ARTICLES

Banking Instruments Between the Muslim East and the Christian West

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Most students of the history of Western commercial law and economics assume that the bill of exchange originated from the order of payment that accompanied the loan contract. According to this theory the draft was introduced in trade as Southern Europe's commercial activities increased, without its appearance or diffusion having in any way been the result of foreign influences.[1] On the other hand, almost all orientalists are convinced that the draft is to be identified with the Arabic *suftadja* and that in using it the Westerners adopted an oriental banking technique for their commercial deals.[2] This supposition is based in fact on two premises: one is the hypothesis that an international commercial law existed and was enforced on both coasts of the Mediterranean at the time of the Crusades. The other is the conviction that the diffusion of linguistic borrowings, in this case from the Arabic, is evidence of the adoption of the object or

1 L. Goldschmidt, *Universalgeschichte des Handelsrechts* (Stuttgart 1891), p. 410; A.-E. Sayous, *L'origine de la lettre de change*, « Revue historique de droit français et étranger », IV[e] série, 12 (1933), p. 69; G. Cassandro, *Vicende storiche della lettera di cambio*, « Bollettino dell'archivio storico », Banco di Napoli, 9-12 (1955-56), p. 33; this opinion is shared by the orientalist Van der Lith, *Le vecchie leggi commerciali d'Italia imitano forse le musulmane?*, « Atti e memorie della R. Accademia di scienze, lettere ed arti di Padova », N. S. 13 (1896/7), p. 337.

2 R. Grasshoff, *Das Wechselrecht der Araber* (Berlin 1899), p. 70 ff.; J. Schacht, *An Introduction to Islamic Law* (Oxford 1964), p. 149; A. Remde, *Lettera di cambio und suftadja, eine rechtsvergleichende Studie als Beitrag zur Entstehungsgeschichte des Wechsels* (thesis, Köln 1969), p. 126.

the institution to which the borrowed word refers. As far as the first hypothesis is concerned, I would like to call attention to a study recently published which has demonstrated the great difference existing between the Muslim and Byzantine *commenda* on the one hand and the Western *commenda* on the other.[3] As regards the second hypothesis it is a recognized fact that words of foreign origin frequently lose their original meaning when they are adopted in other countries.[4]

In tackling anew this topic, a vexed question indeed, it is my intention to exploit the Judaeo-Arabic documents found in the Cairo *gheniza*. The thousands of merchants' letters preserved there reflect with an abundance of detail trading usages in the Eastern and in the central basin of the Mediterranean and therefore in the very areas where the Italian merchants, who were supposed to have brought the *suftadja* to the West, traded. In this analysis I shall also endeavour to answer two questions:

a) At the time of the Abbasid caliphs and at that of the Crusades, were economic conditions in the Muslim world similar enough to those in the West to lend plausibility to the hypothesis that these conditions were accompanied by an identical development of banking techniques?

b) Which rules governed loans and the « delegation of debts » in the Muslim regions on the shore of the Mediterranean opposite the Tyrrhenian coast where the bill of exchange originated?

I.

The Arabic sources which go back to the period of the Abbasid caliphs, and above all those of the tenth century, provide clear evidence of very lively banking activity. Mention is made of several

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[3] A. L. Udovitch, *At the Origins of the Western Commenda: Islam, Israel, Byzantium?*, « Speculum » 37 (1962), p. 198 ff.

[4] See in this context: J. Schacht, *Droit byzantin et droit musulman*, in « Convegno di scienze morali, storiche e filologiche 1956, Oriente ed Occidente nel Medio Evo », p. 215; A. Dietrich in « Enc. dell'Islam » (Eng. edition)[2] III, p. 283.

banking instruments such as the *ṣakk* — order of payment,[5] the *khaṭṭ* — bond or bill of exchange,[6] the *ruk'a* — order for payment in general, and the *suftadja* — draft, all terms used indistinctly. The words *khaṭṭ, ruk'a* and *taukī'* also mean cheque,[7] *ṣakk* and *ruk'a* are used both for bond[8] and for *ḥawāla*, the delegation of credit.[9] Nevertheless it is apparent that each of these terms indicates principally a certain instrument.

