; He cursed the ground, yet all the world lives of it." Scripture points to women and shows the influence

161. Greenstone, "Husband and Wife"— Legal Relations", VI, THE JEWISH ENCYCLOPEDIA, pp609-610.

162. Edersheim, OP. CIT., p139.

which they exerted. We think of Sarah, Rebekkah, Leah, Rachel, Deborah, Miriam, Abigail and the Shunamite Woman. Woman's devotion froms the story of the Book of Ruth. Her pure and faithful love is the theme and the imagery of the Song of Solomon. Her courage and devotion provided the groundwork for the Book of Esther. Her worth and virtues are dealt with at length in the closing chapters of Proverbs. The very terms of the Old Testament for woman are significant. The man is אִישׁ, the woman אִשָּׁה, his equal. The husband is termed אֲדוֹנָי, the ruler, his wife אִשְׁתִּי and אִשְׁתֵּי, the mistress in her own domain.

163

If good and virtuous, the wife was considered the husband's greatest blessing. In Palestine it was customary to address a newly married man with *Maza* or *Moze?* These terms refer to the words of Proverbs 18, 22 and Ecclesiastes 7, 26. The innermost apartment was always hers to give her the best protection. False accusations against her chastity were severely punished. The Rabbis beautifully paraphrased Malachi 2, 13, in which the prophet mourns over those who had put away or "treacherously dealt" with the wife of their youth:

164

If death hath snatched from thee the wife of youth,
 It is as if the sacred city were,
 And e'en the Temple, in thy pilgrim days,
 Defiled, laid low, and levelled with the dust.
 The man who harshly sends from him
 His first-woo'd wife, the loving wife of youth,

163. Eidersheim, OP. CIT., pp140-141.
 164. Greenstone, "Marriage — In Rabbinical Literature", THE JEWISH ENCYCLOPEDIA, VIII, pp337-338.

From him the very altar of the Lord
Sheds forth its tears of bitter agony. 165

The various expressions of the New Testament were concurrent with the sentiments of the Rabbis. Woman was held in high esteem. "an, however, was warned not to permit woman to rule over him. The Rabbis had the saying concerning a henpecked husband: "Whoever allows himself to be ruled by his wife, shall call out, and no one will make answer to him."
166

III. D I V O R C E

A. ADULTERY

The Bible speaks plainly in the matter of adultery. The Lord attached certain penalties to the intercourse of a virgin outside of the marriage bond. If a betrothed virgin was violated in a city, both the man and the virgin were to be stoned outside of the city gates. Should a virgin be violated in the field, only the man would be subject to the death penalty. The man who violated an unbetrothed virgin was forced to give the damsel's father fifty shekels of silver, and to marry the damsel. He could not "put her away all his days."
167

There are some varying opinions as the interpretation of this Biblical section. The Alexandrian Jews did not class the violation of an unmarried woman as robbing a virgin of her virginity, or as being adultery; they considered it a crime which the court could

165. Edersheim, OP. CIT., p143.

166. IBID., p146.

167. Deuteronomy 22, 23-29.

punish either by fine or by stripes. Rabbinical literature states that the one who violated a virgin must marry her. However, if the girl had reached maturity, the man was not obliged to marry her. Philo applied the Biblical law only to a virgin. Philo held that intercourse with an unmarried woman was not adultery in the same degree as adultery with a married woman. The latter called for the death penalty. The former was a matter of either stripes or a fine, but never both.

Rabbinic literature fully discusses the legal nature of sexual intercourse with an unmarried woman. If she had intercourse for the sake of intercourse and not marriage, her relationship was stigmatized as a "connection of prostitution." Some termed her an adulteress.¹⁶⁸

Josephus said: "He that corrupts a virgin that is not yet betrothed shall marry her himself."¹⁶⁹ Here he speaks of the virgin and uses the term παρθένος. He said that he who violates an unmarried woman is subject to the death penalty.¹⁷⁰ Philo speaks of raping an unmarried woman as being one of the greatest crimes, greater than raping a virgin.¹⁷¹

The Talmud was very definite about insisting on the observance of the accepted legal procedure in drawing up the marriage contract. In Kit. 5, 1 of the Mishnah we read:

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168. Belkin, OP. CIT., pp257-258.
 169. Josephus, ANTIQUITIES, IV, viii.
 170. Josephus, CONTRA APIONEM, II, 38.
 171. Belkin, OP. CIT., pp260-261.

R. Meier says, whoever giveth to a virgin less than two hundred dinars, or to a widow less than a menah (for their respective ketubah), his intercourse with them is an intercourse of fornication.

The Talmud further states as accepted law that, if a person married a woman not in accordance with the manner prescribed by the rabbis, the authorities have the right to annul the marriage. In this case, the marriage relations were considered mere prostitution. 172

Concerning the violation of a widow or a divorcee, Philo says in De Specialibus Legibus III, p64:

If any forcibly dishonors a woman ... widowed either by the death of her husband or by some sort of divorce, he has committed a lighter sin than adultery, about one half as serious...and so shall he be relieved of the death penalty. But since he has regarded the most base things as the most desirable, let him be indicted for forcible deprivation..., contumelious assault, criminal lack of control...and impertinence...and let the judge decide in his particular case whether he has to be punished in person or by a fine.... 173

This fine would go to the widow for the bodily damage inflicted. 174

Either the stripes or the fine could be levied.

The Bible poses the possibility that a man may accuse his wife of being a non-virgin at marriage. In this case, the father was required to bring the "tokens of her virginity"...., "and they shall spread the cloth before the elders of the city." The husband was to be chastized and pay the bride's father one hundred shekels of silver "because he hath brought an evil name upon a virgin of

172. IBID., pp258-259.

173. IBID., p257.

174. IBID., p260.

Israel; and she shall be his wife; he may not put her away all his days." Should the tokens of her virginity not be found, the woman was to be taken outside of the city and stoned to death for having played the whore in her father's house. 175

Josephus agrees with the Biblical law that the guilty woman should be stoned to death. A priest's daughter, however, was to be burned. 176 The rabbis held that neither a penalty could be assessed nor the marriage be annulled. The Talmudic interpretation of the Mishnah was to be reduced a hundred dinars. This would put her on the same level with a widow. 177 Philo held that this would be a case of misinterpretation by the parents. They could be assessed a fine for their deception. The husband would have the right to punish her, but she would not be forced to suffer the penalty of stoning. 178 The Tannaitic Halakah held that the girl might be punished by death only if witnesses testified to her adultery after the betrothal. The mere inability of her father to produce the necessary evidence (stained garments) was considered insufficient evidence for the death penalty. If she had sexual intercourse before betrothal she was free of any penalty according to the Jerusalem Talmud. 178

Cases of unchastity were tried before a court of twenty-three

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- 175. Deuteronomy 22, 13-21.
 - 176. Josephus, ANTIQUITIES, IV, viii.
 - 177. Belkin, OP. CIT., p263.
 - 178. IBID., p265.

