Rabbinic Judaism in the Making
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retirement and Gamaliel’s ascent to the nasidom as the rightful heir of noble descent which Johanan could not claim for himself.\footnote{28}

However, after resigning his nasidom, Johanan ben Zakkai did not retire altogether. He went to Beror Ḥail where he presided over an academy of his own, perhaps already before his retirement from the nasidom. This must have been an academy of note since talmudic sources, when giving examples for excellent “courts” (schools), mention the court of Johanan ben Zakkai in Beror Ḥail among them,\footnote{29} but not his former courts in Jerusalem or Javneh. We do not know how many of his disciples followed him to Beror Ḥail. Some of his former disciples who stayed in Javneh visited him in Beror Ḥail, e.g., Joshua.\footnote{30} After his death, his students went to Javneh and entered Gamaliel’s academy.\footnote{31}

The greatness of Johanan ben Zakkai’s personality is reflected in numerous legends surrounding his life and death.\footnote{32}

\section*{Gamaliel II}

Gamaliel II succeeded Johanan ben Zakkai as Nasi probably between 80 and 90 C.E. The most often accepted date is 80 C.E., although there is no indication in the sources that this is correct. It is more likely that Gamaliel took over the reins of the Nasi not long after the death of Titus in 81 C.E., or perhaps (officially and openly) after the dynasty of Vespasian became extinct with the death of his son Domitian in 96 C.E. for which the family of Simon II was non grata because of its participation in the uprising against Rome.

We find that Gamaliel officiated in Javneh and in Lud. In view of this it is generally believed that the Beth Din Ha-Gadol moved during his presidency from Javneh to Lud, but a close examination of the sources does not confirm this belief. What the sources tell us is that Gamaliel lived in Lud where he had a Beth Ha-Midrash, an academy where his disciples studied with him.\footnote{33} However, the Beth
Din Ha-Gadol, which succeeded the Sanhedrin, and was located in Javneh for many years, was not the Beth Ha-Midrash of the Nasi.

B. R. H. 31ab—which gives us all the changes of the location of the Sanhedrin, including the Beth Din Ha-Gadol, does not mention Lud, meaning that according to R. Johanan (Amora), a most reliable transmitter of events of the past, Lud was not at any time a seat of the Beth Din Ha-Gadol. Apart from its obvious historical significance, this passage in combination with the reference to Gamaliel’s academy in Lud reveals that Gamaliel, in addition to his presidency of the Beth Din Ha-Gadol in Javneh, maintained a private academy in Lud where he probably resided most of the time. This indicates that the situation may have been the same at Johanan ben Zakkai’s time, i.e., that he maintained a private academy in Beror Ḥail even during his leadership in Javneh, which made his retirement to Beror Ḥail much easier.

A further implication of the two-fold presidency of the Nasi is that, in contradistinction to the Sanhedrin of old, the Beth Din Ha-Gadol held no daily sessions. This is also evident from the fact that not only the Nasi but also other distinguished members of the Beth Din Ha-Gadol maintained private academies in places outside of Javneh and assembled in Javneh only periodically. Such was easily possible since these sages did not live in distant towns. Lud, for instance, is but approximately ten miles from Javneh, Beror Ḥail about twice this distance.

A seeming contradiction to our view just discussed is found in B. Sanh. 32b (Baraittha),

“Justice, justice shalt thou follow” (Deut. 16:20):

Go after the sages to the Yeshivah; after Rabban Johanan ben Zakkai to Beror Ḥail, after R. Eliezer to Lud, after Rabbi Joshua to Peqi’in, after Rabban Gamaliel to Javneh, after Rabbi

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Akiba to Bene Berak, after R. Matja to Rome, after R. Hananiah ben Teradion to Sikni, after R. Jose to Sepphoris, after R. Judah ben Bathyra to Nezibin, after R. Hananiah, nephew of R. Joshua to the Exile (Babylonia), after Rabbi (Judah the Prince) to Beth Shearim, after the Sages to the Hall of the Hewn Stone.

This Baraitha does not give Lud as Gamaliel’s seat of his Yeshivah but Javneh, whereas for Johanan ben Zakkai it gives Beror Ḥail but not Javneh. Why does it not mention in both instances either Javneh or the respective private academies? Does this mean that Johanan ben Zakkai was not Nasi in Javneh or that Gamaliel had no academy in Lud? In view of abundant sources to the contrary this cannot be the meaning of the Baraitha. One possible solution is that the author of the Baraitha was aware of the great achievements of Gamaliel in Javneh in contrast to his less important teaching career in Lud and therefore he mentioned Javneh as the seat of Gamaliel’s academy, whereas on the other hand he thought that Johanan ben Zakkai’s career in Beror Ḥail was more important than his teaching role in Javneh. It is also possible that the author of the Baraitha did not want to repeat the same name choosing, therefore, to mention Javneh with regard to Gamaliel and Beror Ḥail with reference to Johanan ben Zakkai. Considering the chronological disorder in this Baraitha we cannot rule out the possibility of other inaccuracies that might account for the inconsistency regarding the names of the towns mentioned in it.

The sources do not reveal the circumstances of Gamaliel’s ascent to nasidom. The combination of circumstances that worked against Johanan ben Zakkai’s continued leadership worked for Gamaliel’s ascent to leadership. The first step making Gamaliel’s nasidom possible is credited to Johanan ben Zakkai who pleaded with Vespasian to spare the family of Gamaliel (B. Git. 68a). Of the various reasons for the change in leadership, the most important may have been the need for a man ready to introduce new religious practices on a large scale to replace the sacrificial cult.

