

JEWISH COMMUNAL GOVERNMENT IN SPAIN

BY RABBI ISRAEL ELFENBEIN.

INTRODUCTION.

THE She'eloth u T'shuwoth¹ of Solomon ibn Adret² of Barcelona, forming almost exclusively³ the basis of this essay, cover the whole field of Jewish life and thought during the thirteenth century. They contain not only questions of law and ceremonies, but are devoted also to exegesis, philosophy,⁴ theology and astrology.⁵ Here we find authentic⁶ information concerning the social and political condition of the Jews in general, and more definitely of the Spanish communities during the thirteenth century.

It is this latter subject which this essay intends to survey. The writer, however, would limit his exposition to the two most essential phases of communal organization—first to discuss the government and its officials, then to determine the scope of the organized communal unit, and the manner in which its functions were exercised.

I.—VARIETY IN THE FORMS OF GOVERNMENT.

The political machinery of the Spanish communities of this period is almost as varied as is nature itself. There is no single and uniform system of government in the "Aljama." We can dis-

¹ The following editions of 3375 responsa have been used for this essay: Vols. I and III ed. Lemberg (1811); vol. II ed. Livorno (1657); vol. IV Petrikov (1883); vol. V. Livorno (1825); vol. VI Jerusalem (1901); vols. VIb and VII Warsaw (1868), and vol. VIII (Pseudo-Nachmanides) Zolkiev (1795).

² 1235-1310.

³ Occasional reference will also be made to the responsa of other Spanish authorities; viz. Asher b. Jehiel; Judah b. Asher (in his *Zichron Jehuda*, ed. Berlin, 1846); Nissim b. Reuben and Isaac b. Sheshet.

⁴ I, 10.

⁵ I, 148.

⁶ The responsa in general produce a faithful and unbiased picture of the actual conditions of their time, for they were not designed as a source-book of history, but only as a collection of legal decisions.

cover from the point of view of suffrage⁷ a variety of governmental features ranging from democracy to tyranny. Communities⁸ in which the people at large directly chose⁹ their representatives, called "*Mukdamin*,"¹⁰ for a limited term, may be said to have formed a democracy.¹¹ This does not, however, imply that the average member of such an organization, or the "*Kahal*" entire, had a greater degree of liberty¹² than an aristocracy would have vouchsafed them. All depended on the stipulations made in the "*Takkanoth*" of the *Aljama*, regarding the extent of power to be invested in the hands of the *Mukdamin* over its individual members.

Most communities, however, definitely authorized their governing board to control all communal affairs; the *Mukdamin* exercised supreme authority, unfettered by later restrictions, legal or popular. Thus, possessing absolute power, they would formulate the communal ordinances and interpret all constitutional difficulties and ambiguities found in them. They could institute a major¹³ ex-communication, appoint officers,¹⁴ and decide on the acquisition and sale of public property.¹⁵ Neither a popular majority nor the advisory board¹⁶ could act without their approval or object to their decisions.

Other administrations¹⁷ resembled aristocracies. In these a small number¹⁸ secretly selected the governing body, termed either "*B'rurim*,"¹⁹ representatives, or "*Zekenim*,"²⁰ elders. The candi-

⁷ Unlike modern times, suffrage was regarded as the only method of classification throughout the Middle Ages.

⁸ Tudela, Jacca, Valencia, Teruel, etc. (III, 394, 409, and resp. of Ibn Sheshet Nos. 223, 249, 260, 453 and 478).

⁹ The office of "*Mukdamin*" was largely elective (cf. III, 428). In Saragossa it was subject to appointment (cf. III, 394).

¹⁰ "*Mukdamin*" is often referred to as "*Tube Hair*."

¹¹ Although the government was conducted by a few, they neither usurped their power, nor did they assume special privileges.

¹² The opposite was true in some Spanish communities.

¹³ VIII, 268.

¹⁴ V, 125; III, 428, 394, 409; VIII, 268.

¹⁵ This power was entrusted to them by the people.

¹⁶ "*G'dole Ho'ezah*"; "*Ba'ale Ezah*," etc.

¹⁷ E. g. Barcelona, Saragossa, Valencia, Toledo, Lerida, Huesca, etc.

¹⁸ Either five or ten retiring officers of the Board.

¹⁹ The term "*Berurim*" bears many different connotations. It is applied to the Moral and Religious Welfare Committee of the *Aljama* (I, 1187,

dates themselves generally came from a privileged class.²¹ In these Aljamas the work of the government was generally done by high officials,²² appointed to office by their predecessors through an elaborate secret process of co-optation.²³ This close official and aristocratic atmosphere was nevertheless not insusceptible to the popular voice. For though a special caste is open to prejudice and corruption, many devices were provided in advance by the communal regulations to prevent all personal aggrandizement.

In the first place the ordinances prevented the friends of the retiring officer or his colleagues to bring to bear any outside influence during the secret appointment of new officers. Further, an advisory board known as "Yoatzim"²⁴ was added, without whose consent the B'rurim could not act.²⁵ And, finally, the B'rurim had neither absolute nor initiative power²⁶ of their own, but rather

II, 279); to judges appointed under royal influence (cf. III, 385); in Lerida to the Finance Committee (cf. III, 330, 386, etc.); to the three sworn electors, authorized by the "Kahal" to choose the tax-assessors for the Aljama (cf. III, 399), and to the tax-supervisors themselves (cf. V, 221, 222, etc.).