The *ṣakk* — this is the word that gave origin to cheque in the European languages — is a genuine cheque, that is to say an order of payment made through the banker with whom the drawer has an account;[10] the *ṣakk* is used by the vizir Ibn al-Furāt, a tax farmer, a high official and very many others. Bribes were also paid by *ṣakk*,[11] and the Persian traveller Nāṣir-i Khosrau tells us that at Basra, towards the middle of the eleventh century, the common usage was to pay by *ṣakk*.[12] In using the cheque, the Muslims were actually using an instrument inherited from the Byzantines; an instrument already widespread in Egypt some centuries before the Arab conquest.[13] Payment by cheque is the object of study in the Mishna, which reflects banking usage in Palestine under Roman domination.[14] In a very ancient history book we read, moreover, that Omar I paid in this way the merchants who supplied the state with grain.[15]

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5 Miskawaihi, *The Eclipse of the Abbasid Caliphate*, ed. H. F. Amedroz-D. S. Margoliouth, III, p. 46, 119.

6 *Op. cit.* I, p. 187; *Hilāl aṣ-Ṣābī, Kitāb al-Wuzarā*, ed. Amedroz, p. 77.

7 *Yāḳūt, Irshād al-arīb*, ed. D. S. Margoliouth, I, pp. 385, 395.

8 A. Grohmann, *Arabic Papyri in the Egyptian Library* (abbrev. APEL) II, p. 161; A. Harkavy, *T'shūvōth ha-g'ōnīm* (Studien u. Mittheilungen aus der Kais. Oeff. Bibliothek in St. Petersburg IV), no. 548.

9 Ibn Ḥauḳal, *Ṣūrat al-arḍ*, ed. Kramers, p. 99.

10 Yāḳūt, *l. c.*

11 Hilāl aṣ-Ṣābī, *op. cit.*, pp. 73, 77 f.; Miskawaihi I, p. 158, II, p. 80; at-Tanūkhī, *The Table-Talk of a Mesopotamian Judge*, Pt. I, translation by D. S. Margoliouth (London 1922), p. 112.

12 *Relation des voyages*, translation by Schefer (Paris 1881), p. 236.

13 V. Hj. Fisk, *Bankakten aus dem Faijūm* (Göteborg 1931) (Göteborgs Kunigl. Vetenskaps- och Vitteshets-Samhölles Handlinger, Fente Följden, ser. A, Bd. 2, no. 2), p. 10 ff.

14 Baba Meṣī'a, 111 a.

15 Ibn 'Abdalḥakam, *The History of the Conquest of Egypt, North Africa and Spain*, ed. Torrey (New Haven 1922), p. 166; cf. G. Jacob, *Die ältesten Spuren des Wechsels* in « Mitteilungen des Sem. f. Or. Sprachen in Berlin », Westas. Studien 1925, p. 280 (erroneous interpretation).

The so-called *suftadja* is a type, or category of *ḥawāla* or delegation of credit. *A* lends a sum of money to *B* who in turn gives an order to *C*, residing elsewhere, to pay it back there to the creditor. But the Muslim jurisconsults gave also another definition: *A* lends money to *B* on condition that he pays it back to *C* somewhere else.[16] In the first case the « agent », the person who has to make the payment, is a debtor, a business friend or a partner of the drawer; we therefore have a delegation of credit or, sometimes, an order of payment, in which the « agent » owes nothing to the « principal ». But in Muslim law also this type of transaction is referred to by the term *ḥawāla*.[17]

In short the term *suftadja* does not always indicate the same banking instrument. This term was frequently used to refer to an order of payment given by the government to persons having credit claims on it. The government of the Abbasid caliphs in Iraq made payments with this system and so did the Muslim authorities in Egypt.[18] Owing to its quality as an order of payment, a tax — *ḥakk as-suftadja* — is paid by the recipient.[19] In some Arabic papyri the *suftadja* is used to refer to an order of payment given by a private person and this is the meaning attributed to it in a text referring to the payment of taxes through an agent who will use this instrument.[20] Taxes were often paid by the *suftadja* as is evidenced by texts which refer to the diffusion of this use in South-west Persia

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16 AKMAL AD-DĪN AL-BĀBARTĪ, *Sharḥ al-'ināya*, on the work by Ibn al-Humām, al-Fatḥ al-ḳadīr (Cairo 1316-18) V, p. 452; 'ABDALGHANĪ AL-MAIDĀNĪ, *Sharḥ al-Ḳudūrī* (Cairo 1940), p. 152.