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which was the usual number of judges in capital cases.

The Biblical law spoke of another possible happening. If a husband suspected his wife of having defiled herself with another wife, he was given the opportunity to have her tried. She was to be presented before a priest; the offering of jealousy was to be offered for them. Then the priest would set her apart before the Lord, take holy water, mix it with the dust of the floor of the tabernacle, and uncover her head. She was to be charged with an oath to take the bitter water "that causeth the curse", and suffer the consequences. If she showed no evil effects, the jealousy was destroyed, and she went free. If the bitter water and its curse caused her thigh to rot and her belly to swell, the woman would be a curse among the people. ¹⁸⁰ This trial by ordeal was abolished by Jochanan ben Sakkai soon after the de-
¹⁸¹struction of Jerusalem. Edersheim tells us that it was the custom in the case of a woman accused of adultery to have her hair "shorn or shaven", at the same time using this formula:

Because thou hast departed from the manner of the daughters of Israel, who go with their head covered; ...therefore that has befallen thee which thou hast chosen. ¹⁸²

To prevent immorality men were forbidden in the sopheric age to
¹⁸³hold private interviews with married women in solitary places.

179. IBID.

180. Numbers 5, 11-31.

181. Schuerer, OP. CIT., p366.

182. Edersheim, OP. CIT., p154.

183. Heinrich Graetz, HISTORY OF THE JEWS, II, p397.

B. MINOR CAUSES

The ease and frequency with which a divorce could be obtained appears from the questions addressed by the Pharisees to Christ: "Is it lawful for a man to put away his wife for every cause?" (Matthew 19, 3). Altho it was above their highest moral standard, the Jews could have no objection to Christ's teaching. This standard was represented by the School of Shammai. Christ gave the answer:

Whosoever shall put away his wife, except it be for fornication, and shall marry another, committeth adultery: and whoso marrieth her which is put away doth commit adultery. 184

This is a statement which even the strictest Shammite would not accept. 186

The Old Testament divorce law read:

When a man hath taken a wife, and married her, and it come to pass that she find no favor in his eyes, because he hath found some uncleanness in her: then let him write her a bill of divorcement, and give it in her hand, and send her out of his house. And when she is departed out of his house, she may go and be another man's wife. 187

The Shammite school placed the emphasis on the phrase "some uncleanness in her." Farrar wrongly accepts that Shammai meant only scandalous unchastity. 188

The view of the Lange Commentary is that "some uncleanness" meant "Unkeuschheit, Schamlosigkeit, Unzucht, Ehebruch, auf welche Stuecke ja aber der Tod stand." 189

In his commentary on Matthew he states that Shammai insisted on the necessity of a criminal

184. Matthew 5, 32.

185. Matthew 19, 9.

186. Edersheim, OP. CIT., p154.

187. Deuteronomy 24, 1-2.

188. Farrar, OP. CIT., p469.

189. F. W. J. Schroeder, THE DEUTERONOMIUM ODER DAS FUENFTE BUCH MOSE, p160.

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and legal cause for divorce. Schuerer implies that he also

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understands Shammai thus.

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Edersheim points out why the aforementioned misinterpreted/stand
of Shammai:

Taking their departure from the sole ground of divorce mentioned in Deut. xxiv, i: 'a matter of shame (literally, nakedness), in the School of Shammai applied the expression only to moral transgressions, and, indeed, exclusively to unchastity. It was declared that, if a woman were as mischievous as the wife of Ahab, or (according to tradition) as the wife of Korah, it were well that her husband should not divorce her, except it be on the ground of adultery. At the same time this must not be regarded as a fixed legal principle, but rather as an opinion and good counsel for conduct. The very passage, from which the above quotations are made, also afford only too painful evidence of the laxity of views and practices current. And the Jewish law unquestionably allowed divorce on almost any grounds; the difference being, not as to what was lawful, but on what grounds a man should set law in motion, and make use of the absolute liberty which it accorded him. Hence, it is a serious mistake on the part of the Commentators to set the teaching of Christ on this subject by the side of that of Shammai. 192

In reality, the Shammites included breaches of the marriage vow, of
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the laws and customs of the land. This was possible because of their interpretation "an unseemly thing" or "some uncleanness". If she went out on the street with her hair or any part of her body uncovered, or showed herself immodest (which might lead indirectly or directly to adultery), the husband had the right to divorce her. Philo followed
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the view of Shammai.

The school of Hillel took the words "matter of shame" in the

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190. John Peter Lange, THE GOSPEL ACCORDING TO MATTHEW, pp115-116.
191. Schuerer, OP. CIT., p493.
192. Edersheim, THE LIFE AND TIMES OF JESUS THE MESSIAH, II, p333.
193. Edersheim, SKETCHES OF JEWISH SOCIAL LIFE, p157.
194. Belkin, OP. CIT., pp230-231.

widest possible sense. If a woman spoiled her husband's dinner, she could be divorced. Rabbi Akiba thought that the words "she find no favor in his eyes" implied that a man would be permitted to divorce his wife if he found a woman more attractive than she. 195

According to the Mishnah, the woman could be divorced with the loss of her dowry if she transgressed against the Law of Moses or of Israel. By the former was meant a breach of the laws of tithing, of setting apart the first of the dough, and of purification. The law of Israel is explained to refer to such offences as going in public with uncovered hair, of spinning in the public streets, entering into talk with men, brawling, disrespectfully talking to her husband's parents in his presence. Ill repute and barrenness for ten years were also regarded as valid reasons for divorce. A troublesome or quarrelsome wife might be sent away. 196