²⁰ Also called "Rovshe Hakahal" or "Gedole Hakahal" (III, 428).

²¹ A minimum tax payment of 3 *dinneros* entitled one to membership in that class (IV, 312).

²² The number differed with the different Aljamas, 4, 5 (V, 289) or 10 (V, 126).

²³ The manner of their election is best described in the constitution of Lerida: "When the annual term is about to expire, the old board shall assemble on the day preceding each 'Rosh Ha'shonoh,' in an enclosed place, called 'Ustaga.' There each officer shall appoint his successor for the ensuing year, and his appointment shall remain valid (unless the appointee be one who is disqualified as witness, and, therefore, cannot serve on the board), even if it is against the will of the fellow-members of the board. During their stay in the 'Ustaga,' each of them shall supply himself with food on his own expense, and not communicate with his friends regarding his selection. Nor can the old body leave the 'Ustaga' before the entire board is chosen, and their names are announced in the synagogue at services by the Hazan" (cf. V, 284; IV, 312).

²⁴ This board of "counsellors" was also subject to the same system of secret appointment.

²⁵ V, 284.

²⁶ They did appoint officers and inspect the repairs of the synagogue (III, 431, 438, 443). They often had the power over divorces in the community (cf. IV, 257).

served as an agency to carry out the will²⁷ of the populace. We are told that they had no discretionary power of their own, but were totally subservient to the *vox populi* under specific²⁸ or unspecified legal limitations.

The office of the B'rurim may be said to have had the advantage over the office of the Mukdamin. They both maintained the continuity²⁹ of power, so highly essential to a strong system of government, and still never failed to command the sympathy of the people. For they regarded the community as a unit, that exists to realize its own best rather than to serve the personal interests of its officials.

In addition to these two common forms of government the *responsa* occasionally refer to communities that can hardly be said to have had a definite form of administration. These may be classified under two separate headings.

A community which had no great body to formulate and carry out the will of the members had really no form of government at all. So small an *Aljama*, which usually took action as a whole, required in all its communal affairs the unanimous³⁰ decision of the members present.

Other *Aljamas* there were, in which the government was carried out without the consent of the "Kahal," by the will of one individual³¹ with influence at the court, or by powerful³² members of the *Aljama*. These communities must at some time have been in the clutches of tyranny, for their self-crowned leaders, we are told,

²⁷ Each step taken by the "Berurim" required the consent of the entire community (III, 304).

²⁸ Their right of expenditure was limited to two *Sueldos*. Beyond that, the consent of the ten largest tax-payers, or of the entire *Kahal* was required (III, 428, 434, 443).

²⁹ For each retiring officer chose his own successor (I, 967; IV, 312).

³⁰ The objection of a minority was also valid (III, 394).

³¹ (Cf. II, 279, 280; V, 245). Such an individual had received royal permission to punish moral and religious offenders in the community in any way that he saw fit, but disregarded entirely the feelings of the communal authorities, who looked upon his zealous work with suspicion. Major excommunication was applied to such tyrants as a warning for the future. Later, however, they were forced to dissolve the "Herem" under threat of royal punishment.

³² Cf. V, 125, which reads: "Ten men agreed to appoint B'rurim without the consent of their colleagues."

had no regular method of getting at the will of the people or of being checked by their true representatives. In one case,³³ for example, the power wielded by a single Jewish tyrant was so enormous that the high officers of the community were forced to withdraw their opposition under the threat of punishment, and to invalidate against their own will all previous ex-communications that had been pronounced against such tyrants.

Such was the varied status of the communal government during this period.

II.—UNIFORMITY IN THE CORPS OF COMMUNAL OFFICIALS.

In striking contrast to the diverse government of the period we meet with an almost uniform communal magistracy throughout the responsa of the period, which show a sameness in the official positions and functions. To give a brief survey of both the paid and unpaid communal officers is the purpose of this chapter.

A.—UNPAID OFFICIALS.

In addition to the Mukdamin and the B'rurim and their advisory boards, we may also classify under this general heading the special committees of the Aljama, each supreme in its own department.

1.—COMMITTEE ON FINANCE.

This committee, consisting of five members, known in Lerida³⁴ as B'rurim,³⁵ was chosen from the aristocracy of wealth. It had full control of the communal fund for one year, being authorized by the Kahal to borrow money whenever it was necessary to fill up the gaps in the treasury. In most cases, however, it would invest the money in business or in interest loans, using the profits for such purposes as they saw fit. But the approval of the ten greatest taxpayers was required in case the expense was in excess of two "maravedis."

³³ II, 279; V, 245, 283.

³⁴ III, 330, 386, 387, 425, 434.

³⁵ Unlike the Berurim mentioned above, these officers were elected in public by the entire community. In some communities, however, the treasury was in the hands of officers called "Néemanim" (cf. V, 273; III, 417).