17 D. SANTILLANA, *Istituzioni di diritto musulmano malechita* (Roma 1925-38) II, p. 351 f.

18 AṢ-ṢŪLĪ, *Akhbār ar-Rāḍī wa 'l-Muttaḳī* (Cairo 1935), p. 76, cf. FR. LØKKEGAARD, *Islamic Taxation in the Classic Period*, p. 99; A. DIETRICH, *Arabische Briefe aus der Papyrussammlung der Hamburger Staats- u. Universitäts-Bibliothek* (Hamburg 1955), pp. 15, 68 (of the year 917); AT-TANŪKHĪ, translation by Margoliouth in « Islamic Culture » IV (1930), p. 11, V (1931, p. 186 f.; cf. REMDE, p. 102.

19 A. DIETRICH, *Arabische Papyri aus der Hamburger Staats- u. Universitäts-Bibliothek* (Leipzig 1937), p. 37 (after the year 927/8), cf. GROHMANN in « Der Islam » 26 (1942), p. 277.

20 APEL III, no. 199 (which I interpret differently from Grohmann).

(Khuzistan) and in Egypt.[21] Bribes too were paid to government officials with the same system.[22]

The taxes collected in the provinces of the Caliphate were sent by the tax-farmers, or by the governors, to Bagdad by *suftadja* and the same system was employed in the tenth century by the Abbasid government when receiving taxes from Khuzistan, Syria and Egypt.[23] These *suftadjas*, which amount to very large sums, must definitely be viewed as authentic letters of credit addressed to merchants and bankers. In fact some texts explicitly mention, at times, a payment made by the government by « *suftadja* on merchants ».[24] But above all the *suftadja* rendered a valuable service to the merchants themselves, who were able thereby to send money from one town in Iraq to another,[25] from Egypt to Iraq[26] and from Spain to Iraq.[27] The *suftadja* was an ordinary instrument of payment and transfer also for sending small sums[28] and a great many texts could be quoted which enable us to conclude that the *suftadja* was the most important banking instrument which made trading possible for Eastern merchants and bankers.[29] Moreover the use of this instrument allowed merchants to avoid the risk of carrying large sums of money in cash and travellers too preferred to carry *suftadjas* rather than money.[30] In some cases *suftadjas* payable at a previously established date were used, in others *suftadjas* payable at sight to the bearer.[31]

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21 AT-TANŪKHĪ, translation in « Islamic Culture » IV (1930), p. 556; APEL IV, no. 278 and see also V, no. 324.

22 AT-TANŪKHĪ, *Table-Talk* I, p. 112.

23 MISKAWAIHI, *op. cit.*, I, pp. 23, 43, 146, 150, 187, 350; AT-TANŪKHĪ in « Revue de l'Académie Arabe » (of Damascus) X (1930), p. 85 (English translation in « Islamic Culture » III, 1929, p. 305), see also part I, p. 119.

24 AT-TANŪKHĪ in « Islamic Culture » IV (1930), p. 20.

25 HARKAVY, *T'shūvōth ha-g'ōnīm*, no. 423 and cfr. HILĀL AṢ-ṢĀBĪ, p. 465 (the same report in MISKAWAIHI III, p. 439 f.).

26 J. MANN, *Texts and Studies* I (Cincinnati 1931), p. 143, and cf. IBN SA'ĪD, *Kitāb al-Mughrib fī ḥula 'l-Maghrib*, Pt. IV, ed. K. L. Tallquist (Leiden 1899), p. 32.

27 AS-SARRĀDJ, *Maṣāri' al-'ushshāḳ* (Costantinople 1301), p. 10; see also H. WEHR (ed.), *Das Buch der wunderbaren Erzählungen und seltsamen Geschichten* (Wiesbaden 1956), pp. 481, 484.

28 HARKAVY, *op. cit.*, no. 548.

29 HILĀL AṢ-ṢĀBĪ, *op. cit.*, p. 93; MISKAWAIHI III, p. 138.

30 AT-TANŪKHĪ, *Table-Talk* I, p. 114.

31 HILĀL AS-ṢĀBĪ, *op. cit.*, p. 81; AT-TANŪKHĪ in « Revue de l'Académie Arabe » X, p. 680.

Given the importance of this banking instrument in the economic life of the Muslim world at the time of the Abbasid caliphs, the question arises as to whether it was really the Arabs (or rather the Muslims) who invented it or whether they inherited it, as they inherited the cheque, from the Byzantines or the Persians.

