

What power does the Beth Din have?

The Sydney Beth Din recently criticised the *Australian Jewish News*' coverage of the Mardi Gras, requesting a meeting with the editor to discuss the issue. And in recent months, controversy surrounded the Melbourne Beth Din. Who appoints the Beth Din? And what are its powers in the community?

RABBI RAYMOND APPLE

THE institution of a Beth Din goes back to the time of Moses, who appointed elders to assist him in judging and governing the community. Other great Biblical figures are also said to have had their Batei Din, and in the rabbinic period there arose a carefully controlled hierarchy of courts that dealt with both secular and religious law: not that there was a distinction between the secular and the religious, since Jewish law is one integrated system and how you run your shop and how you pray are equally important. Indeed how you deal with people is in a sense even more important than how you run your private spiritual life; some siddurim insist that before saying anything about loving the Lord our God (Deut. 6:5), a person should affirm that they love their neighbour as themselves (Lev. 19:18).

Since the Torah requires that in every generation a person should take any difficult question or issue to "the judge that shall be in those days" (Deut. 17:9), it is a basic expression of Jewish loyalty that a Jew should accept the authority of a duly ordained and authorised rabbi. In some matters it is permitted for a rabbi to act alone and give a decision on his own, but the sages regarded a rabbi who acted without colleagues as arrogant. The normal quorum of judges on a Beth Din is three, though there can be more; in ancient times there were larger courts for some purposes, eg the court of 23 for capital cases and the court of 71 that ruled on national issues (Mishnah Sanhedrin).

The degree of jurisdiction that a Beth Din possessed always depended on the degree of judicial autonomy enjoyed by a Jewish community. Throughout the centuries of the Diaspora, Jewish commercial life was regulated by the rabbis, who also often adjudicated civil disputes and sometimes also criminal cases. The massive literature of *she'elot ut'shuvot* (rabbinic responsa) indicates the range of issues the rabbis dealt with, and also affords us valuable information about the social life of the times. With the coming of the emancipation, however, rabbinic



An archival photograph from the Sydney Beth Din, with Rabbi David Rogut at left and Rabbi Raymond Apple at right.

jurisdiction shrank, though the rule remains that when summoned to a Beth Din for the hearing of a dispute, Jewish individuals and institutions, including synagogues, are duty-bound to attend.

A Beth Din has status in the general legal system as a recognised medium of alternative dispute resolution. In theory an appeal to a civil court against a Beth Din ruling is possible but this would generally only be because of misconduct (fraud, corruption, bias, etc) by the arbitrator or the denial of natural justice, but both are highly

circumstances outside their own group.

In British countries the Chief Rabbi in London exercised religious jurisdiction until quite recently, including the appointment of chairmen and members of the local Batei Din. In Melbourne and Sydney, the Av Beth Din (head of the Beth Din) was regarded as the official representative of the Chief Rabbi in the local community, and problems involving the operations of the Beth Din were referred to London for resolution. In the late 1950's Chief Rabbi Israel Brodie firmly vetoed the plans of a Melbourne rabbi to set up an opposition Beth Din, though there had previously been a second Beth Din led by a great rabbinic scholar, Rabbi J.L. Gurewicz.

The Sydney Beth Din has usually been composed of rabbis of major congregations, which has ensured community loyalty and acceptance. For a number of years Sydney has had no Av Beth Din, and Beth Din decisions are based on agreement. There is frequent consultation with other Batei Din and *Halachic* authorities elsewhere. Sydney handles *Halachic* matters for many communities in Australia, New Zealand and South East Asia, apart from Melbourne. Beth Din members are not remunerated, though there is a paid part-time secretary and an official scribe. The only fees which are charged are for the administration of *gittin* (religious divorces) and arbitrations.

■ The original text of this item appeared in Rabbi Raymond Apple's e-mail list: torah@greatsynagogue.org.au

‘A Beth Din is a recognised medium of alternative dispute resolution.’

unlikely because of the strict rules of procedure laid down by Jewish law.

The general experience has been that there is only one Beth Din in a community; the Rambam codifies the rabbinic explanation of Deut. 14:1, "You shall not cut yourselves" as "there shall not be two Batei Din in a city" (Hilchot Avodah Zarah 12:14). In some places the Jewish population had, and has, different *kehillot* each governed internally by its own Beth Din, but such Batei Din did not necessarily claim or exer-