Typical of other communities is the description of the manner in which the finance committee of Lerida exercised its function. A committee of five was appointed and later divided into two bodies of two and three members. The smaller committee would invest the money in profitable enterprises and present an account to the larger committee every month, this being copied by one of them and later certified by all. At the expiration of their year's term, a full report was given to the community, after which others were appointed in their place.

2.—COMMITTEE ON TAXATION.

This general board,³⁶ divided into assessors³⁷ and collectors,³⁷ was chosen directly³⁸ or by lot³⁹ from the privileged class. Service in it, because of the great responsibilities connected with it, was made compulsory. All the secrets of the Aljama were confided to them under a special oath,⁴⁰ and full authority was given them by the members of the Aljama to take pledges or excommunicate such members as had neglected⁴¹ the payment of their assessed taxes.

We hear also of the existence of a sub-committee of ten, which may be considered an adjunct to the committee on taxation. These men were elected for the purpose of investigating the sworn statements of the individual taxpayer, and of punishing any found guilty of perjury.

3.—BOARD OF COMMUNAL DEPUTIES.⁴²

The committee of syndics was chosen from the aristocracy of wealth⁴³ to represent the Aljama in the royal court and to defend

³⁶ Of either three members, as in Valencia, or of five (III, 399, 417).

³⁷ "Néemanim"; quoted in sources as "Govee Ha-Mas" (III, 428).

³⁸ In such communities, three members, Berurim, chose them directly.

³⁹ III, 417. In Valencia, five men were chosen by lots from among the twenty richest members of the Aljama. Those chosen, had to accept office even against their will (III, 399).

⁴⁰ After election, they had to take a special oath "not to reveal the secrets of the community." This probably accounts for the name, "Néemanim," trustees of the Aljama.

⁴¹ Cf. II, 64; IV, 270; III, 321, 398, 400.

⁴² Sh'luchei Ha'kahal," i. e. Procuratores Universitatis Judæorum (III, 402; V, 126).

⁴³ As an indirect proof, we may cite the case where the syndics laid out in advance for the Aljama the large sum of 5,500 dinneros (III, 394).

its interests before the king. The power of this board was unlimited to dispense large sums of money among the royal officials, when bribes were required to obtain privileges for the community.

4.—MORAL AND RELIGIOUS WELFARE COMMITTEE.

This committee, chosen from the aristocracy of learning⁴⁴ and general influence, was either a regular office or one chosen under the exigencies of the moment. It consisted of a number of officers termed "B'rure Averoth,"⁴⁵ who were authorized by the Kahal to seek out the sinners of the community and to prescribe specific punishment. Their interest also extended to the prevention⁴⁶ of crime. In this capacity they would suggest corrective means to be discussed at the general meetings and to be finally passed in the form of ordinances or "Takkanoth."⁴⁷

5.—COMMITTEE ON COMMUNAL CHARITIES.

This general body was divided into two parts,⁴⁸ each appointed by the Aljama for a limited time to manage the income and expense of the special fund under its supervision. The following are the boards that constituted the larger body.

a. The officers who had been in charge of the general fund—"Gabbæ Z'daka"⁴⁹—would use the fund for the support of the poor and the ransom of proselytes and captives. Sometimes, they would also be "Gabbæ Hekdash,"⁵⁰ controlling the fund used for such sacred purposes as the participation in the funeral procession⁵¹ or the burying of an unknown person.⁵² Occasionally they

⁴⁴ Called, therefore, "Nichbadei Ha'kahal" or "Hashuvei Ha'kahal" (I, 1187; III, 393).

⁴⁵ Cf. I, 1187; II, 279; IV, 311.

⁴⁶ Cf. Chapter on the "Police System of the Aljama" (I, 550; 1206).

⁴⁷ Cf. chapter on the "Legislation of the Aljama" (I, 1206; VII, 244, 498).

⁴⁸ V, 283; III, 291-4; IV, 239.

⁴⁹ III, 291-4; V, 249; I, 1099.

⁵⁰ III, 291; IV, 239.

⁵¹ In Cervera and other small communities where there was no local cemetery, the Aljama would pay those who would follow the funeral procession from the house of the deceased to the neighboring community.

⁵² "Meth Mitzvah."

would support⁵³ the Talmud Torah and provide the synagogue⁵⁴ with sacred scrolls out of the same fund.

b. Other workers are known in our sources as "Gabbæ Mazon."⁵⁵ These supervised the special fund out of which the very poor members were regularly provided with meals.

6.—THE BETH-DIN.

The Beth-Din—a term commonly applied to the Jewish court—consisted of three⁵⁶ judges, to whom the responsa refer as Dayanim⁵⁷ or B'rurim.⁵⁸ Chosen⁵⁹ by the Aljama or appointed under royal influence,⁶⁰ they rendered their jurisdiction in civil, marital and on emergency in criminal cases.

7.—THE RABBI.

Among the unpaid officers we may also mention the communal Rabbi,⁶¹ known in general terms⁶² as "Zekan Ha-ir" or "Talmid Hakam." He was to teach the Talmud, serve as religious leader

⁵³ Only when there was a surplus in the treasury would they appropriate any money for the two last-named purposes (III, 291).