After the spadework done by Johanan ben Zakkai it was up to Gamaliel II to carry out the transition from the centralized sacrificial cult to a decentralized but disciplined non-sacrificial system of religious expression.

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He soon realized that a decentralized mode of observance could lead to chaos and disintegration if not directed and supervised effectively by central authority. The central authority of his day was the Nasi in conjunction with the Beth Din Ha-Gadol of Javneh.

While the issues of the day were freely discussed in this Beth Din, Gamaliel would not tolerate serious dissent on the part of the leading sages. He feared that such dissent would spread the sectarianism which flourished in his day and threatened the very survival of Judaism. He was particularly sensitive to serious dissent on the part of the leading sages because their dissent was more likely to divide the unity of Judaism and the Jewish people. In this light we have to understand Gamaliel's strong measures. He excommunicated Rabbi Eliezer, son of Hyrcanus (his own brother-in-law), after the memorable Akhnai incident, and he humiliated Rabbi Joshua, his Av Beth Din (M. R. H. II,8,9; B. Ber. 27b-28a). He did not even spare Akiba who was excommunicated by him according to an opinion in the P. Talmud (P. R. H. I,5; 57b) though there is also a view to the contrary. It is to be noted that all these men constituted Gamaliel's "inner cabinet."

Gamaliel concentrated his efforts in behalf of the re-orientation of Jewish life in two areas: 1) The Jewish calendar. 2) Prayers.

The Jewish calendar

Gamaliel was well aware that a single calendar for all of the Jewish people was a conditio sine qua non for their unity. For this reason he devoted much work to matters of calendation. Both Geonim and Karaites ascribe basic achievements to Gamaliel in matters of calendric calculations. Gamaliel's stressing of the importance of calendation, his knowledge of the field and deep concern in instances of dissent are documented in many talmudic passages. For example, M. R. H. II,8 informs us that Gamaliel possessed "pictures of the shape of the moon on a tablet and on the wall of his upper chamber. These he used to show to the laymen (witnesses) and say, 'Didst thou see it on this wise or on that?"' This shows that Gamaliel possessed knowledge in astronomy which he applied for calendric purposes. It is quite possible that his knowledge was so
substantial that the testimony of the witnesses became a mere formality with him. Nonetheless he considered the testimony of the witnesses to the appearance of the new moon so essential that he set no limit to the number of witnesses allowed to desecrate the Sabbath by traveling on it in order to testify before the Beth Din even though, according to the law, two witnesses are sufficient.

Gamaliel’s deep concern in instances of serious dissent in matters of calendation is evident in the following cases:

Rabbi Joshua’s calendation which set a date for Yom Kippur at variance with that of Gamaliel was a real threat to the unity of Judaism. Joshua’s reluctant obedience to Gamaliel’s strict order for him to appear before him with staff and money bag on the Day of Atonement according to Joshua’s reckoning averted this threat (M. R. H. II,9).

Rabbi Akiba’s interference with a large group of witnesses to the new moon on a Sabbath drew serious reprimand from Gamaliel (M. R. H. I,6). (Cf. B. R. H. 22a, a Baraitha, where R. Judah denies that the man in question was Akiba. Yet it is safe to assume that the Mishnah gives the correct name.) According to a report in the P. Talmud, this incident led to Akiba’s excommunication.

Gamaliel had the assistance of a “committee” (Beth Din) of seven in carrying out the process of intercalating the year (B. Sanhedrin 11a). In case the Nasi was absent, the committee had the authority to intercalate the year with the proviso that the Nasi, upon his return, would endorse the action. In such a case recorded in M. ‘Eduy. VII,7 (and parallels) Gamaliel was in Syria while the conditional intercalation took place.

Prayers

While Gamaliel’s successful endeavors in matters of calendation were instrumental in preserving the unity of Judaism, they did not fill the vacuum caused by the cessation of the sacrificial cult. Gamaliel filled this void first and foremost by developing the prayer service and moving it into the foreground of Jewish religious life,
thus making it the equivalent of and replacement for the lost sacrificial cult. To be sure many, if not most, of the prayers Gamaliel dealt with had existed before the fall of the Temple. However, they were mostly of private or local character and had imprecise, variable texts. No well-defined, regular prayer services had been made mandatory, whatever existed was of secondary importance in comparison with the sacrificial cult.

Gamaliel’s endeavor to strengthen the prayer ritual is most evident in his efforts concerning the *Amidah*, the “Eighteen Benedictions.”

While other prayers, too, existed (e.g., the *Shema* with its benedictions, grace after the meal, *Kiddush*, benedictions for various occasions, etc.), the *Amidah* is called *Tefillah*, “prayer” par excellence. Gamaliel’s most important step in the matter was the making of the *Amidah* mandatory three times daily. In doing so he had the full cooperation of the sages with reference to the morning and afternoon *Tefillah*, but not with reference to the evening *Tefillah*. His opponent here was R. Joshua whom he humiliated by making him stand on his feet throughout a session of the academy which led to an uproar of the sages deposing Gamaliel, though he was soon re-instated.

Another step of Gamaliel’s in raising the importance of the *Amidah* was making it mandatory for both public and private services (M. Ber. IV,3). The emphasis in both instances is on the word “mandatory” since the *Tefillah* has been recited by some people three times daily publicly as well as privately before Gamaliel’s endeavors but on a more or less voluntary basis, and was peripheral compared to the sacrificial cult.