It was an age in which women counted their age by repudiated husbands, says Seneca. The Jews had fallen into the same shameful practice. Since polygamy was discredited, divorce was made easy. We are told of two Rabbis who proclaimed their desire to be married for a day only. Farrar reports that Rabbi Jochman, whenever he stayed in town for a short time, openly sent criers out for a wife. 197 198 199

So lax were the divorce practices that the Rabbis found it

195. Edersheim, THE LIFE AND TIMES OF JESUS THE MESSIAH, II, pp333-334.

196. IBID. p334.

197. Farrar, OP. CIT., p469.

198. Edersheim, OP. CIT., p331.

199. Farrar, OP. CIT., p468.

necessary to surround marriage with so many safeguards to make divorce in many cases a rather difficult matter to accomplish. The whole Mosaic legislation in general, and later rabbinical ordinances even more tended to recognize "the rights of woman with a scrupulousness which reached down even to the Jewish slave, and a delicacy that guarded her most sensitive feelings." In cases of dispute the law was
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generally on her side.

The Rabbis tried to temper the laxity of the penalty to be paid by him who falsely accused his wife of pre-nuptial incontinence or who ravished an unmarried woman. They prohibited divorce from an insane captive, or a wife who was a minor.
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In the case of insanity, the man could not divorce his wife, because she no longer was a legal
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personality. The minor could not be divorced, because she was too young to understand the meaning of divorce. All mentally deranged and delirious could not be divorced. A deaf-mute could be divorced only if he or she had been so previous to marriage. In preference to granting a divorce, the Rabbis chose to make reconciliation their
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duty.

Philo says in his DE SPECIALIBUS LEGIBUS, III, p30 in regard to remarriage of divorcees:

But if a woman, having been divorced from her husband under any pretense whatever and having married another, has again become a widow, whether her second husband is alive or dead, still she must not return to her former

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200. Edersheim, SKETCHES OF JEWISH SOCIAL LIFE, pp142-143.
201. Westermark, OP. CIT., pp282-283.
202. Epstein, OP. CIT., p28.
203. Amram, OP. CIT., p625.

husband.

Some illegitimately desire to interpret this otherwise. Philo held that she had violated her former marriage ties, and therefore had chosen new allurements. ²⁰⁴ This law was based on Deuteronomy 24,4. It was extended to mean that the divorcee may not marry the man with whom she was suspected to have had intercourse, nor the messenger who brought her the get or bill of divorcement. She could not marry till three months after her divorce or the death of her husband, in order that ²⁰⁵ the paternity of the child might be established. Also added to these ²⁰⁶ were those who had testified to the death of an absent husband.

C. ENFORCED DIVORCE

Divorces were made imperative in some cases. According to the Shammites a husband could vow not to have intercourse for two weeks with her consent. If this was extended longer, a divorce was impera- ²⁰⁷ tive. The Hillites said that one week was sufficient.

In case the wife was barren for ten years, the man was morally or legally bound (opinions varied) to divorce his wife. The Mishnah says: "he shall not abstain from keeping the law to 'be fruitful and multiply'". Philo held that the obligation was moral. Neither the Rabbis nor Philo advised a second wife, but at all times preferred a ²⁰⁸ divorce. If a woman was barren in another marriage, the man had to divorce her. She lost her Ketubah. Some said that sex relations

204. Belkin, OP. CIT., p229.

205. Amram, OP. CIT., p627.

206. Greenstone, "Marriage -- In Rabbinical Literature", THE JEWISH ENCYCLOPEDIA, VIII, p338.

207. Belkin, OP. CIT., p219.

208. IBID., p221.

with a barren woman were prostitution. Those who had children from
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an earlier marriage were permitted to marry sterile women.

Legal separation was enforced against the will of both in the
marriage of persons within the prohibited degrees, of a Jew and non-
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Jew, of a manzer or a natin, of an adulteress and a paramour. If a
wife desired to leave her husband after he had falsely accused her of
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incontinence, Tannaitic literature made divorce imperative. The wife
could insist on a divorce if her husband were a leper, or affected with
polypus, or engaged in a dirty or disagreeable trade, such as a tanner
or a coppersmith. Divorce between a heretic or an apostate and a
212
Jew was imperative.

Conditional divorces were sometimes made. When the husband was
about to go abroad, it was customary to give the wife a bill of divorce-
ment on condition within a certain time, after which the divorce
became effective. This prevented the wife from being forever uncertain
about the existence of her husband. Death was sometimes also made the
condition. This divorce went into effect as soon as word of his death
reached her. By this device she was freed of the Levirate marriage,
213
because a divorced woman was not subject to such a marriage.

D. WIFE'S RIGHT TO SUE

The wife was nowhere in the Old Testament given the right to

209. IBID., pp221-222.

210. Amram, OP. CIT., p626.

211. Belkin, OP. CIT., p269.

212. Edersheim, OP. CIT., p156.

213. Amram, "Conditions", THE JEWISH ENCYCLOPEDIA, IV, p209.

sue for a divorce. Jewish law also never gave her this right. But the Mishnah states that she could sue for a divorce. If the court acted favorably, the husband had to give her the divorce. Supposedly he was to give it out of his own free will. Later the causes were increased. Under Roman influence the record of a bill of divorcement could be sent by the wife.

As reasons the wife could give her refusal of conjugal rights, impotence, a loathsome disease, leprosy, a malodorous occupation, cruel treatment, and being deprived of her personal liberty.

Mutual agreement, without specific causes, could be sufficient for a divorce. The Rabbis held that no court could interfere in such action.

E. DIVORCE PROCEDURE

Deuteronomy 24, 1ff spoke of a bill of divorcement. This at first was very simple, but grew more complex. In the times of the Mishnah, a very simple form was used. The date, place, names of the persons, and the phrase: "Thou art free to any man" was only required. The Babylonian schools completed it and made it more complex.