⁵⁴ The synagogue was regarded communal property (III, 434).

⁵⁵ V, 283.

⁵⁶ The rabbi of the Aljama was generally a member of the court (IV, 57, 129).

⁵⁷ III, 390, 418.

⁵⁸ These were probably special judges appointed by the king, for the purpose of reporting all cases to the government (III, 384, 385).

⁵⁹ "Zichron Jehudah" discusses the method of election in detail. The members of the Aljama chose two members and authorized them to choose twelve other men. Each of these twelve placed the names of his three candidates on a separate ballot. The three candidates receiving the largest number of votes were authorized to act as "Dayanim" in the "Beth-Din" (III, 390, 418).

⁶⁰ These protected the royal interests. In Lerida, for example, the judges had to inform the government of all cases of fines, so that they may not be lost to the crown (I, 551; VIII, 245; III, 384).

⁶¹ Rabbis were not paid regularly before the time of R. Simon of Duran (cf. Tashbez, I, 142). In only very rare cases do we hear of rabbis receiving support of the Aljama (cf. Rosh, 56, and the Testament of R. Judah b. Asher, ed. Schechter, p. 18).

⁶² III, 390.

and also officiate as Dayan of the Jewish court. The Rabbi is not, however, to be identified⁶³ with the Dayan, for the latter was occasionally appointed by the government without regard to his rabbinical qualifications—in some cases, the Dayan was not able to read properly.⁶⁴ The two classes must be sharply marked off, since the status of the judge, during the period we speak of, was far below the ideal standard of the rabbi.

B.—SALARIED OFFICERS.

1.—THE PUBLIC NOTARY OF THE ALJAMA.

The scribe⁶⁵ appointed by the community added to his regular occupation the registry of deeds.⁶⁶ He was authorized by a communal ordinance to sign a document in place of witnesses who were unskilled in writing or had died before they could attach their signature.⁶⁷ In some Aljamas,⁶⁸ he would also have to record all deeds brought to him in a special register, "Pinkas ha-Sofer,"⁶⁹ so that the title to real estate might be determined even after the death of witnesses.

2.—THE SH'LIACH-ZIBBUR AND THE SHAMMASH.

The Sh'liach-Zibbur⁷⁰ and the Shammash were appointed at a salary to serve the synagogue and the authorities. The former acted as cantor,⁷¹ solemnizer of betrothals and marriages,⁷² and as public crier.⁷² Thus in the synagogue on the Sabbath he would announce

⁶³ Cf. I, 179, where the Rash-ba speaks of judges in contrast to Rabbis (I, 179, 551; VIII, 245).

⁶⁴ This probably accounts for the continuous occurrence of contempt of court cases, which caused many Aljamas to promulgate a special *Takanah* against the same.

⁶⁵ III, 438; V, 129.

⁶⁶ II, 107; III, 142; II, 111; IV, 199.

⁶⁷ I, 729; III, 438.

⁶⁸ E. g. Saragossa.

⁶⁹ This book of records must have been adapted from the system of Christian *alcaldes* (VIII, 65).

⁷⁰ The source for payment for that office varies with the different Aljamas. Some paid it from the "communal fund," while others paid it from special sources for that purpose, cf. III, 381; V, 15; I, 300.

⁷¹ Baál Tefillah, often acting also as reader of the law (IV, 418; V, 283).

⁷² I, 550; III, 306, 395; IV, 64, 314; V, 815.

the newly-chosen officers and give publicity⁷³ to writs of ex-communication and to all ordinances, whether promulgated or dissolved by the Aljama. He might also inform the members of property to be sold during the coming week. The Shammash was overseer of the synagogue, messenger⁷⁴ of the Aljama, and summoner or warrant officer of the court.

3.—THE DARSHAN AND TABBAKH.

Other salaried officers were the Darshan and the Tabbakh. The former, appointed by some communities with an annual stipend of a hundred sueldos,⁷⁵ served as preacher or Talmudical lecturer. The latter superintended the ritual slaughter⁷⁷ of cattle. The Hebrew teacher⁷⁶ must also have been a paid officer in every Aljama, though the sources give no reference to this effect.

III.—CO-OPERATION OF THE POWERS OF COMMUNAL GOVERNMENT.

To complete the exposition of the inner organization of the Spanish communities we must describe the three departments of communal government and the manner of their exercise. First, it may be necessary to define the general nature of such a government with regard to the division of public power.

The careful reader of the responsa soon realizes that the legislative, executive and judicial branches of the community were not strictly separate.⁷⁸ Their functions rather overlapped one another. Thus the community in its legislative capacity would exercise much judicial power,⁷⁹ both making and interpreting the laws. The au-

⁷³ I, 815; III, 304, 306, 395; V, 222.

⁷⁴ To invite the members to a communal meeting.

⁷⁵ Cf. V, 229, the only source which throws some light on the status of the Hebrew teacher.

⁷⁶ Paid by the trusted members of the Aljama (V, 129, 273).

⁷⁷ Only occasionally would the Jews have to slaughter their animals in the direction of the "Alkibla," the Mohammedan abattoir of the Aljama (cf. I, 345, 787). Steinschneider, "Polemische u. Apolog. Liter.).