The final important step toward making the *Tefillah* a main pillar of Jewish services was the establishment of its contents. The first three and final three benedictions of this prayer had already been quite well established before the destruction of the Temple in 70 c.e. (cf. Tosefta *R. H.* IV (II), 11; p. 213). This is evident from the fact that an argument of Beth Hillel and Beth Shammai (certainly conducted before the destruction of the Temple) presupposes an accord in regard to the first and last three benedictions of the *Tefillah*, for only the sections constituting the middle portion are discussed.
RABBINIC JUDAISM IN THE MAKING

Gamaliel asked Simon Ha-Paqqoli to “arrange” the “Eighteen Benedictions.” The exact nature of this arranging is not known. The “Eighteen Benedictions” are very old, dating back according to the Talmud to the times of the “Men of the Great Synod,” or even to the Prophets (P. Ber. II, 4; 4d; B. Ber. 33a). While these datings are certainly not factual, they still mean that the arrangement of Simon Ha-Paqqoli was executed within an existing framework of eighteen benedictions. Did he fix the text of the Tefillah? Texts of the Tefillah found in the Genizah give variant wordings, which implies that Simon did not fix throughout the wording of the Tefillah. Consequently, the work he did was probably fixing the content of the benedictions and perhaps also their sequence. The talmudic Baraita B. Ber. 28b also tells us that Gamaliel asked who of the sages could compose לַחֲמַת a benediction concerning the מִינִים, most probably Judeo-Christians in this case (cf. Tos. Ber. III, 25; P. Ber. IV, 8a). Gamaliel did this in view of the serious threat which the Judeo-Christians constituted to Rabbinic Judaism, a threat increased by the profound influence of Paulinistic Christianity which developed between 90 and 100 subsequent to the dissemination of the Paulinistic letters.

The introduction of Birkat Ha-Minim is an evidence for the limited power Gamaliel possessed. He obviously possessed no power to punish sectarian Jews; otherwise he certainly would have done more about the serious threat presented by them than merely introducing a prayer against them. This is a further indication that the Nasi received no recognition by the Romans as the leader of the Jewish people. Whatever authority he exercised was based on voluntary recognition by the followers of Rabbinic Judaism. Whatever disciplinary measures he employed — mainly excommunication — were only effective against adherents of Rabbinic Judaism.

Bible

The concern of Gamaliel and of other responsible sages for protecting and strengthening true Judaism compelled him to pay attention to biblical literature. The issue was not the establishment of a correct text, nor a final canonization of the Bible, but rather the
chief interest was in dealing with extraneous literature, particularly Gospels and (other) heretical literature. The main issue with regard to these books, however, was not whether they were sacred or not—as Moore presumes. Since they are anti-Jewish, their acceptability was out of question. The problem was whether they should be destroyed "as is," or whether God's name written in them should be spared.

The process of canonization was slow. In Gamaliel's time, it had been in progress but had not been concluded. The books discussed in his time were Shir Ha-Shirim and Qoheleth (M. Yadayim III,5). Discussions concerning Qoheleth and Esther were still held generations after Gamaliel's time (Tosetta, ibid. II,14, B. Meg. 7a). In the discussions about the sanctity of certain books, Gamaliel himself does not participate. While an argumentum ex silentio is not strong, it is quite certain that Gamaliel's name would not have been omitted if he had taken a stand in the matter. Yet, as we saw in the case of the Tefillah, we have to keep in mind that Gamaliel assigned certain tasks to his "experts," and he may have relied on experts in this case as well. His absence is also understandable if the respective discussions were held immediately after his demotion (cf. Mishnah, ibid.).

Very significant is the statement in Tos. Yadayim II,13 that Ben Sira and all the books written from now on "do not defile the hands," i.e., possess no sanctity. This declaration, obviously undisputed, barred the canonization of all later books automatically. This, however, obviously did not suffice to eliminate the influence of extra-canalical books. So R. Akiba, certainly expressing the sentiment of other rabbis as well, declared that the reader of "extraneous books" had no portion in the world-to-come (M. Sanh. X,1). The nature of these extraneous books is not precisely known. B. Sanh. 100b (Baraita) says these are the books of the "Sadducees" (a reading probably chosen because of censorship; the implication may be directed toward the minim, understood as Christians, though it may refer as well to any sectarian). The P. Talmud, ibid. X,1; 28a, understands it as referring to books like Ben Sira and Ben La'anah; however, reading books of Homeros or books written from that point on is as reading a letter (i.e., not prohibited). The Mishnah probably had both types of literature in mind, the books of the Christians and the
apocrypha, since both include books that may have had an undesired influence upon followers of Rabbinic Judaism.

The prohibition was not limited to extra-canonical books, but was extended to translations of biblical books as well. Whereas other sages permit written vernacular translations of all the biblical books, Gamaliel permits the Greek translation only.\(^{45}\)

When Gamaliel once read the Targum of Job, he was told that his grandfather, Gamaliel I, had the Targum of Job destroyed, whereupon Gamaliel placed this Targum in a *Genizah* (B. *Shab.* 115a). This act shows that he realized this Targum was prohibited and must not be read or even kept in the house.