Later requirements for the get were more demanding. Except where the conditions became retrospective, the get had to be unconditional. It was carefully signed by witnesses. Given to a rabbi, it was meticulously reread. The person was questioned before the wit-

214. Westermarck, OP. CIT., pp263-264.

215. Amram, "Divorce" THE JEWISH ENCYCLOPEDIA, IV, pp625-626.

216. Westermarck, OP. CIT.

nesses. Then it was given to the woman in the presence of the ten men, including the rabbi, scribe, and witnesses. The husband might or might not be present. The woman removed her rings and received the get. The rabbi read it the second time, tore it, and kept it for future reference. Where the delivery was by proxy, the messenger was appointed by the husband, or by the wife, or the wife appointed a messenger to bring the get to her. If the get came from a foreign country, the messenger²¹⁷ was required to deliver it himself and speak the formula.

The children of the divorced remained in the custody of the mother.²¹⁸ After their sixth year, the father could claim the boys.

IV. LEVIRATE MARRIAGE

A. GENERAL LAWS

The basis for the Jewish custom of levirate marriage is Deuteronomy 25, 5-10. If brothers lived together, and the one died childless, the next one was to take his widow to wife, in order to raise up seed for him. However, he had the choice of the halizah, that is, to refuse this duty. Josephus sanctions the Levitical law. This law was observed only by the Palestinian Jews. At the time of Christ, the rest of the world followed the Hellenistic agnate system.²¹⁹ The Jews practiced the levirate marriage up till the end of the Second Commonwealth. To make sure that it would be observed, the court saw to it that the heirs supported the widow out of the estate, until she was free to remarry.²²⁰

217. Greenstone, "Get" THE JEWISH ENCYCLOPEDIA, V, pp646-647. See Appendix V.

218. Amram, OP. CIT., p628.

219. Belkin, OP. CIT., p254.

220. Epstein, OP. CIT., p135. 99.

Later a Ketubah from the levir was added as a protection, in case she
 would receive none from the estate. ²²¹

The Jews defined the levirate duty more closely. The levirate situation was defined to mean that the brother died "childless". If he had children before death, there was no levirate situation. If grand-children lived, the levirate duty was non-existent. Should the widow be pregnant at his death, the posthumous child counted if it was normal. ²²² The rabbis knew of no levirate duty if the deceased brother was a natural eunuch or hermaphrodite, even if the widow was capable of childbirth. The reasoning was that the levirate rite was intended to give offspring to one disappointed in his childlessness, not to one ²²³ destined thus by nature.

The levirate situation held whether the brother was married or betrothed. However, it did not exist in the case of a concubine, slave-wife, or unwedded wife. Illegal marriage could produce levirate situations. Thus, if a husband was a minor, insane, or deaf-mute, or if the widow was a minor and had acted without the father's authority, or if she was of age but not insane or a deaf-mute, the marriage was not ²²⁴ legally valid. All the incestuous regulations also obtained here. However, the fruits of an incestuous or illegitimate marriage were con- ²²⁵ sidered children of their father. Adopted children were not recog- ²²⁶ nized by the rabbis as legal heirs.

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221. IBID., p120.
 222. IBID., p99.
 223. IBID., p96.
 224. IBID., pp94-95.
 225. IBID., p96.
 226. IBID., p99.

The brother must marry his brother's wife whether he be married
 227 or betrothed. Brothers born before their mother became a proselyte
 228 could not qualify as a levir, nor the girl as a levirate widow. Only
 a brother who lived at the time of his brother's death could serve as
 levir. To qualify this brother must also have the same father as the
 229 deceased, and could not be born of a Gentile or a slave-mother.

Since the levirate marriage was not "heaven-made", the marriage
 need not have a legal character and the persons legal personalities.

Therefore, the levir or widow could be a minor, insane, deaf-mute,
 castrated, barren, or aged who at one time may have been productive.

However, the congenitally sterile, hermaphrodite, and the congenital
 230 eunuch were not qualified. Altho the Halizah was impossible, the
 former exceptions were permitted. It was thought that the pair could
 231 be united in levirate marriage with sufficient temporary validity.

The Hillites tried to contract the application of the levirate
 law to a narrower circle. They favored the law that the incestuous
 kinship of one widow (in case there were several) rendered all incest-
 uous to the same levir. When the second brother married a co-wife, and
 died childless, both she and her co-widows were free. The Shammites
 felt that the levir should marry the co-widow not of an incestuous
 232 kinship degree.

The levirate duty was passed from the older to the next brother
 233 so on down. If they all refused, it returned to the oldest. Court
 234 action forced him either to marry her or to perform the halizah.)

227. Westermark, OP. CIT., p233.

228. Schmerer, OP. CIT., p433.

229. Epstein, OP. CIT., p100.

230. IBID., p101.

231. IBID., pp124-125.

232. IBID., pp104-105.

233. IBID., p121.

Where a levirate marriage did not obtain, it was considered incestuous to marry the brother's wife. Thus, the "Schwager-The" was considered incestuous.

The widow was protected during the time that the levirate situation obtained. During this period (the zikah) she lived in her former husband's home and was supported by his estate. This support was limited to the time of her zikah. The term "zikah" means "chained." She was chained till the levirate situation was removed.

Her earnings during her widowhood, whether it was during the zikah or for life, belonged to the estate. If she was supported by the levir, he was not entitled to her labor, earnings, the usufruct, nor inheritance. She was supported on the basis of a penalty and discipline. The levir in turn owed her no ransom, should she become a captive, no medicine unless it belonged to the category of support. If she died, her funeral expenses were paid either by the husband's estate or her levir as a return on her unpaid ketubah. The levirate widow could sell personal property without interference from any of the brothers.

It happened that a woman during the zikah would either defiantly or unwittingly marry. This was considered the same as a violation of the marriage bond. Thereby, she was not permitted to return to the levir, and she had ketubah claims on neither her deceased husband's

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- 234. IBID., p126.
 - 235. IBID., p94.
 - 236. IBID., pp107-108.
 - 237. IBID., pp104-105.
 - 238. IBID., p109.
 - 239. IBID., pp104-105.

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estate nor on her levir.

The incident of Ruth and Boaz was not a definite levirate situation. It was termed by the Jews the "go'el" or "ge'ullah".²⁴¹ In the Old Testament the relative nearness of kin was not definitely determined. It seems to have been the brother, uncle, uncle's son,²⁴² (Leviticus 25, 49).