That the *suftadja* was in use long before the apogee of the Muslim pre-capitalist era is beyond doubt. We find the term *suftadja* in Arabic papyri going back to the first and second half of the ninth century.[32] In the Babylonian Talmud there is mention of a sort of draft called *diyukne*,[33] which is probably the Greek word εἰκονικά — order of payment with characteristic signs.[34] Although the *suftadja* cannot be derived from the « pecunia traiecticia » as one excellent arabist supposes,[35] since the latter is a transaction between two persons in which the risk lies with the creditor or with the debtor according to where the money is (at sea or on the mainland), the Greek name given to the *suftadja* in the Talmud points to the connection with a Hellenistic-Byzantine instrument. But the term *suftadja* itself is Persian, exactly as the term *djahbadh*, the word which in the countries of Islam indicates the banker. The Persian origin of the Muslim draft would therefore be even more probable.

II.

The economic environment in which the *suftadja* was used can be described as typical pre-capitalism. Industry was developed, manpower consisted of free workers, many goods were produced for export and large quantities of coins were in circulation. Muslim pre-capitalism reached its apogee in the first half of the tenth century.

A phenomenon essential to the development of this economic

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32 Dietrich, *Arabische Briefe*, p. 25; C.H. Becker, *Papyri Schott-Reinhardt* I (Heidelberg 1906), p. 11; J. David-Weill, *Papyrus arabes du Louvre*, « JESHO » VIII (1965), p. 279.

33 Baba Ḳama, 104b.

34 See J. Ostersetzer, *The « Diyūḳne » of the Juridical Documents in the Laws of the Talmud* (in Hebrew), Tarbiz 11 (1939/40), p. 39 ff. and especially p. 51.

35 See « Digesta » XIII, 4, 2 § 8 and see D. Santillana's notes on the translation of the Mukhtaṣar of Khalīl b. Isḥāḳ (Milano 1919) II, p. 282.

phase was the diffusion of gold. Whereas for many centuries the monetary life of Persia and Mesopotamia had been characterized by a lack of gold coins, the government of the Abbasid caliphs, which controlled the outlets of gold producing regions in the Western Sudan, had conspicuous supplies of this metal and was thus able to coin gold dinars in all the Eastern provinces of the Muslim Empire. In the ninth century gold spread to Iraq, Persia and Transoxiana. Gold dinars were coined as early as 842 at Merw, from 849 at Rayy, from 861 at Samarkand, from 862 at Shash (in Transoxiana), from 882 at Kazwin, from 884 at al-Ahwaz and at Hamadhan and from 885 in Adharbaidjan.[36] The information concerning tax revenues which we find in the budgets of the Abbasid caliphate shows that a great change took place in the second half of the ninth century: in the budget for the year 874 Iraq's revenue is still indicated in silver dirhems, whereas in the budget for 915 it is indicated in gold dinars.[37] The reports of the Arabic geographers of the tenth century also provide evidence of the great expansion of gold. They tell us that in their time payments were still made in dirhems in the provinces of Fars, Kirman and Bokhara whereas both dinars and dirhems were in circulation in Armenia, in ar-Rān, in Adharbaidjan, in Djibal (Media), in the provinces on the coasts of the Caspian Sea (Daylam, Tabaristan and Djordjan) and in the region of Samarkand.[39] The passage from a monometallic to a bimetallic monetary system and the intensive circulation of gold coins explain the character of the *suftadja*, the oriental draft.

Accounts for important deals were made everywhere in dinars. The canonic dinar, weighing 4.25 grams, was considered legal tender in the whole of the Muslim world and was not changed for many centuries. But as the mints seldom coined dinars of the legal weight, the merchants were in the habit of weighing the actual

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36 G. C. MILES, *The Numismatic History of Rayy* (New York 1938), p. 119 f.; R. N. FRYE, *Notes on the Early Coinage of Transoxiana* (New York 1949).

37 ḲUDĀMA B. DJA'FAR, *Kitāb al-Kharādj*, ed. de Goeje, p. 237 ff.; A. v. KREMER, *Ueber das Einnahmebudget des Abbasiden-Reiches vom Jahre 306 h.* (Wien 1887) (Sitzb. Ak. Wiss. hist. Cl. 36), p. 26 ff.