The reading of the legitimate Bible was curtailed, too. M. *Shab.* XVI,1 informs us that reading of the Hagiographa on Sabbath was prohibited, lest people neglect the *Beth Hamidrash*. The *Beth Hamidrash* was the place where people were taught the rabbinic interpretation of Judaism. This was especially so on the Sabbath, the day of rest, when everybody could come and listen to the discourses of the preachers and teachers. Lest people concentrate entirely on the Bible and stay away from the *Beth Hamidrash*, the rabbis ruled that Hagiographa, the most pleasant readings of the Bible, could not be read on a Sabbath.\(^{46}\)

The destruction of the Temple constituted a serious threat to classical Judaism. Even before the destruction, Christianity had made considerable inroads at the expense of normative Judaism. Utilizing the destruction of the Temple for apologetical purposes, Christian leaders heralded it as punishment to the Jews for killing Jesus and as evidence for the annulment of the Torah.\(^{47}\)

Rabbinic Judaism naturally rejected these charges, more so for internal theological reasons than for external apologetical considerations. While there are several more or less aggadic reasons for the destruction of the Temple transmitted in talmudic literature,\(^{48}\) the predominant theological explanation was that the destruction of the Temple served as punishment for sins. Gamaliel is the foremost sage to suggest this explanation.\(^{49}\)

The notion that with the destruction of the Temple not merely the sacrificial cult, but the rest of the Torah also had lost its validity,
was rejected by the rabbis in theory as well as in practice. *Mekhilta* Yethro, II (p. 201) relates: "Three things were given conditionally: The Land of Israel, the Sanctuary, and the Kingdom of the House of David. But the Torah and the Covenant with Aaron were given without a condition, etc." This means, that the validity of the Torah will never terminate, since it was given without condition.

The rabbis considered the destruction of the Temple and the cessation of its cult as a temporary calamity and often used the words, "Soon the Sanctuary will be rebuilt." While this statement is apparently an amoraic one, it is cited to qualify old laws, among them an institution of Johanan ben Zakkai (B. *Sukkah* 41a).

Above we discussed the reasons why the sacrificial cult was not continued after the destruction of the Temple in places outside of Jerusalem at Johanan ben Zakkai's time. We noted Johanan ben Zakkai's dislike for high priests and priests in general. He was the champion of the (Pharisaic) laity and as such was not interested in the continuance of priestly privileges. However, Gamaliel II apparently did not consider the priests as an opposition party that had to be restrained. Why did he not ordain or permit the resumption of the sacrificial cult outside of Jerusalem?

He was probably unable or unwilling to reverse a trend against worshipping God by animal sacrifices apparent in Christianity and other groups of the time. This was, of course, not openly admitted. The official reason was based on exegesis.

While the *Nesi'im* and the rabbis did not introduce a decentralized cult, they saw to it that some other forms of Temple cult and priestly laws were continued throughout the land. According to Num. 18:21, "And unto the children of Levi, behold, I have given all the tithe in Israel for an inheritance, in return for their service which they serve, etc," the Levites were to receive the tithes as the pay for their service in the Temple. The clear implication is that if they do not perform their Temple service, they are not entitled to the tithes. However, the rabbis ruled that the tithes (and various *matnoth kehunnah*, priestly dues) should be given even after the destruction of the Temple (*Sifre Qorah* 119, p. 146). That the qualification for this ruling is an exegetical one must be considered as a
mere formality. Some of the real considerations may have been hope for a speedy restoration of the Temple, emphasis on the validity of the Torah laws even after the fall of the Temple, desire to keep the people aware of their duties to their fellowmen and prevention of a vacuum in religious life. Naturally, there was also opposition to the continuance of giving dues to the priests. We cite, for example, P. Sheq. VIII,4; 51b where it is stated in a Baraita that among others, no Terumah (heave offering for the priests) nor tithes are to be levied in this time (i.e., after the destruction of the Temple). The version in B. A. Z. 13a omits the reference to heave offerings and tithes.)

The 'amme ha-areẓ, mostly farmers, were not particularly eager to give tithes. The Nasi and his administration obviously possessed no power to control the people. All they could do was to declare their produce Demai, under suspicion of being untithed, and to ask the purchaser of such grain to tithe it.

Among other laws connected with the Temple and offerings, many laws concerning defilement were carried over and observed after the destruction of the Temple. Thus, for example, the laws concerning the defilement of the priests were originally to be applied in the Temple or in view of their service in the Temple and in connection with eating “holy” food. These laws should have been suspended after the fall of the Sanctuary, but such was not the case. The reasons noted above may be valid here, too. The purification of the leper by the priest also required a sacrifice (Lev. 14). However, we find that this act was performed, though probably only in exceptional instances, even after the year 70 C.E. (Tos. Nega'im VIII,2 [628]; Sifra, Mezora Nega'im I,13). These passages inform us that R. Tarfon purified (ritually) three lepers. This precedent is considered in the sources as evidence that the purification of the leper may be performed after the fall of the Temple.

Among other laws logically to be observed only while the Temple existed, but continued afterwards for some time, are: The tithe of the cattle and sheep (M. Sheq. VIII,8; M. Bekhor. IX,1); second tithe (M. Edey. VIII,6); giving first born animals to the priests (M. Sheq. VIII,8).
Gamaliel issued a number of Taqqanoth, mostly in conjunction with “his Beth Din.” This Beth Din may refer to the Beth Din Ha-Gadol, or to a smaller body, his “executive committee,” or possibly to his academy in Lud. Most of his Taqqanoth have limited scope.

Some of his Taqqanoth follow:

In Tos. Kil. IV, 1 (78), Gamaliel and his Beth Din ordained that grape vines be planted four cubits from the fence “separating grain plantations from grape vines.” Previously a fence without a separating strip of land sufficed to satisfy the biblical law in Deut. 22:9, “Thou shalt not sow thy vineyard with two kinds of seed.”