⁷⁸ The fact that the term "B'rurim" applies to communal authorities and judges, to tax-supervisors and other officers, clearly shows the absence of strict separation.

⁷⁹ Divorce cases were decided by communal authorities (IV, 257, 308; V, 247).

thorities, as executives, would in some cases⁸⁰ act in conjunction with the judiciary or the rabbi, who formed a part of the judiciary. Again, in cases of ex-communication and fines, the law was promulgated and applied by the very same body.⁸¹ And the entire police power⁸² of the community was in the hands of the very representatives who helped pass the police measures.

Nevertheless, the government of the Aljama cannot be strictly regarded as a centralized form of government; in purely judicial⁸³ and administrative⁸⁴ affairs each branch was supreme in its department. The three branches of the Aljama must, therefore, have constituted a co-operative government, each department working in unison with the others for the benefit of the entire community.

This chapter purposes to offer a brief study of these co-operative departments.

A.—THE LEGISLATIVE DEPARTMENT OF THE ALJAMA.

The strongest and most comprehensive power was the power granted to community by the king⁸⁵ to make new laws or to repeal⁸⁶ the existing laws for the welfare of all three powers. Each Aljama could make its Takkanoth binding⁸⁷ on the Kahal⁸⁸ as soon

⁸⁰ In cases of moral religious breach (II, 290; III, 236, 304, 318; IV, 257; V, 238, 243; also Rosh, XLIII, 6).

⁸¹ V, 272; VII, 496; VIII, 245.

⁸² These B'rurim searched for judges and punished evil-doers (II, 290; IV, 311; V, 240; VII, 244, 496).

⁸³ In private quarrels between individuals.

⁸⁴ Taxation.

⁸⁵ II, 279, 280; V, 245; also Resp. of Ibn Sheshet, No. 399.

⁸⁶ Theoretically, the Kahal had no right to repeal that which had been confirmed by oath and ex-communication. Practice, however, demanded it in certain emergencies (VIII, 241).

⁸⁷ Each ordinance was drawn up in Hebrew or Arabic (VIb, 196), and required both the signature of the witnesses and the promulgation of the Hazan.

⁸⁸ The effects of the Takanoth varied. In most cases, however, they were binding for periods from five to fifty years (I, 824; V, 279). In all cases, save those of taxation, the laws were binding upon local governments only. In cases of taxation, the legislative power of the larger Aljama (e. g. Barcelona) extended over the entire district, and all smaller Aljamas had to adjust their government in accordance with these laws (III, 441, 395; VIII, 241).

as they were read by the Chazan in the synagogue, and any member who refused to submit to the new regulations was liable to be excommunicated.⁸⁰ A repeal was practically impossible, since this required the approval of the entire Kahal, with no dissenting voice.

Such was the force of the communal ordinances. They affected vitally every phase of communal life, nothing being beyond the scope of their power. The community legislated over the whole domain of Jewish law, laying down rules governing contracts,⁸⁰ real property,⁸¹ inheritance,⁸² and other civil matters. So in marital law it prescribed the rules of marriage,⁸³ divorce,⁸⁴ and

⁸⁰ The prevalent custom was to insert the following in the formula: "We prohibit and enforce it by oath and ex-communication * * * and he who transgresses shall be accursed."

⁸⁰ This was fully discussed above under the office of "Public Notary." Some communities authorized the scribe to sign the documents in place of witnesses who were either unskilled or who died before the document could receive the signature (I, 729; III, 438; II, 111; IV, 199).

⁸¹ In order to protect the proprietor from any encroachments that (I, 894; III, 161, 419; IV, 15, 142; V, 150; VIb, 7, etc.) might later be made against his acquired property, the cantor of the Aljama announced the following in case of a sale: "Any claimant to the particular estate now on sale shall present his plea within 15 or 30 days, either before the B'rurim or the Beth-Din (I, 894; III, 431; V, 150). Claims registered later were void, and (in Lerida) the claimant was placed under a ban, and fined 100 sueldos, unless a sufficient reason for the delay was given.

⁸² In order to satisfy the children as well as the near-relatives of the dead, the communities of Castile had a law passed that prohibited the husband from inheriting the "Ketubah" of his deceased wife, and left it entirely in the hands of her family (III, 432, 442). This law, promulgated for the welfare of all, is undoubtedly due to the influence of the Spanish law.

⁸³ In Mallorca, the betrothal of a woman was void, unless it was performed in the presence of ten men, besides the Hazan, or with the consent of her parents and immediate relatives. This was a measure against prevalent licentiousness (cf. Kayserling, "Juden in Navarra," S. 171) (I, 549-551, 1206; IV, 314).

⁸⁴ Divorce against a woman's will was prohibited in many Aljamas. The government punished it with death. Some left it entirely in the hands of the B'rurim (I, 179, 1237, 894; IV, 186, 257; V, 272; VII, 496; VIII, 245).

kindred matters. It distinguished the crimes punishable by fine,⁹⁵ ex-communication,⁹⁶ expulsion, flagellation,⁹⁷ or even death,⁹⁸ taking active control of the police power of the community. In the same capacity it made regulations concerning morals and religious observances,⁹⁹ and devised rules for the conduct of general business, and the market place.¹⁰⁰

Other matters with which the Takkanoth dealt were the election of officers,¹⁰¹ repair of the synagogues, city walls, and roads.¹⁰² They regulated the lives and property of the members; they imposed taxes¹⁰³ and prescribed definite arrangements for their assessment and collection.