38 AL-IṢṬAKHRĪ, pp. 156, 168; IBN ḤAUḲAL, Kramers edition, pp. 301, 313, 490.

39 AL-IṢṬAKHRĪ, pp. 192, 203, 208, 213, 323; IBN ḤAUḲAL, pp. 349, 372, 379, 500; YĀḲŪT, *Mu'djam al-buldān*, ed. Wüstenfeld, I, p. 519.

coins.[40] Many contracts referring to commercial transactions contain expressions such as « dīnār wāzin » (of legal weight) or « excellent », « complete », « examined », etc.[41] The difference between the actual gold coins was always considerable. The dinars coined in the various countries or issued by the successive sovereigns of the same dynasty had very different titles and weights. At the end of the eleventh century a dinar of the Almoravides was worth 2.58 or 2.66 devaluated dinars of al-Mahdīya and an Egyptian dinar of the Fatimids was worth 2.8.[42] In each country the coins issued by its government were considered a legal means of payment, the concept of a territorial money having become established everywhere. Nevertheless the economic life of all the Muslim countries around the Mediterranean was characterized by a voluminous circulation of various coins issued by previous sovereigns or coming from other countries. This rich variety of ready money, that is to say the ease with which foreign monies could be obtained in the big cities, was a typical phenomenon of the monetary life of the Muslim countries at the time of the Abbasid caliphs and at that of the Crusades, distinguishing them signally, in this respect, from the countries of Western Europe. This rich and extremely varied circulation of money enables us to understand the essential traits of the *suftadja*.

Another phenomenon closely connected with the circulation of monies of different origin, and peculiar to the economic life of the Muslim countries from the time of the Abbasid caliphs, was the intensive activity carried on by the banks. This is a less evident phenomenon, but documented in Arabic and Persian sources where there is abundant reference to the large number of bankers who thronged the big cities and their bazaars. At Baghdad the bankers had their offices in the 'Aun street, at Marāgha near the Madrasa al-Kaḍawīya. At Fostat, which continued to be the economic capital of Egypt even after the foundation of Cairo, several exchanges were

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[40] AL-MUḲADDASĪ, p. 129; AT-TANŪḲHĪ in « Islamic Culture » III (1929), p. 497; A. GROHMANN, *Einführung u. Chrestomathie zur arabischen Papyruskunde* (Prag 1954), p. 183 f., 186 f.; AL-MAḲRĪZĪ, *Khiṭaṭ* I, p. 423[25]; *Le traité d'Ibn 'Abdūn*, JA 224, p. 234.

[41] GROHMANN, *op. cit.*, p. 200 f.; A. MERX, *Documents de paléographie hébraïque et arabe* (Leyde 1894), p. 25 and see also the gheniza documents T.-S. 6 J 4[21], T.-S. 13 J 3[7], T.-S. 18 J 1[12], T.-S. 16.176.

[42] S. D. GOITEIN, *A Mediterranean Society* I (Univ. of California Press 1967), p. 235.

operating: one called simply Dār aṣ-ṣarf (exchange), the Dār al-Mānak and a third one called al-Māt.[43] According to the Persian traveller Nāṣir-i Khosrau there were no less than two hundred bankers in the city of Iṣfahān towards the middle of the eleventh ventury.[44] These Oriental bankers also took an interest in trade and performed all banking operations: the exchange of money, loans, and the sale of assignments of credit.[45] In this respect, therefore, the organization of banking in the Muslim countries was very different from that existing in the West. But in dealing with the origin of the bill of exchange and the hypothesis of the adoption of Eastern banking instruments by the Christian West, it is necessary to call attention to a text providing evidence of the presence of Italian merchants in the Fostat exchanges. In a report by the Arabic Christian historian Yaḥyā b. Sa'īd, which refers to events that took place in the year 996, there is mention of 160 Amalfitan merchants in the exchange of Dār al-Mānak.[46]

In examining the different organization of banking in the Muslim East at the time of the Abbasid caliphs and at the time of the Crusades, as compared with that to be found in Christian Europe, mention must also be made of the slight importance of fairs in the Muslim world. To say that fairs had no importance at all in the economic life of the Muslim countries would be an exaggeration. But, on the other hand, in the Muslim lands almost all fairs were unquestionably of a local character or at least had little importance in connection with the large scale trade between the various economic regions.[47]

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[43] Baghdad: AT-TANŪKHĪ, translation in « Islamic Culture » V (1931), p. 571; MISKAWAIHI I, p. 247 f.; YĀḲŪT, *Irshād* I, p. 399; Marāgha: SAMAU'AL AL-MAGHRABĪ, *Iḥām al-yahūd*, ed. M. Perlmann (New York 1964), translation p. 85; Fostat: see my article published in the review « Zion » VII (1941/42), p. 153; S. D. GOITEIN, *op. cit.*, I, pp. 238, 246; ID., *Bankers Accounts from the Eleventh Century* A. D., « JESHO » IX (1966), pp. 32, 43, 49, 51.