In Tos. Shevi’ith VI, 27 (70), Gamaliel and his Beth Din ordain a lenient practice in making olive oil in the sabbatical year (a variant reading has Simon ben Gamaliel instead of Gamaliel).

In B. M. Q. 3b, Gamaliel and his Beth Din nullified a strict practice in a matter regarding the sabbatical year. The words used here are רַצְיוֹנָה דִּיבְרֵי דִּינָן “R. Gamaliel and his court voted.” This may be taken as indication that the Taqqanoth issued by Gamaliel and his Beth Din were likewise the result of a majority vote.

In B. Git. 36a, Gamaliel reports that a הָדַלְתָּנָה, an important ordinance, had been issued (i.e., by the Beth Din) to the effect that witnesses to a bill of divorce must sign their names on the bill “because of the general welfare.” The report does not state that Gamaliel joined the Beth Din in making this Taqqanah; however his participation or consent would be practically a certainty. His name might have been included had a third party, rather than Gamaliel himself, made the reference to the Taqqanah.

Most of Gamaliel’s halakhic activity did not consist of the issuance of ordinances, but was mainly the discussion of laws with his colleagues on equal terms, with the majority opinion prevailing. Significant in this respect is the following incident in which Akiba points out to Gamaliel that his view in a matter involving benedictions over fruits is of no avail against majority opinion: (B. Ber. 37a,b) Akiba says . . . “You said yourself that when an individual opposes the majority, the Halakhah is in accordance with the majority.” In P. B. Q. IV, 3; 4b, an incident is related in which the Romans sent two officials to study with Gamaliel. These officials,
while praising most of the teachings of Judaism, disapproved of some Halakhoth unfriendly to gentiles. Whereupon Gamaliel issued a Gezerah (prohibition) regarding property robbed from gentiles “because of profanation of the Name.” The Talmud does not say that Gamaliel issued this prohibition in conjunction with his Beth Din, implying that he possessed the authority to act independently, although all previous instances appeared to prove just the opposite.

What may be the reason for this discrepancy? If we do not assume an error or an omission in the transmission of the text, we may assume that, in dealing with problems of gentiles, the Nasi commanded more liberty to act independently than he did in other matters. Because he was responsible for dealing with gentile authorities, the Nasi also possessed certain privileges with regard to secular education and culture.

Once a Halakhah was determined by the majority, Gamaliel saw to it that it was observed. We saw how he used his authority against his close associates, forcing them to submission or excommunicating them. Occasionally, he even objected to strict personal observance of others, though sometimes he himself acted thus in his own household. For example, Tosefta Demai V.24 (p. 56) relates that Akiba, while on a trip with some of his colleagues, strictly observed a law of tithing for himself. When Gamaliel objected, Akiba defended himself by saying that he had not established a Halakhah. This significant incident shows that the practice of great men, though of a personal nature, may originate a Halakhah.

Occasionally Gamaliel levied a fine against a transgressor of a Halakhah. In B. Hul. 87, Gamaliel ordered a man to pay ten gold coins to another man for whom the first man had performed a rite contrary to the law.

While shortly after the destruction of the Temple, the rule had been established that the Halakhah would follow Beth Hillel, not Beth Shammai, Gamaliel (as well as some other sages) did not hesitate at times to deviate from this rule. In a few instances, he followed Shammai, which led some scholars to the belief that he was a Shammaite. We discussed this problem elsewhere and pointed out the fallacy of basing theories on exceptions and of considering some sages as Shammaites when Beth Shammai no longer existed.
Gamaliel (and others) sometimes differed with both Beth Shammai and Beth Hillel. (Cf. M. Tohoroth IX,1 where Gamaliel differs with both Houses, and the sages agree with him!) Such instances usually mean that Beth Hillel no longer existed at this time. The topic here is the time of defilement of the olives.

Another case in which Gamaliel differs with both Beth Shammai and Beth Hillel is found in M. Sukkah III,9 and involves his performing the act of shaking the Lulav in a most lenient way, although he did not voice a lenient Halakhah. Gamaliel called upon experts in other matters of Halakhah in the same way that he had called upon them in the case of the Eighteen Benedictions. See, for example, Tosefta Kil. III,5 (p. 77). Here a case was put before Gamaliel for a decision in matters of חליפת הגרענしており diverse kinds in a vineyard. He tells the questioners to ask an expert in the laws concerning "vineyard," Jose ben Golai, who then answered their question.

Gamaliel took a serious view even toward ridiculous positions (Derekh Erez Rabbah I). R. Jose ben Taddai once used the qal we-homer, the method of reasoning a fortiori, in a ridiculous manner by concluding that a man is not permitted to marry the daughter of a married woman. After showing the absurdity of Jose ben Taddai's reasoning, Gamaliel excommunicated him.

In matters of Halakhah, Gamaliel had no decided tendency as to leniency or stringency, though if we take all his views into consideration, he was more often lenient. His decisions were often influenced by practical considerations. We saw that a part of his effort in the realm of Halakhah was aimed at creating good will between Jews and gentiles.

In M. R. H. IV,9, Gamaliel, in contradistinction to others, held that the reader, by reciting the prayers in the service, fulfills the obligation of praying not merely for himself but for the community as well. B. R. H. 34b-35a cites a Baraitha in which Gamaliel is asked: If the praying of the reader suffices, why do the individuals also pray? He replies: In order to give the reader time to arrange his prayer. According to a tradition cited ibid., Gamaliel only excused the people working in the fields from reciting the prayers. If this tradition reflects the truth, economic considerations would have in-
fluenced Gamaliel. However, this tradition is in conflict with Gamaliel's own words and may be but an attempt to reconcile Gamaliel's view with the general practice.