Such was the vast legislative power exercised by the Aljama.

B.—THE EXECUTIVE DEPARTMENT.

Next in importance to the legislative power was the authority charged with the execution of the laws of the Kahal and the administration of its income and expense. This section treats of the police and taxation systems.

⁹⁵ The B'rurim were authorized to exact a fine of 500 Maravedis d'oro for any ex-communication that might result in loss of life (V, 288, 290; VII, 160).

⁹⁶ It was more a preventive than a punitive measure. It affirmed takanoth, prevented immoral and irreligious acts, i. e. gambling or violations of the Sabbath (III, 321, 399; IV, 321; V, 236, 240).

⁹⁷ For frivolous violation of an oath (I, 180, 865; IV, 126, 239; VIIb, 196).

⁹⁸ Informers were punished by death in Castile. They were the cancer of the mediæval Jewish communities, for both Jewish life and property was endangered by the denunciations of these "Malshinim" (II, 290; V, 240, 287, 290).

⁹⁹ II, 290; II, 236, 304, 318; IV, 314-16; V, 126, 238-43; VIII, 246-79.

¹⁰⁰ Cf. Chapter on "Police System of the Ajama."

¹⁰¹ II, 280; III, 409; IV, 312; V, 284.

¹⁰² III, 409, 434; in V, 235, we read of a resolution prohibiting travel during some seasons of the year, by way of a certain road that needed repairs.

¹⁰³ Cf. chapter on "Administration of Aljama" (III, 406). In Saragossa, people were kept from emigrating, or marrying their daughters with dowries away from town, until all Aljama taxes have been paid in full (III, 397). In Barcelona and other places, there existed a Takanah which required any man, who claimed he was overassessed, to pay the sum in full and

1.—POLICE SYSTEM.

The inner conditions of the Spanish communities early gave rise to the development of a police system, designed both to prevent and to punish crime. Police legislation has already been discussed; we may now explain the actual dispensation of justice.

Among the first regulations are those on the communal roads and markets, and the restrictions made against strangers¹⁰⁴ and newcomers. The Aljama would thus control the market prices of wine and meat;¹⁰⁵ also it would attempt to standardize all weights and measures, in order to protect the buyer against extortion.^{105a}

Great zeal was also displayed in guarding the moral and religious welfare of the Aljama, employing the corrective means of ex-communication,¹⁰⁶ fines, and flagellation. We learn, for example, that the Aljama of Jaca attempted to fine an employer, whose servant had bathed in the river on the eighth day of Passover; and that another unnamed community did actually fine and ex-communicate, for a period, a wealthy Jew who had engaged non-Jewish workmen to build his house on the Sabbath. Some communities would impose a fine of five hundred sueldos on a violator of an oath (cf. I, 179, 894; V, 272, 290). Others, however, would apply flagellation when an oath was violated in mere frivolity, and in cases of disobedience to the Beth-Din and of immorality. Only occasionally, in matters of great stress and importance, was the

then present his case before the Kahal or the Jewish court. The Rashba remarks: "Otherwise every one would present the same plea and taxes would never be collected." The Kahal at Saragossa expressed itself strongly against exemptions granted to influential members, and prohibited under threat of ex-communication the use of such privileges for fifty years, or more (III, 397; V, 279; II, 290; III, 385, 388; IV, 311; V, 164, 290; VIII, 240).

¹⁰⁴ The record of each newcomer was examined very closely, and he had to take an oath before the authorities of the town, stating his good intentions to become a permanent resident of the Aljama (III, 413; V, 240).

¹⁰⁵ The fixing of meat prices in the "Carniceria" was adjusted by the officers.

^{105a} I, 180; II, 290; III, 304, 399; IV, 315; V, 238; VII, 244, 511; VIII, 279.

¹⁰⁶ There was the ban of minor excommunication, "Niddui," which lasted only for a short time; and "Herem," major excommunication, a complete social boycott. The king, as well as the Aljama, applied these (I, 657; III, 442).

Aljama forced to such severe measures as expulsion or capital punishment.¹⁰⁷ As an illustration, we may mention the apostates of Suille, a man and his consort (another's wife), who came to Toledo with the intention of returning to the Jewish fold. The latter Aljama first ordered them lashed and then sent them off to different places.^{107a}

This then was the supreme police power which the Spanish communities alone¹⁰⁸ exercised over their members by the will of the king (III, 285, 20, 388), and by the flexibility of Jewish law.^{108a} It was their duty to give all fines to the royal treasury¹⁰⁹ and to let the government execute offenders convicted under the Jewish law.

2.—TAX ADMINISTRATION.