[44] *Relation du voyage*, p. 25.

[45] IBN 'ABDALḤAKAM, *op. cit.*, p. 166 and cf. REMDE, p. 62; MISKAWAIHI III, p. 138; W. J. FISCHEL, *Jews in the Economic and Political Life of Mediaeval Islam* (New York 1969), p. 25 ff.; GOITEIN, *Bankers Accounts*, p. 38.

[46] YAḤYĀ B. SA'ĪD AL-ANṬĀKĪ, ed. Cheikho (Beyrouth 1909), p. 178 and cf. CL. CAHEN, *Un texte peu connu relatif au commerce oriental d'Amalfi au X^e siècle*, « Archivio Storico per le Provincie Napoletane », N. S. 34 (1953/54), p. 61 ff.

[47] Cf. R. BRUNSCHVIG, *Coup d'oeil sur l'histoire des foires à travers l'Islam*, « Recueils de la Societé Jean Bodin » V (1953), p. 43 ff.

These then are some distinctive traits of monetary life in the East and in the West, traits which are reflected in the development of banking instruments.

III.

The *suftadja* is distinguished from the bill of exchange in several respects.

Firstly, the *suftadja* is not a bill of exchange by means of which a sum of money is changed into another money. Studying the texts referring to the *suftadjas* drawn up in Iraq and Egypt at the time of the Abbasid caliphs, we note that the sums sent to another city or another country had to be collected in the same type of money in which the loan was made. But the tax-farmers and the governors of the provinces sent dinars to Bagdad although they had collected dirhems; in this case the bankers of the province had exchanged the dirhems for dinars. Thus the drawing up of a *suftadja* is often connected with an exchange transaction, but the latter precedes it and is quite distinct. Through the *suftadja* of the merchants, to which the responses of the Jewish jurisconsults of Iraq in the tenth and eleventh centuries refer, dirhems were sent from one city to another.[48] In order to illustrate better the character of the *suftadja* at the time of the Abbasid caliphs it will be useful to mention a letter written in the eleventh century and preserved in the Cairo *gheniza*: an old Jewish merchant from the city of Tustar in South-western Persia, wishing to leave Baghdad and go to Damascus, applied to a banker in Baghdad, paid him 150 « maghribī » dinars, the gold coins minted by the Fatimids in Egypt and in Syria, and received in exchange two *suftadjas* payable in Damascus.[49] From this Hebrew text and other similar documents we may deduce that anyone wishing to have foreign monies would have no difficulty in obtaining them in the big cities, where brisk trade was carried on. I should like to recall in this connection a conclusion reached by Sayous:

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[48] HARKAVY, *T'shūvōth ha-g'ōnīm*, no. 548.

[49] I. BEN-ZWI, *Letter of a Jewish Merchant of the Eleventh Century* (in Hebrew), « Zion » III (1938), pp. 179-182.

according to the excellent French economic historian, the use of the bill of exchange spread to Barcelona much later than to Italy and Southern France precisely because considerable quantities of monies of different countries were circulating in this harbour which was of great importance in international trade.[50] The identity of the sum paid and collected through the *suftadja* is certainly the trait which distinguishes it most markedly from the bill of exchange. It is not by chance that nearly all economic historians have accepted Schaube's thesis which considers the difference in the monies to be an essential element in the drafting of the Western bill.[51]

No less important difference between the *suftadja* and the Western bill of exchange regards the number of persons involved in the affair. The *suftadja* is a deal among three parties: *A* pays a certain sum of money to *B* for agreeing to give an order to *C* to pay it back to *A*.[52] Certainly we also find some texts referring to a *suftadja* involving four persons and the above-mentioned letter of the merchant of Tustar is a good example. The writer pays 150 dinars to Solomon b. Aaron in Baghdad for two *suftadjas*, one addressed to three brothers, natives of Tustar residing in Cairo, with the request that they order Ṣadaḳa b. 'Amram in Damascus to pay him 100 dinars and another to Sahlān b. Ḥayyīm, also in Damascus, to pay him 50. According to the Muslim jurists there may also be a *suftadja* with no name, *i. e.* « Payable to bearer ».[53] But the majority of the *suftadjas* were transactions among three persons.