In M. Peah VI,5–6, which deals with a matter of forgotten sheaves, Gamaliel favors the land owner while the sages favor the poor.

In marital matters, Gamaliel's decisions often favor the woman, a tendency of the wealthy. We cite the following examples:

M. Kethuvoth I,6–9 lists four cases about women in "trouble." In the first two cases, the topic of the dispute is the loss of virginity. Although the use of symbolic language makes the third case obscure, the source of the trouble in it is either extra-marital intercourse or the suspicion of it. The fourth case deals with the question of the fatherhood of an embryo conceived outside of wedlock. In all these instances, Gamaliel and Eliezer (his wealthy brother-in-law) accept the woman's side of the dispute in opposition to Joshua.

In M. Kethuvoth VIII,1, Gamaliel sides with Beth Shammai by stating that a woman has the right to sell property she acquired after her betrothal, but prior to her marriage. He also holds that such sale is valid even if executed after the marriage was performed.

When a husband once complained before Gamaliel that he did not find his bride to be a virgin, Gamaliel explained to him that his observation might have been erroneous (B. Kethuvoth 10a).

When a case came before Gamaliel involving a bill of divorce signed by gentile witnesses, Gamaliel declared the bill of divorce to be valid (M. Git. I,5). A contrary decision might have rendered a woman divorced by such a bill an agunah, thus denying her the right to remarry.

Economic consideration often affected the Halakhah. M. B. Q. VII,7 states that the raising of goats and lambs in the land of Israel, except for certain desert areas, is prohibited. According to B. Q. 80a, Gamaliel permitted the raising of goats and sheep. The Talmud tries to harmonize his view here with the prohibition of the Mishnah. While such harmonization is artificial, the Tosefta and other Baraitha sources indicate that his permissiveness was not unlimited. He obviously did not consider the raising of such animals to be as harmful as did the rabbis, who became so extreme in their opposition to these shepherds that they treated them as gentiles in some
In addition to the original list of men disqualified to act as witnesses (given in M. Sanh. III,3–5) the rabbis later included among others, the shepherds (Tosefta Sanh. V,5, p. 423 and parallels in B. Sanh. 25b and P. Sanh. III,21a.) The rabbis also declared that it was difficult for the shepherds to gain repentance (B. B. Q. 94b).

In this respect, it is significant that Rabbi Eliezer among others, upon being questioned about raising of small animals (goats and sheep), gave an evasive answer. The Tosefta then remarks that he did not answer the question directly because he never said a thing concerning which he possessed no tradition. The implication is clear: raising of goats and sheep constituted a new problem at the time of Eliezer and Gamaliel, i.e., shortly after the destruction of the Temple. Why did this problem come up at this particular time?

The main reason is the termination of the sacrificial cult, particularly of the Paschal sacrifice. The large animal husbandry in Palestine at the time of the Temple was necessary to provide a large yearly supply of yearling goats and lambs required for the Paschal sacrifice, and also numerous older animals for the other sacrifices. Suddenly, the demand dropped, particularly for the one-year-old animals, which were now allowed to grow older. The natural consequence was an increase in large herds of sheep and goats that needed food and caused considerable damage to agriculture. This naturally infuriated the farmers, and the rabbis sought to help them through their stand against the stock breeders.

There may have been a trend away from farming because of heavy taxes on farmers, or better profits in breeding, etc. Cf. Tos. 'Arakhin V,6, which says that one must not sell a field in order to buy various other items, among them cattle and small animals (p. 549).

But why did Gamaliel not join the other sages in this matter? He, as the Nasi, may have refused to antagonize a part of his people. He was also Nasi of the shepherds. Also noteworthy is Gamaliel’s endeavor to have the celebration with the Paschal lamb in Jerusalem continued throughout the land in a fashion similar to the celebration at the time of the Temple. Since he held this opinion, he could not oppose breeders of animals needed for the Seder. Gamaliel’s view favoring a whole roasted kid (or lamb) as the Paschal meal (M. Beḥah II,7; cf. Tosefta, ibid. II,15) was rejected by the
sages (ibid.); therefore, they had no reason to spare the breeders of these animals.

While Gamaliel did not succeed in making the existing custom of having a roasted whole kid for the Seder a law, his contribution to the establishment of the Seder ritual is noteworthy. See particularly M. Pesahim X,5:

רְבַּבְּנָם מִלְּאֵל הַיָּהָא אָמְרָה כָּל שֶׁלֶא אמַרְלָה שָׂלָשָׁה דְּבַרְיָה; כָּל בִּסְתָּה לְאָל יִצְאֵי יִדְּמָה אָיֵדָה חֵן; פְּסָחִה מָצָא וּמָרְרָה; פְּסָחִי עֲלָי שְׁמָוָה שְׁפָתָהוֹן מַכָּה

עֲלָי בֵּית אָבָהָה לְמַכְכָּרָם. כֹּל

Rabban Gamaliel used to say, Whosoever has not said [explained] these three things at Passover has not fulfilled his obligation. And these are they: Paschal sacrifice, unleavened bread, and bitter herbs. “Paschal sacrifice”—because God passed over the houses of our fathers in Egypt; “unleavened bread”—because our fathers were redeemed from Egypt; “bitter herbs”—because the Egyptians embittered the lives of our fathers in Egypt.