Far more complicated than the police system was the administration of taxes. The king divided his country into tax districts, permitting the Spanish Jewry to levy a lump sum on each community separately or on several communities collectively. Often the Kahal was forced to borrow money from its rich members or from the neighboring Gentiles¹¹⁰ to pay its quota in advance to the royal treasury. Later, the Aljama would assess each member from fifteen years up, according to his property and income, excepting generally the poor, the influential,¹¹¹ and the newcomer¹¹² in the community.

Interesting is the way the supervisors would assess and collect

¹⁰⁷ The number of stripes was unlimited. The offender was lashed with a double-harnessed strap until he accepted the judgment of the Rabbis (VIII, 456).

^{107a} I, 551; II, 290; V, 104, 240, 290.

¹⁰⁸ The Rosh remarks: "In none of the lands, save here in Spain, have I heard of Jews trying cases of capital punishment" (XVIII, 8).

^{108a} I, 61; II, 95; III, 384, 431; VIII, 257.

¹⁰⁹ In most cases, the fines were delivered directly to the government. Often a Jewish collector would take them up, receiving 10% commission.

¹¹⁰ They would often be taxed on interest received on gentile loans (V, 179).

¹¹¹ These would either be exempted by the king, or by the Aljama itself in return for public services. The Hebrew royal treasury was also immune (I, 144; V, 183, 279).

¹¹² Newcomers were exempted from part taxation, and encouraged in many other ways to remain permanent settlers (III, 404; V, 179).

the taxes. All the members of the community under oath promised to keep an exact record of their property and income, and to present it on demand to the communal authorities. These would copy the record in their register—in Arabic, the "Albitkah"—and then send a committee of ten to investigate the sworn statements. When the final assessment was made on this basis, all members, under fear of ex-communication, were ordered to pay in four installments, on the last two days of Sivan, Tamuz, Ab, and Elul. The recalcitrants were later publicly reminded on Monday and Thursday of the prescribed period of the ban that threatened them if they withheld payment. Those who removed had first to take a special oath¹¹³ and remit all outstanding dues before leaving for another Aljama.

The assessment gained new complexity when members had business transactions or property outside of their own Aljama. In such unusual cases, the method varied with the different communities. Some followed the old custom "that two communities cannot tax the same property at one time," and would not tax property outside their own Aljama. Others again (V, 178, 263, 283, 286), would first make the members pay for all their possessions, later allowing for the tax paid elsewhere. The Aljamas later attempted to confine all the transactions of their members within their own bounds. They willingly suffered a loss [once amounting to 2,300 sueldos "Jaques"—"Dinare Yakshish"—] in case the taxes which their members had to pay to other communities overbalanced the sum paid by these very members to their own treasury.

The various items of taxation may fall into two general categories—regular and irregular. The former were the definite, systematic taxes, levied periodically under authority of law and by a fixed rule of proportion.

The regular taxes are themselves divided into royal and communal; the first were levied by the king on land¹¹⁴ or on income;¹¹⁵

¹¹³ This was to assure themselves that the departure did not mean an evasion from taxation.

¹¹⁴ "Taska" and "Arnunith"; in Lerida this amounted to 1½ sueldos on each "Piska" of 100 sueldos, and was levied on landed property only. We find one case where there was a special tax payable to the clergy (I, 788; V, 182, 286).

¹¹⁵ Levied only on personal property, and debts. It often reached 50% (I, 799).

the latter were laid by the Aljama on special articles—used generally for such purposes as the night-guard and the repair of city or synagogue.¹¹⁶

Communal taxes included also the standing charity fund,¹¹⁷ that provided for such needs as the relief of the poor and the release of captives and proselytes, as well as the special sources of revenue out of which the salaried officials were paid.

The irregular taxes, generally raised among the members of the Aljama by special and extraordinary taxation, included both royal and clerical subsidies. The several cases enumerated below may serve as typical of the many forced contributions imposed upon the Jews of that period.

As for clerical subsidies, we are told that a small community near Monzon suffered much from apostates, who attempted to persuade the clergy to forbid the use of bread, meat and wine prepared according to Jewish ritual. To prevent the disastrous results that would have followed this prohibition, the Jews were compelled to distribute large bribes among the clergy and judges of the town.

In Marseilles, France (III, 389), the Jews who had presented a Purim play in the neighborhood of the bishop (Hegemon), were accused by the latter of ridiculing Christianity. Only by extensive bribery were they able to silence the instigators of this charge.

Royal subsidies were also extortionate. The community of Saragossa had to furnish the king 5,500 sueldos in order to be granted five letters of privileges with the royal seal.¹¹⁸

Reference is also made to an unnamed community that raised large sums of money to influence the king to reduce the Jew's badge to one-half its prescribed size.¹¹⁹ They had to pay well to prevent the loss of all interest on their loans, consenting, however, to give up only the illegal interest taken from Gentiles.¹²⁰

¹¹⁶ *Charga*; in some German communities, acc. to R. Meir, of Rothenburg, it amounted to a fixed sum of 60 *selukin*, paid wherever sojourned. Some Aljamas had fixed taxes on all trades (I, 788, 1099).

¹¹⁷ Tax on real property and on incomes.

¹¹⁸ "Hothmoth Ha'melech." One of the privileges was not to interfere with the right of the Aljama to collect taxes in its own way (III, 394, 402).