B. THE LEVIRATE CEREMONY

The essence of the Levirate Marriage was intercourse. However, the rabbis bound this by certain preliminary formalities. If these were not observed, the penalty was flagellation. The levirate situation was looked upon as the betrothal. A ring or object of value was given in the presence of witnesses. The written marriage instrument with the formula: "Be thou betrothed unto me according to the law of Moses and Israel" could also be used. There were certain social formalities. In post-Talmudic days, the huppah (canopy), benediction over the cup of wine, and the seven benedictions were added. The latter were spoken over the second cup.²⁴³ After this cohabitation was permissible, and it also gave the levir the right to all the rights and privileges of a husband.²⁴⁴ He then assumed all the obligations incumbent upon a husband.

C. THE HALIZAH

In Talmudic days the levirate duty was considered objectionable,

240. IBID., pl12.

241. IBID., pl100.

242. Joseph Jacobs, "Go'el", THE JEWISH ENCYCLOPEDIA, VI, pl8.

243. Epstein, OP. CIT., pl17.

244. IBID., pl19.

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 and the halizah was preferred. This tendency came because of fear
 that other reasons may lead to the marriage with the sister-in-law.
 We see here again the trace of the ever-growing fear of incest in
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 such a marriage. Thomson speaks of the halizah and says that today
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 it is still looked upon with the utmost contempt. It seems that
 this impression is erroneous or has changed since the time under dis-
 cussion. Epstein maintains that the halizah was no longer a disgrace
 in Talmudic days. Rather it was considered the proper thing to do to
 free the widow and give her the chance to marry her own choice. The
 halizah became a symbolic release. The zikah served to keep her from
 marrying a stranger. Thru the halizah the tragedy of childless mar-
 248
 riage at death was lost.

Laws were made to protect the widow against malicious levirs.
 To prevent extortion from the widow, at the marriage of the first
 brother all other brothers signed their willingness to submit to the
 halizah without claiming remuneration. If one was a minor, the father
 promised to pay a certain sum. This was her protection, in case this
 son would refuse to submit. In typical Jewish fashion, extortion was
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 often tried anyway. As an added inducement, in later times one-
 half of the estate went to the widow and the other to the levir who
 went thru the halizah. If the widow died before levirate action was
 taken, the heirs received the Ketubah and half of the dowry. The

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245. Greenstone, "Halizah", THE JEWISH ENCYCLOPEDIA, VI, pp170-171.
 246. IBID.
 247. Thomson, OP. CIT., pp41-43.
 248. Epstein, OP. CIT., pp122-123.
 249. Greenstone, OP. CIT., p174.

remainder went to her family.

The actual ceremony of the halizah is interesting. The rabbis made it a solemn and public act. All who were personally interested in the rite were disqualified from serving as judges. Three men who could understand Hebrew were chosen to serve in this capacity. These again appointed two to assist them. The place for the ceremony was appointed at the service on the evening of the preceding day. Usually a synagogue, a court, or the house of the rabbi, sometimes even that of the widow, was selected. All investigations were carried on the day previous to the ceremony. The widow was not permitted to eat. The rite was never performed in the evening, on a Sabbath, a holiday, or on the evening of a Sabbath or a holiday.

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The ceremony took place after the morning service when all people were present. The widow stood between the two judges and their three assistants. First came a thorough public examination. The relationship and the maturity were definitely established. If she was a minor, deaf-mute, mute, or if her foot was crooked either way, the halizah was not possible. Also if she was left-handed or he left-footed, the same was true. It was also ascertained whether the ninety days had expired. Otherwise illegal witnesses were held legal for this testimony. It was established that both know all the implications. The brother-in-law, the levir, declared his voluntary choice. With shoe on, he

250. Greenstone, "Inheritance", THE JEWISH ENCYCLOPEDIA, IV, pp584-585.

251. Greenstone, "Halizah", THE JEWISH ENCYCLOPEDIA, VI, p171.

walked four cubits in the presence of the judges. The chief judge read and the widow repeated: "My brother-in-law refuses to raise unto his brother a name in Israel; he will not marry me." The levir answered: "I do not wish to take her."

He then pressed his right foot against the floor while she loosened the strap with her right hand and held his leg with her left. She threw the shoe some distance away. She then stood in front of him, spat before him, and said: "So shall it be done unto that man who will not build up his brother's house, and his name shall be called in Israel, 'the house of him that hath his shoe loosed.'" She repeated the last phrase three times; the assembly repeated it thrice after her. The levir then returned the shoe to the court, and the judges spoke the final words.

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V. REMARRIAGE

Jewish law decreed that no woman should be married nor be betrothed till three months after the death of her husband or her divorce. This held good both for the widow and for the betrothed. The purpose was to establish the paternity, should there be a child. If visibly pregnant, the woman was not to marry till after child-birth. This time was extended to twenty-four months provided the child lived. If the widow had a child, this also held good. Should the child die, the marriage might be performed immediately afterwards.

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252. *IBID.*, pp173-174. The shoe had been put on before the ceremony. For drawing of shoe and the halisah in more details see Appendices VII & VIII

253. *Belkin, OP. CIT.*, p245.

254. *Greenstone, "Marriage Laws", THE JEWISH ENCYCLOPEDIA, VIII, p348.*

Marriage was prohibited till thirty days after the death of a
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 near relative. A woman could not marry for the third time. A divorcee
 could not marry her first husband after another marriage had been con-
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 summated in the interval. However, if a woman was divorced for any
 other reason than actual adultery, she could remarry her husband. The
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 implication is here that she had not been married during the interval.

VI. POLYGAMY

In theory the Talmud assumed polygamy as the marriage rule with-
 out question. The co-wife was prominent in the discussions of
 levirate marriage, ketubah, and the priority of lien among children of
 several mothers. It was reported that in Jerusalem the hours were re-
 corded in the ketubah to establish priority, should the husband contract
 258
 more marriages on the same day. The Talmud said in this regard: "The
 wise men have given good advice, that a man should not marry more than
 259
 four wives." If the union remained childless, the husband had to
 marry a second wife in order to fill his procreative duty, whether he
 260
 divorced or kept his first wife.