Since historians of commercial law hold that the bill of exchange derives from the order drafted together with the credit claim, I should like to make quite clear the difference between the

50 A.-E. Sayous, *Note sur l'origine de la lettre de change et les débuts de son emploi à Barcelone* (XIV^e siècle), « Revue historique de droit français et étranger », IV^e série, 13 (1934), p. 315.

51 A. Schaube, *Studien zur Geschichte u. Natur des ältesten cambium*, « Jahrbücher f. Nationalökonomie u. Statistik » 65 (1895), p. 162; A.-E. Sayous, *L'histoire universelle du droit commercial de Levin Goldschmidt et les méthodes commerciales des pays chrétiens de la Méditerranée des XII^e et XIII^e siècles*, « Annales de droit commercial français, étranger et international » 40 (1931), p. 316; cf. M. Chiaudano, *Note sul contratto di cambio in Siena, nella prima metà del secolo XIII*, « Studi in memoria di Aldo Albertoni » (Padova 1938) III, p. 55.

52 See however what I said before concerning the other form of *suftadja*. But even in that transaction there are not more than three parties.

53 See Remde, p. 90.

form which these claims had in the Muslim East and the Western instruments, a matter which is important to the study of the origins of the draft.

The Orientals did not know the « domiciled » bill (to adopt the expression used by Goldschmidt). Only the two contracting parties and their successors are mentioned in the instruments of credit; the « delegates » with full powers, found in the Western instruments, are lacking and the mention of the « delegates », as is known, marks a decisive stage in the development of the European draft. As the usages of the Jews for the drawing up trading contracts were usually the same as those of their neighbours, both Muslim and Christian, I wish to quote a Jewish formulary compiled in the first half of the eleventh century in Iraq, the Sefer ha-sh'ṭārōth of Rav Hai Gaon (d. 1138). In this collection of formulae the credit instruments mention, apart from the contracting parties, only the debtor's heirs.[54] Note that, according not only to Goldschmidt but also to many other historians of commercial law in the West, the bill of exchange originated from a written letter which accompanied the drawing up of an instrument of this kind.[55] Schaube too, who denies the derivation of the draft from the domiciled bill, stresses that in the thirteenth century instruments of this kind were used together with the draft itself.[56]

A third point in which the medieval Western bill of exchange differs from the *suftadja* is the use of the endorsement: the Arabs had been using endorsements since the days of the caliphs as can be deduced from tenth century texts.[57]

In short the Muslim *suftadja* is a means of payment completely

54 Ed. Assaf, p. 21 and cf. Remde, p. 108. On the influence of Muslim law on the customs of non-Muslim merchants, in this case, the Copts, see S. Labib, *Geld u. Kredit, Studien zur Wirtschaftsgeschichte Aegyptens im Mittelalter*, « JESHO » II (1959), p. 239 and cf. p. 246.

55 Huvelin, *Les travaux récents sur l'histoire de la lettre de change*, « Annales de droit français, étranger et international » 15 (1901), p. 25 f.; A. Lattes, *Genova nella storia del diritto cambiario italiano*, « Rivista del diritto commerciale » 13 (1915), pt. 1, p. 187 f.

56 *Anfänge der Tratte*, « Zeitschrift f. das gesamte Handelsrecht » 43 (1895), p. 13 f.

57 This is the meaning of *saḥḥaḥa* in Ibn Sa'īd, *Kitāb al-Mughrib*, ed. Tallquist, p. 32 (but not in Hilāl aṣ-Ṣābī, p. 296 where it means « to credit a sum of money to someone »; the passage has been wrongly interpreted by Mez, *Rennaissance des Islāms*, p. 447 and see also Remde, p. 108).

distinct from the bill of exchange. It originated in an economic and legal environment very different from the conditions which characterized banking in Southern Europe at the time of the Crusades.

IV.

The texts quoted so far come from Iraq, others from some Persian provinces and from Egypt; as far as time is concerned, almost all were compiled in the two hundred years preceding the period of the Crusades, that is to say in the ninth and tenth centuries. But to inquire into the origins of the bill of exchange, it is more important to examine trading and banking procedures in Egypt and the neighbouring countries in the period of the Crusades, as it was in this period that Italian merchants had constant trading relations with these countries. Hence the exceptional importance of the documents preserved in the Cairo *gheniza*, most of which date from the eleventh and twelfth centuries. There are no less than 7000 letters of merchants and contracts belonging to very many different categories.