¹¹⁹ The garment *ge'lina* required no badge at all (I, 644; V, 183).

¹²⁰ A previous edict had ordered the Jew who took an excessive amount of interest from a Christian to lose both interest and capital.

The Aljama of Huesca would usually pay a tribute of 100 sueldos on the accession of each local ruler.¹²¹ In fact, Spanish Jewry as a whole had to levy a heavy protection tax on its Aljamas, to safeguard the life and property of its members on the eve of some Christian holiday.

In Mallorca the king¹²² would extort large sums of money from his various Aljamas. The Jews of Toledo, after having given up a heavy war-tax, in addition suffered a great loss by the royal compulsory loans, which were never repaid.

And, more than all this, often the king accused people on trumped-up¹²³ charges in order to confiscate their property.¹²⁴ For example, the accusation against a prominent Jew of Tortosa, that he had converted his Mohammedan maid-servant by force, resulted in a heavy loss not only to him, but to the Aljama as a whole.

All these diverse tax items the "trusted members" of the Aljama had to attend to. It is no wonder that some communal ordinances made this office compulsory, for great and manifold responsibilities were connected with the administration of taxes.

C.—THE JUDICIAL DEPARTMENT.

The last, though not the least important, function of the Aljama is the judicial power. The Dayanim as members of the Beth-Din, had the authority to decide and pronounce judgment in accordance with Jewish law¹²⁵ between private parties or communal factions in both marital and civil cases.¹²⁶ This right of the Aljama to set up an independent¹²⁷ jurisdiction on the basis of Jewish law,

¹²¹ The name of one officer mentioned in IV, 404, is "Don Romanus de Moncada."

¹²² Probably King Jaime II, in 1306 (Kayserling, *Juden in Navarra*, S. 162).

¹²³ This was a common practice throughout the diaspora at that time. Kings of France and England would often indulge in it as well (I, 644; III, 389; IV, 139).

¹²⁴ Even belongings of Jews who had merely passed through the province were often confiscated (cf. I, 1159; Graetz, *Gesch. der Juden*, B. 7, S. 14).

¹²⁵ Where the king recognized the Jewish system of law and courts.

¹²⁶ I, 118; II, 3; III, 398, 411; V, 194, 282; VI, 66.

¹²⁷ The autonomy of the aljama was not interfered with by the king for some time (I, 1148; V, 194).

was never interfered with by the king or his officials. It was left entirely to the Kahal, and in some cases was encouraged either by the Gentile litigants¹²⁸ or the government itself.¹²⁹

We are told that the members of the community would always prefer the Beth-Din to the alcaldes in all cases of litigation between Jews. And when one litigant was a Gentile, some Aljamas even required that the legal documents,¹³⁰ at least, be drawn up in accordance with the Jewish law.¹³¹

The Beth-Din, however, was not concerned with the administration of justice alone, but acted also as a co-ordinating¹³² department of the legislative and executive branches of the Aljama. In such a capacity the chief Beth-Din¹³³ interpreted the communal ordinances, and acted as a court of appeals when the members of the Aljama would dispute a claim made against them by their "trusted members." The Jewish court would also act as an advisory board of the Aljama in case the latter was divided on some vital question of the day, or needed advice on the possibility of repealing certain Takkanoth under the stress of circumstances.¹³⁴

Thus, while theoretically weak, the judiciary in reality succeeded in holding its own place as a judicial and co-ordinate department, and it retained the balance of power with all its prerogative unimpaired.

CONCLUSION.

This brief survey of communal government in Spain during the thirteenth century will suffice to prove that the Aljama was

¹²⁸ A case where a gentile summoned a Jew to the rabbi's court (IV, 16).

¹²⁹ Occasionally the magistrate would send the Jewish litigants to be judged by the Beth-Din, even after the case had proceeded for some time (I, 1148; II, 3). Only when the gentile was the defendant do we find a Jew in the alcaldes. Here he took an oath of a special form before a figure of a man, wearing a Jewish costume, and holding the Decalogue in Hebrew script.

¹³⁰ Documents were drawn up either by a Jewish notary, or in the alcaldes, preferable the latter (I, 729; II, 67; III, 69, 79; VIb, 149).

¹³¹ Only Jews could act as witnesses.

¹³² It was unable, however, to enforce its jurisdiction (III, 411).

¹³³ E. g. The court of Rashba in Barcelona.

¹³⁴ II, 236; III, 398, 411; IV, 308; V, 230, 247, 282.

essentially an organized local¹³⁵ unit among other units of the same kind. Nearly every community, as we have seen, had its three co-operative forces, the legislative, the executive and the judicial, well organized for the accomplishment of a like aim. It also formed a society of its own in which the popular influence was highly effective.

The Aljama of this period may, therefore, well be regarded as a most efficient organization, with a public conscience all its own.

¹³⁵ Occasionally only we meet with a centralized form of government (II, 290; III, 411); e. g. the two cases, where the Aljama of Toledo appointed judges for a smaller community, and where Barcelona passed new laws on taxation, affecting Tarragona, Villafranca, and Monblanch, as well.