We have some instances of polygamy. Bigamous marriages were
 reported for Alubai, Caiaphas, Josephus, the son of Gamaliel. Some
 freakish form marriages were contracted by some rabbis. R. Tarphon
 betrothed himself to three hundred maidens in order to feed them out

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255. Edersheim, OP. CIT., p156.
 256. Josephus, ANTIQUITIES, IV, viii.
 257. Belkin, OP. CIT., p231.
 258. Epstein, OP. CIT., p18.
 259. Westermärk, OP. CIT., p233.
 260. Epstein, OP. CIT., p27.

of the priestly heave offering. R. Judah the Prince sponsored twelve levirate marriages for one poor Israelite and helped to maintain that large family. It is said that there were two rabbis, who had wives at home, but contracted new marriages on visits to new communities. 261

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The Roman influence was toward monogamy. In post-exilic days children were to a large extent freed from parental authority. Already the age of majority was recognized as the time of independence. The tie between the family and the ancestral land had been loosened by the exile and the obsolescence of the jubilee and go'el institutions. The mature individual lived his own life. He established his own home, and it became a much simpler home than the past. With the exceptions of different marriage laws and ideals, such as polygamy, slave and child marriage, the mutual rights and responsibilities between husband and wife, their conception was quite similar to ours.

The Oriental concubinage was completely lost during the Apocrypha and Mishnah, also the Gemarrah days. 263 Josephus pointed to King Herod as almost the only example of polygamy. 264

The law encouraged the death of bigamy and polygamy. The wife could object to a second wife. If her husband married another anyway, she could divorce him. 265 The levirate widow had also the right to object and demand the halisah in preference to levirate marriage. In

261. IBID., p17.
 262. IBID., p14.
 263. IBID., pp39-40.
 264. Lewis N. Dembitz, "Woman, Rights Of", THE JEWISH ENCYCLO-
 PEDIA, XII, p557.
 265. Epstein, OP. CIT., p21.

the twelfth century A.D. the ²⁶⁶Metubah saw the inclusion of a clause excluding polygamy.

VII. I N H E R I T A N C E

The biblical principle for inheritance was in general found in Numbers 27, 8-11. The hereditary succession was lined up thus: son, daughter, brother, father's brother. The daughter must marry in her own class in accordance with Numbers 36, 6-7. The first-born was entitled to a double share as dictated in Deuteronomy 21, 17; Genesis 15, 3. It was possible for a dying man, who had no sons, to appoint a trusted friend as his heir, sometimes to the exclusion of a near relative. Here Eliezar was to become the heir of Abraham, even though Lot was the nephew of Abraham. Altho the married daughter/^{was} usually excluded from her own family inheritance, we find that Job gave his daughters ²⁶⁷an equal share (Job 5,3,15).

At first the mere presumption was considered sufficient. Then two witnesses were considered necessary to make the inheritance legal. It could be disclaimed before death under certain conditions. Before the heirs could enter upon the inheritance, two legal witnesses must give positive proof of the identity and death of the owner.

Immediately after death, the heirs who were of age could divide the inheritance. Trustees were appointed for the minors. Should an heir appear after the division, a redivision was necessary. Arrange-

266. IBID., p24.

267. Greenstone, "Inheritance", THE JEWISH ENCYCLOPEDIA, VI, p583.

ments were made in regard to dress and garments which were billed to the state under certain conditions. Minors in certain cases shared in the improvements of the property made by those who were of age. ²⁶⁸

The legal order of inheritance was drawn up thus by the rabbis:

1) sons and descendents; 2) daughters and descendents; 3) father; 4) brothers of the descendents; 5) sisters of the descendents; 6) father's father; 7) father's brothers and descendents; 8) father's sisters and descendents; 9) father's father's father etc. These were considered implied in the Bible. The husband was the natural heir of the wife's property and possessions. ²⁶⁹

In Jerusalem and Galilee the widow had a life-right of residence in her husband's house. ²⁷⁰ The husband was the heir only of possessions in the hands of his wife, not of her future possessions. If she died while only betrothed to him, he was not the heir. A provision was later added that he was not her heir if she died childless soon after the marriage. If the marriage was illegal, he was not the heir. If it was an illegal marriage in which he was subject only to stripes, he was her heir. The husband was always the heir of an apostate wife.

The sons had an equal share. The first-born was entitled to a double share. The son born after his father's death shared the same privileges. The son of a slave or non-Jewess was excluded. The

268. IBID., p585.

269. IBID., p584.

270. Edersheim, LIFE AND TIMES OF JESUS THE MESSIAH, I, p148.

apostate Jew might be deprived of inheritance rights by the court. Proselytes were in some cases deprived in non-Jewish lands, in which case the Jews did the same against apostates in Jewish lands. The deceased son's children were his heirs. If the son died after his mother's death, his half brothers of the same father became his heirs. If there were no sons and no children, the daughters and their descendants became the full heirs.

Disinheritance could be performed thru preferring one legal heir above the other. The estate could also be given as a gift to a stranger.

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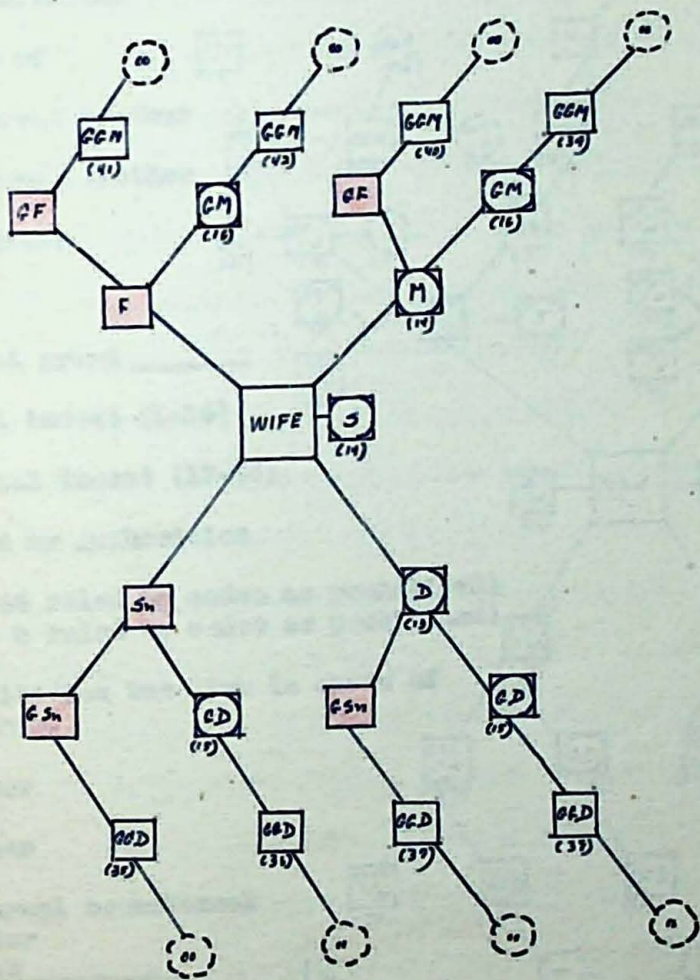
CONCLUSION