The Gamaliel of this passage is certainly Gamaliel II, not Gamaliel I as some scholars believe.

Parallel versions to our Mishnah include biblical references. Such versions are, for example, the text of the Passover Haggadah and old Genizah fragments.

The above statement of Gamaliel, though simple on the surface, is difficult in more than one respect, such as:

To what kind of obligation does Gamaliel refer? A noteworthy conjecture is that of E. D. Goldschmidt stating that Gamaliel refers to Exod. 13:8 לְבֵנְךָ; “And thou shalt tell thy son.” However, if this is what Gamaliel had in mind the wording expected would be לְאָל קִירִים מְצֹאָה וּמְנַדְּתָה לְבֵנְךָ “He has not fulfilled the commandment of ‘And thou shalt tell they son.’” Therefore, we believe that Gamaliel, in making the above statement, wanted to emphasize the importance of explaining the essential Passover rituals, and had no specific biblical law in mind commanding the expounding of these rituals. Thus, in effect, he established a law that influenced the spiritual and liturgical expansion of the Passover ritual. Gamaliel, at least, once spent a whole Seder night with his colleagues (not with
children) in Lud discussing the matters concerning Passover, as did (probably later) Akiba in Bene Berak.

Some scholars believe that Gamaliel, who was so much concerned about Christian (and other sectarian) influences, intended to counteract the belief that the Seder commemorates the Last Supper by making the expounding of the true reasons for the Passover ceremonies a requirement.

The destruction of the Temple might have resulted in the complete loss of the Passover night ritual since the center of this ritual was the Passover sacrifice. With this sacrifice abolished, Mazza and bitter herbs, which accompany this sacrifice and are secondary to it (Num. 9:11, “they shall eat it [the Paschal sacrifice] with unleavened bread and bitter herbs”) could have been abandoned as well. It was the genius of the rabbis, and particularly of Gamaliel, that saved the Seder and compensated for the lack of the sacrifice by shifting the emphasis to spiritual aspects of the Exodus, thus making the Seder meaningful throughout the ages. Had Gamaliel done nothing else for Judaism but this, he would have been one of the pillars of Rabbinic Judaism.

Gamaliel’s Journeys

Beside performing his presidential duties and lecturing at the academy in Javneh and his school in Lud, Gamaliel spent much time on journeys in Palestine and abroad as did other Princes, particularly those succeeding him. We cite the following instances of Gamaliel’s journeys:

In M. 'Eruvin X,10, Gamaliel and the Elders came to Tiberias and forbade a lenient practice regarding the use of a certain bolt for shutting a door on a Sabbath. Thus R. Eliezer relates the incident. R. Joshua’s tradition reverses matters.

This incident demonstrates that Gamaliel and the Elders supervised and corrected religious practices of their people.

Tos. Terumoth II,13 (p. 28) relates an incident that occurred in Akzib in reference to matters of זרעים רבין grapes of the fourth year, bought from a gentile in Syria. For decision the matter was put
before Gamaliel "who was travelling from place to place." The actual content of his decision is a matter of controversy.

In B. *Eruvin* 64b (a Baraita), Gamaliel accompanied by R. Ilai, rode on a donkey from Akko to Kezib. On the road, Gamaliel gave some instructions with halakhic implications. In Kezib, a man approached Gamaliel with a request to annul his vow. Since Gamaliel had drunk wine shortly before this request, he traveled three more miles until he arrived at the "Ladder of Tyre," whereupon he annulled the vow. His action was considered as having the following implications: 1) Drinking of a revi'ith wine intoxicates; 2) An intoxicated person may not render a halakhic decision; 3) Travel dissipates the effects of alcohol; 4) A vow may not be annulled while riding, walking or standing, but only while sitting. This is another incident demonstrating that the example of a great man may be considered as a precedent for Halakhah.

Among other places Gamaliel visited were: Jericho, Kefar Otnai, Narvad, Ashkelon — towns that had predominantly non-Jewish populations.

He journeyed several times to Rome usually in the company of Joshua, Akiba, and Eleazar ben Azariah.

In B. *Makkoth* 24ab, Gamaliel, Eleazar ben Azariah, Joshua and Akiba traveled together (cf. Midrash Tannaim, p. 37). The purpose of this trip is not revealed.

In P. *Sanh.* VII,13, Eliezer, Joshua, and Gamaliel are together. They were surprised to find Jews in an (unidentified) town. They prayed that the childless son of their host would become a father. The prayer was effective, and the son born became a sage, Rabbi Judah ben Bathya. The actual purpose of the trip is unknown.

In *Devarim Rabbah* II,15, "our sages happened to be in Rome, R. Eliezer, R. Joshua and Rabban Gamaliel." The occasion of the trip obviously was an evil decree ("within thirty days there must be no Jew in the entire World") which they successfully averted. The incident is given legendary form, which represents a later embellishment of the historical nucleus. The incident is significant because it points to the importance of at least some of the trips to Rome undertaken by Gamaliel and his associates.

In *Shemoth Rabbah* 39, Gamaliel, Joshua, Eleazar ben Azariah
and Akiba went to Rome and preached there. While there, they also had a dispute with a min (probably Judeo-Christian).

This incident reveals that Gamaliel and other leaders of Rabbinic Judaism were concerned over sectarian influence and sought to counteract it. To some extent, these trips parallel the journeys of the Apostles and may have been undertaken as a counter measure.

In B. A. Z. 54b, Gamaliel had a dispute while in Rome with an idol-worshipping philosopher over God’s power and the quality of idols as living gods. No associates of Gamaliel are mentioned in this case.

