

ing the acquittance to the Archa, for which he obtained the *pes*, which cancelled the debt.¹³⁹ No debt, acquittance, or assignment of debt was valid unless filed in the Chirograph Chest, which could be opened only by order of the Exchequer or in the presence of a majority of the Chirographers.¹⁴⁰

The King's Exchequer oversaw the King's accounts. A contemporary treatise described its organization and duties: the "Dialogue of the Exchequer."¹⁴¹ Litigation of Jewish debt instruments comprised a substantial portion of the Exchequer's business, so much so that a separate branch was created to try Jewish causes.¹⁴² Beginning in 1198, "Custodes Judaeorum," or "Wardens of the Jews," were appointed,¹⁴³ subordinate to the Exchequer.¹⁴⁴ The Custodes Judaeorum were the first Justices of the Jews. They exercised exclusive jurisdiction over all matters involving Jews and Christians, except those in which the Jew was criminally accused.¹⁴⁵ During the thirteenth century they were charged with enforcing the shetars of the Jews.¹⁴⁶ This special branch of the Exchequer could effectively ascertain the amounts due the King's treasury via the King's Jews.¹⁴⁷

The Chirograph Chests preserved the bonds of debt and the deeds of acquittance, and the Archa preserved the Chirograph Chests.¹⁴⁸ Many of the pleas brought before the Exchequer of the Jews still survive, and a substantial body of legal paper memorializes the interaction of the thirteenth-century British legal system with the Jewish law of the shetar. Surviving records indicate that the Exchequer of the Jews presided over matters arising from the full range of interactions between Christians and Jews. The primary document offered to prove the transfer of interest in land and the establishment, transfer, or satisfaction of a debt was the shetar.

C. IN THE MATTERS OF COK HAGIN

The records of the Exchequer reveal the tensions between several elements: the King's thinly disguised economic interest, the court's struggle between formalism and alien law, inter-religious suspicions, and everyday venality. Within the pleas of the Exchequer of the Jews, the appearances of one recur-

139. J.M. RIGG, *supra* note 13, at xix.

140. 1 W. HOLDSWORTH, *supra* note 80, at 45. By 1240, the system had changed: the sealed bond was kept in the Archa, and copies were given to both the creditor and the debtor. 1 STARRS AND CHARTERS, *supra* note 42, at xv.

141. DIALOGUS DE SCACCARIO, *supra* note 68. The unknown author of the 12th century (ca. 1176) "dialogue" describes the exchequer board, a table covered with a checkered cloth, from which the court derived its name. The members of the court sat around an oblong table, ruled off into squares to facilitate a system of accounting (described in detail in the "Dialogus") used to determine debts owed to the King. *Id.* at xxxv-xxxix, 6-7; see also 1 F. POLLOCK & F.W. MAITLAND, *supra* note 3, at 191-92 (describing Exchequer as compound institution: judicial tribunal and financial bureau).

142. J.M. RIGG, *supra* note 13, at xx.

143. *Id.* Of the original four "wardens," Simon de Pateshull, Henry de Wichenton, Benedict de Talemunt, and Joseph Aaron, the latter two were Jews. *Id.*

144. 1 W. HOLDSWORTH, *supra* note 80, at 45-46. The Barons of the Exchequer could annul the judgments of the Custodes Judaeorum. *Id.*

145. See *id.* at 46 (cases in which Jews accused of crimes found among Crown Pleas).

146. See generally J.M. RIGG, *supra* note 13, at 3-134 (a collection of pleas before the Exchequer of the Jews from 1220 to 1285).

147. See *id.* at xx (King could order scrutiny of Archa to determine financial position of Jews; when done, Archa closed under triple lock and seal and all business suspended).

148. *Id.* at xix.

rent litigant, Cok Hagin,¹⁴⁹ sometime Chief Rabbi,¹⁵⁰ serve as an exemplar of the cultural contact between Jew and Christian. Cok's changing fortunes illustrate not only the limits of the Jews' personal freedom in English society, but also the extensive reliance on Jewish legal practice in the King's court.

Cok's first appearance was in 1272, when the Queen, through her clerk, claimed from him 100 pounds "in ready money." Instead of paying immediately, Cok acknowledged debts to the Crown amounting to 100 pounds, but not in ready money, and asked that the King's Council render judgment. To support the Queen's claim, the Queen's agent appealed to the King's Council, the Queen's Council, and the eyewitnesses to the making of the agreement. Cok agreed to pay the debt in two installments and named four Jews as sureties. If he defaulted, they, equally with him, would be subject to distraint of their lands, debts owing, chattels, and their bodies.¹⁵¹

In 1273, Cok appeared with several others to pay a partial sum to delay the tallage assessed in the Easter Term of the first year of Edward I's reign. They asked respite for the greater part owed, and agreed on a penalty that each would owe in default.¹⁵² Later that year, the court noted that the appointed date had passed without payment of tallage or penalty. The penalty was assessed and paid.¹⁵³

One year later, Cok Hagin appeared as co-surety to receive custody of Joco Bundy, a Jew who was charged with lending "money to Christians by blank tallies,"¹⁵⁴—leaving blank the amount due until after the debtor had signed.¹⁵⁵ Additionally, Bundy was charged with having lived, for some time, in Rayleigh without the King's license. For this offense all Bundy's goods and chattels were forfeit to the Crown. When Bundy failed to appear for his appointed court date, the court found Cok Hagin and his co-surety "in mercy."¹⁵⁶

In 1275, the King notified his Justices that he had granted all of Cok Hagin's possessions as gifts to his "dearest Consort, Eleanor, Queen of England." She was to receive all of the Jew's debts owing and all his goods and chattels. These were forfeit because Cok Hagin was excommunicate for refusing to submit to trial "according to the Law and Custom of the Jewry."¹⁵⁷ Edward con-

149. "Cok Hagin" is an English corruption of the Hebrew name Yitzhak Hayim. C. ROTH, *ESSAYS AND PORTRAITS IN ANGLO-JEWISH HISTORY* 24 (1962); C. ROTH, *HISTORY OF THE JEWS IN ENGLAND* 93-94 (1941).