The study of Jewish marriage customs discovers many interesting parallels to our customs today. It sheds light on some of the problems of our day and, thereby, give valuable aid in solving them. It is the hope of the writer that this paper might help in this way.

271. IBID., p585.

APPENDIX I.

THE FORBIDDEN DEGREES OF MARRIAGE



APPENDIX II

THE BETROTHAL CONTRACT

"May he who declares the end from the beginning give stability to the words of this contract, and to the covenant made between these two parties! namely, between A, bachelor, with the consent of his father, B, and C, who is proxy for his daughter D, spinster. The said A, bachelor, engages, under happy auspices, to take aforementioned D, spinster, by marriage and betrothal יְהוּרְתִי שְׂדֵתָא according to the law of Moses and Israel. These henceforth are not to conceal anything from each other appertaining to money or goods, but to have equal power over their property. Moreover, B, the said father of the bridegroom, is to dress his son in goodly apparel before the marriage, and to give the sum of ... in cash; whilst C, father of the said bride, is to give his daughter before the marriage a dowry in cash to the amount of ... as well as jewellery to the amount of ... to dress her in goodly apparel corresponding to the dowry, to give her an outfit, and the bridegroom the Talith (ת'פ'ו), i.e. the fringed wrapper used at prayer..., and Kittel (ק'ו'פ), i.e. the white burial garment, in harmony with his position and in proportion to the dowry. The marriage is to be ... on the ... in the place ... at the expense of the said C, the bride's father, and, if agreed to by both parties, may take place within the specified period. Now the two parties have pledged themselves to all this, and have taken upon themselves by an oath to abide by it, on the penalty of the great anathema, and at the peril

of forfeiting half the dowry; but the forfeit is not to absolve from the anathema, nor is the anathema to absolve from the forfeit. The said father of the bride also undertakes to board at his table the newly-married couple for the space of ... and furnish them with lodgings for the space of ... The surety on the part of the bridegroom is E, son of F; and on the part of the bride, G, son of H. The two bridal parties, however, guarantee that these sureties shall not suffer thereby. Further, G, the said father of the bride, is to give his daughter an assurance letter, that, in the event of his death, she is to get half the inheritance of a son (לרוב יתן 700); whilst the bridegroom pledges himself to get his brothers, in the event of his dying without issue, to give her a Chalizah document ..., without any compensation. But if there should be dispute or delay on the subject, which God forbid, the decision is to be left to the Jewish congregation. We have taken all this in possession from the party and sureties, for the benefit of the other parties, so that everything aforementioned may be observed, with the usual witness which qualified us to take care of it. Done this day ... Everything must be observed and kept. (Signed)...."

"Marriage", CYCLOPEDIA OF BIBLICAL, THEOLOGICAL, AND ECCLESIASTICAL LITERATURE, V. pp774-775.

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APPENDIX III

THE KETUBAH CONTRACT FORM

"On ... (day of the week), the ... day of the month ... in the year ... since the creation of the world, the era according to which we are accustomed to reckon here in the city of ... how ... son of ... said to this virgin ... daughter of ... 'Be thou my wife according to the law of Moses and Israel, and I will work for thee, honor, support, and maintain thee in accordance with the custom of Jewish husbands who work for their wives, honor, support, and maintain them in truth. And I will set aside for thee 200 zuz, in lieu of thy virginity, which belong to thee (according to the law of Moses), and thy food, clothing, and necessaries, and live with thee in conjugal relations according to universal custom.' And ... this virgin consented and became his wife. The dowry that she brought from her father's house, in silver, gold, valuables, dresses, and bedclothes, amounts to ... (100 silver pieces), and ... the bridegroom consented to increase this amount from his own property with the sum of ... (100 silver pieces), making in all ... (200 silver pieces). And thus said ... the bridegroom, 'I take upon myself and my heirs after me the responsibility of this marriage contract, of the dowry, and of the additional sum, so that all this shall be paid from the best part of my property, real and personal, that I now possess or may hereafter acquire. All my property, even the mantle on my shoulders, shall be mortgaged for the security of this contract and of the dowry and of the addition made thereto'. ...

APPENDIX IV

THE SEVEN-FOLD BLESSING

"i. 'Blessed art thou, O Lord our God, king of the universe, who hast created everything for thy glory.' ii. 'Blessed art thou, O Lord our God, king of the universe, who hast created man.' iii. 'Blessed art thou, O Lord our God, king of the universe, who hast created man in thine image, in the image of the likeness of thy own form, and hast prepared for him, in himself, a building for the perpetuity of the species. Blessed art thou, O Lord, the creator of man.' iv. 'The barren woman shall rejoice exceedingly, and shout for joy when her children are gathered around her in delight. Blessed art thou, O Lord, who rejoicest Zion in her children.' v. 'Make this loving pair to rejoice exceedingly, as thou hast made thy creature rejoice in the Garden of Eden in the beginning. Blessed art thou, O Lord, who rejoicest the bridegroom and the bride.' vi. 'Blessed art thou, O Lord our God, king of the universe, who hast ordained joy and gladness, bride and bridegroom, delight and song, pleasure and intimacy, love and friendship, peace and concord; speedily, O Lord our God, let there be heard in the cities of Judah and in the streets of Jerusalem the voice of joy and the voice of gladness, the voice of the bridegroom and the voice of the bride, the voice of jubilant bridegrooms under their canopies, and of the young men at the nuptial feast playing music. Blessed art thou, O Lord our God, who makest the bridegroom rejoice with his bride.' vii. 'Remove all suffering and anger; then will the dumb be heard in song; lead us in the paths