We find other cases in which Gamaliel traveled alone. Such a case is M. ‘Eduy. VII.7.

Although the purpose of these travels is seldom revealed, the instances in which the purpose of the trips is known permit the conclusion that most, if not all of them, were “business trips” of importance. Some of them were of political nature, as is especially obvious with regard to the trips to Rome. Others were undertaken to strengthen the bonds with the Jews in the Diaspora and the towns under Hellenistic influence. They often combined both purposes. Due to the busy schedule of the Patriarchs, they often sent sages as their representatives on such trips. These שליחים, apostles, performed important tasks. They saw to it that the religious life in distant Jewish communities was in harmony with Judaism as interpreted by the Beth Din Ha-Gadol to prevent chaos and sectarianism. Sages were also dispatched to various communities to solicit money for the academy in Javneh and other religious purposes.68

Gamaliel (and the other Patriarchs) seldom traveled alone. Gamaliel’s most frequent travel companions were R. Joshua, his Av Beth Din, R. Eleazar ben Azariah, who shared honors with him in the academy of Javneh, and R. Akiba, who performed some official functions, such as intercalating the year for (or communicating such information to) the Jews in Babylonia. These men obviously ranked highest among the members of the Beth Din Ha-Gadol; they constituted the “executive committee” under Gamaliel’s presidency.

According to the Talmud, Gamaliel II was still alive during the Bar Kokhba war. When the Romans sought to kill him, he went into hiding.69 Nonetheless Graetz (followed by other scholars)
claims that Gamaliel died about 117 C.E. and emends the sources so that they uphold his claim.\textsuperscript{70} He also maintains that Simon, Gamaliel's son, became Patriarch about 140.\textsuperscript{71} The identity of the man in charge of the Patriarchate during the interim is controversial.

According to Graetz during the interim R. Joshua, the \textit{Av Beth Din}, was the acting Patriarch.\textsuperscript{72}

I. Halevy, followed by J. S. Zuri, holds that after Gamaliel's death Eleazar ben Azariah became the Patriarch. He also claims that Gamaliel died thirty-five years after the fall of the Temple, in 105 C.E.\textsuperscript{73} This would give Eleazar ben Azariah a presidency of thirty-five years after Gamaliel's death. However, the Talmud never says that Eleazar ben Azariah was Patriarch after Gamaliel's death, nor that it was R. Joshua, and we can see no reason why such a long presidency should be totally without mention in the entire talmudic literature. In our opinion neither Graetz's nor Halevy's conjectures deserve credence. The explicit talmudic sources are certainly more reliable. Gamaliel, who married more than once, reached an old age, therefore there could not have been a long interim between his death and the beginning of Simon's Patriarchate. The man most likely to have been the acting Patriarch during these years was Akiba. Some of the indications to this effect are the following: Akiba, even while held in prison by the Romans, was in charge of the calendation, a prerogative of the Nasi and Sanhedrin.\textsuperscript{74} Like Gamaliel II, Akiba too traveled to many places and countries, apart from those journeys made with Gamaliel.\textsuperscript{75} During his visit to the various countries Akiba did some teaching, intercalating of years and performance of other tasks as well. In giving opinions, Akiba, like Gamaliel, hardly ever quotes other Tannaim. The authority of the great Patriarchs made a frequent reference to other sages unnecessary. After the last uprising, Akiba's activities, which resulted in his imprisonment, may have included duties of the Patriarch.

Whether Akiba held the office of an acting Patriarch during the interim between Gamaliel's death and Simon's presidency, is of little importance. Essential is his accomplishment for the history of Rabbinic Judaism. In this respect, he ranks with the outstanding patriarchs. The oral law, which moved into the limelight of Judaism after the destruction of the Temple, grew into a vast bulk of learning and
practices. As time progressed, this vast uncoordinated bulk became quite chaotic and threatened to destroy itself. The man who came to the rescue of the law was Akiba, as we shall see later.

**ELEAZAR BEN AZARIAH**

After Gamaliel II was demoted, Eleazar ben Azariah was elected in his place. Whether Gamaliel was stripped of all his power, losing both the presidency of the Sanhedrin and his office as Nasi, is a controversial issue. Proponents of the opinion that Gamaliel lost merely the presidency of the academy but not his Nasi office point to the fact that neither the account in the Babylonian Talmud (*Ber.* 27b–28a) nor the one in the P. Talmud (P. *Ber.* IV,1; 7d) state explicitly that Gamaliel lost his Nasi office or that Eleazar ben Azariah succeeded him in this office. The B. Talmud merely says נא ועבירה "Let us depose him" (i.e., Gamaliel); and with reference to Eleazar ben Azariah the term ריש מהריבא “head of the academy” is used. The P. Talmud states that מתיו את ר' אלע אבברות היסבה "They appointed [or: ordained] Eleazar ben Azariah [as member and head] of the academy," and: לאל ברהוו יא "They did not demote him from his high office, but appointed him *Av Beth Din.*" In addition they claim that the members of the academy had no right to depose the Nasi since he was endorsed by the Roman authorities. It should also be noted that Eleazar ben Azariah is never called Nasi or referred to as Rabbann, a title borne by the Princes.

While at first sight these considerations seem to carry decisive weight, a scrutiny of their premises and relevant sources show that they are unacceptable. For example, the assumption that Gamaliel lost merely the presidency of the academy but not the office of the Nasi is based on the premise that these two offices could be separated. However, this conjectural premise is unacceptable since there is no case on record where such was done.