150. J.M. RIGG, *supra* note 13, at 119 n.1.

151. *Id.* at 67-68. Here, not only the principal, but also his sureties are subject to real actions arising out of a personal obligation.

152. *Id.* at 77.

153. *Id.* at 77.

154. *Id.* at 82.

155. *Id.* at 82 n.1.

156. *Id.* at 82-83. "In mercy" means subject to fine or punishment at the discretion of the court. BLACK'S LAW DICTIONARY 708 (rev. 5th ed. 1979).

157. *Id.* at 87-88. The offense, apparently, is one "against his Law," indicating that the Jew had transgressed against Jewish doctrine rather than against a secular command. *Id.* Other sources report that Cok Hagin was, at the time, on the losing side of a power struggle within the Jewish Community. C. ROTH, *ESSAYS AND PORTRAITS IN ANGLO-JEWISH HISTORY*, *supra* note 149, at 25.

In their own religious courts, Jews were subject to penalties of excommunication for violation of Jewish law. Religious courts operated independently of the Crown, whose control began only when the defendant was ejected from the protection of his community and formal social position. The excommunicate Jew or the Jew who converted forfeited his goods to the King. *See* J.M. RIGG, *supra* note 13, at 87-88, 96 (excommunicated Jew); *id.* at 99-100 (converted Jew). On leaving his community, a Jew

ditioned this gift to Eleanor upon her making good to the King, before Christmas, "the arrears of the last tallage assessed upon him, the Jew."¹⁵⁸

By 1282, in the tenth year of Edward's reign, Cok was again doing business.¹⁵⁹ In that term, Cok summoned Roger de Ling to answer for the principal and interest owed on a debt represented by one Chirograph, sworn to be duplicated in the London Chirograph Chest.¹⁶⁰ In the same year, Cok's real estate deals apparently proliferated. In return for a fee interest in a plot of land and a house in London, he exchanged a nine-year term on a farm in Essex in which he had a liveried interest.¹⁶¹ The farm had been obtained "on account of divers debts" of the former owner, a knight.¹⁶² The prior agreement, transferring the farm, was duly enrolled at the Exchequer. For his new property, Cok Hagin agreed to pay yearly, at Easter, "one gillyflower" to the former tenant and also to render "to the capital lords of the fee the services due and wonted therefor, in discharge of all secular services, customs, and all things exacted and demanded."¹⁶³ The two charters, granting respectively the properties to their new owners, contain the warranties, witness attestations, seals, and signatures required by the law of the shetar. The court received these elements as proof of the agreement's validity. The court also recorded that the Queen's attorney was present to give her consent and acknowledgement to Cok Hagin's document.¹⁶⁴

Cok Hagin's last appearance is as one of a group of the descendants of Master Elias joining together to acknowledge, by their shetar, the acquittance of an ancient debt to their father. As his heir they released the debtor "from the creation to the end of the world." "By spontaneous and unanimous consent," they discharged the debt as fully paid.¹⁶⁵

The surviving records of the Exchequer of the Jews cover a limited period (1220-1284). Cok Hagin's experience is representative insofar as it illustrates personal and religious disputes, shetars of property transfer, debt registration

abandoned the role of holding goods for the ultimate use of the King. *See id.* at 61 (goods forfeited by Jew living without King's license, outside Jewish community). The King would have been eager to encourage enforcement of Jewish law, at least to the extent of seizing the goods of those excommunicated.

158. J.M. RIGG, *supra* note 13, at 87.

159. The Queen had encouraged the King to confirm Cok Hagin's election as Chief Rabbi in 1281. *Id.* at 119 n.1. His excommunication apparently had been temporary.

160. *Id.* at 117.

161. *Id.* at 118-20. By a royal edict of 1271, Jews were forbidden to own land. *See Mandatum Regis Super Terris et Feodis Judaeorum in Anglia. Anno Regni Regis Henrici Quinquagesimo Quinto* (Mandate of the King Touching Land and Fees of Jews in England. The Fifty-fifth Year of the Reign of King Henry) [A.D. 1271] printed in J.M. RIGG, *supra* note 13, at 1-1v (mandate of Henry III prohibiting Jews to have "freehold in manors, lands, tenements, fees, rents or tenures of any kind whatsoever by charter, grant, feoffment, confirmation, or any kind of obligation, or in any other manner," but permitting Jews to dwell in houses in the city). Despite this prohibition, the exchequer record clearly states that Cok Hagin had taken the land "by livery"—i.e., by livery of seisin, a form of land tenure denied the Jews by the preceding edict. Perhaps this was possible through some direct intervention of the Queen or because he held in her name only.

162. J.M. RIGG, *supra* note 13, at 118.

163. *Id.* at 120. It is doubtful that Cok here submitted to knight service, *per se*, but he likely assumed all taxes (including scutage fees) assessed on the property. *Cf. id.* at xiii (Jew could not swear homage or fealty, which were necessary duties of freeholder in feudal system).

164. J.M. RIGG, *supra* note 13, at 118-20. Cok Hagin was apparently the Queen's chattel. She, not the King, would have power to affirm or deny his actions.

165. *Id.* at 133-34.