of righteousness, listen to the benedictions of the children of
 Jeshurun! With the permission of our seniors and rabbins, and my
 masters, let us bless our God in whose dwelling is joy, and of
 whose bounties we have partaken!' to which the guests respond,
 'Blessed be our God, in whose dwelling is joy, of whose bounties
 we have partaken, and by whose goodness we live;' and he then
 answers, 'Then let us bless our God, in whose dwelling is joy, of
 whose bounties we have partaken, and by whose goodness we live'
 (Kethuboth, 7 b, 8)."

"Marriage", CYCLOPEDIA OF BIBLICAL, THEOLOGICAL, AND ECCLESIAS-
 TICAL LITERATURE, V. p776.

APPENDIX V

THE FORM OF THE GET

"On the ... day of the week, the ... day of the month of ... in the year ... since the creation of the world, according to the numbering we are accustomed to regard here in the town of ... (which is also called ...), which is situated on the river and contained wells of water, I, ... (who am also called ...), the son of ... (who is also called ...), who am this day in ... (which is also called ...), the city situated on the river ... and containing wells of water, do hereby consent with my own will, being under no restraint, and I do release, send away, and put aside thee, my wife, ... (who is also called ...), daughter of ... (who is also called ...), who art this day in ... (which is also called ...), the city situated on the river ... and containing wells of water, who hast been my wife from time past; and thus I do release thee, and send thee away and put thee aside, that thou mayest have permission and control over thyself to go to be married to any man that thou mayest desire; and no man shall hinder thee from this day forever, and thou art permitted to any man, and this shall be unto thee from me a bill of dismissal, a document of release, and a letter of freedom, according to the law of Moses and Israel.

"... the son of ..., witness.

... the son of ..., witness."

APPENDIX VI

THE HALIZAH

A. SUPERSTITIONS

"There are a number of superstitious beliefs about details in the halizah ceremony. The dead brother, it is believed, is invisibly present. That makes the ceremony not only sad but also gruesome. Some people think the water prepared for washing the levir's foot represents ceremonial oblations for the dead. Others insist that the screening of a corner in the courtroom for privacy for the removal of the levir's shoe and stocking before replacement by the ceremonial shoe is intended as a place reserved for the dead brother who cannot or will not mingle with the living. It is generally believed that when the ceremony is over, the widow should sprinkle water over the levir to assure an easier task in finding a new husband. The law, of course, ignores these extraneous assumptions.

B. THE CONCLUSION

"The ceremony is concluded by a few prayers that have no talmudic origin. One, recited by the judges when the levir returns the shoe to them, reads as follows: 'May it be Thy will (O God) that the daughters of Israel be not in need of halizah or levirate marriage.' When the court is dismissed, its head offers the benediction: 'Blessed art Thou, O Lord, our God, who hast sanctified us by Thy commandments and statutes, even by the commandments and statutes of Abraham our

father."

C. THE HALIZAH INSTRUMENT

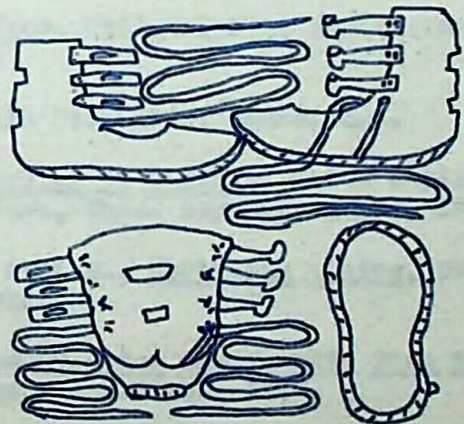
"Writing an instrument of halizah is not part of the ceremonial, but a certification the from court that the woman is free to marry again. It may or may not be issued, according to local custom, but the halizah instrument is recorded in tannaitic literature and its details are given fairly completely in amoraic records. It is to be signed by two witnesses, preferably those who were of the court of five, but any two present at the ceremony may serve. The instrument reads:

"On this day and month and year of Creation as counted in this place (NN), we judges, some of whom are signed at the bottom, were sitting as a court of three when NN, widow of NN, came before us, and NN spoke to us as follows: NN is a brother of one father to my husband, to whom I was married and who died and left no son or daughter, heir or successor, one who shall establish his name in Israel, and it is proper for this NN that he marry me. Now, may the masters speak to him that if he wishes to marry me let him marry me, and if not let him hold out to me his right foot in your presence that I may loosen his shoe from his foot and spit before him. Thereupon, we established by investigation that NN is a paternal brother to NN deceased, and we said to him: If you wish to marry her, marry her, and if not, hold out your right foot to her in our presence and let her loosen your shoe and spit before you. He answered and said: I do not wish to marry her. Thereupon we recited with this woman:

My husband's brother refuseth to set up for his brother a name in Israel; he does not want to do the levirate duty by me. And with him too we recited: I do not wish to take her. Then he held out his right foot and she loosened his shoe from his foot and spat before him spittle that was visible to us from the mouth to the ground. Thereafter we recited with her: Thus shall be done to the man who doth not build up his brother's house and let his name be called in Israel, 'He of the house of the loosened shoe.' And we judges and all who were with us answered after he: Loosened shoe, loosened shoe, loosened shoe, three times, and when this was executed before us we permitted her (NN) to go and be married to whomsoever she may wish and no one may prevent her from this day and forever. Now NN asked from us this instrument of halizah, which we have now written and attested and given to her for possession according to the law of Moses and Israel. Signed
..... (two or three witness)."

APPENDIX VII

THE HALIZAH SHOE IN DIAGRAM



Julius H. Greenstone, "Halizah", THE JEWISH ENCYCLOPEDIA, VI,
pl70.

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