Studying these documents it is easy to see that the *suftadja* was much used both by merchants and by bankers.

Money is sent from one city in Egypt to another by means of the *suftadja*: for instance from Cairo (Fostat) to al-Ushmūnain[58] from Tinnīs (in the Delta) to Fostat[59] and vice versa[60] or from Fostat to Tyre[61] and from Damascus to Cairo,[62] from Jerusalem to Fostat[63] and from Fostat to Jerusalem.[64] The texts studied show

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58 T.-S. 12.2.

59 T.-S. 13 J 25[14].

60 T.-S. 10 J 20[16].

61 J. MANN, *The Jews in Egypt and in Palestine under the Fātimid Caliphs* (New York 1970) II, p. 195; Bodl. 2876[20].

62 T.-S. 13 J 15[5], T.-S. 13 J 17[6].

63 S. D. GOITEIN, *Letters and Ancient Documents in the David Kaufmann Collection* (in Hebrew), « Tarbiz » 20 (1950), p. 194.

64 J. MANN, *op. cit.*, II, pp. 125, 143, 144, 146, 188, 349; ID., *Texts and Studies* I, p. 321; ID., in « Tarbiz » VI (1935), p. 83; GOTTHEIL-WORRELL, *Fragments from the Cairo Genizah in the Freer Collection* (New York 1927), p. 28 l. 23.

that the sums sent from one place to another were often small. So the *suftadja* was at the time of the Crusades a banking instrument much used also for petty transactions.

In the same period the other form of *suftadja*, the order of payment issued by the government, was still in use, as it had been at the time of the Abbasid caliphs in Iraq and the neighbouring countries. This can be deduced from various references in contemporary Arabic authors.[65]

As in the preceding period, the sum sent by means of the commercial *suftadja* was collected in the same money in which it had been paid. I will quote a letter from the merchant Nissīm b. Ḥalfōn to Nahray b. Nissīm, merchant and banker in Fostat, in the second half of the eleventh century. The writer had paid the banker Ibn 'Allān 123 « mustanṣirī » dinars, 75 of which were « new » (of recent coinage) and 48 « new Syrian », for a *suftadja* issued for Tinnīs where he had to go on business.[66] The exact specification of the coins paid shows clearly that the writer intended to receive the same dinars in Tinnīs.

Another characteristic feature of the *suftadja* recognizable from the *gheniza* documents is that the transaction involves only three persons. In this respect too the *suftadja* had undergone no changes since the days of the Abbasid caliphs. It is true that some documents speak of a *suftadja* with four contracting parties, but these are exceptional cases.[67] Just as the Syro-Egyptian *suftadja* at the time of the Crusades was the same as that of Iraq and the bordering countries at the time of the Abbasid caliphs, so the credit bonds found in the *gheniza* were drawn up in the same form as many centuries earlier. No « domiciled bills » are to be found among the documents of the *gheniza*. These documents establish that the debt shall be repaid by the debtor and by his heirs;[68] in some bonds, mostly from the end of the twelfth or the thirteenth

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65 See AL-MAKHZŪMĪ, quoted by LABIB, *Handelsgeschichte Ägyptens im Spätmittelalter* (Wiesbaden 1965), p. 251 f.; AL-MAḲRĪZĪ, *as-Sulūk*, ed. Ziyāda, I, p. 420 and see editor's note 3.

66 T.-S. 10 J 20[16], cf. GOITEIN, *A Mediterranean Society* I, p. 242.

67 See « Tarbiz » 20 (1949), p. 194 (a banker's transaction).

68 T.-S. 13 J 3[8] (Fostat 1128), T.-S. 13 J 3[13] (Fostat 1137), T.-S. 13 J 3[24] (a. 1124)

centuries, mention is also made of the creditor's heirs.[69] On the other hand not even the debtor's heirs are mentioned in many bonds.[70]

But the most surprising and also the most important result of research in the *gheniza* documents with regard to the origin of the bill of exchange is that the *suftadja* was never used in trading and banking relations between Egypt and the Maghrebin countries or between the Maghrebin countries themselves. There money travelled in cash and the coins were actually carried in so-called purses (*ṣurra*).[71] It is, on the other hand, a well known fact that the bill of exchange originated in the cities on the Northern coast of the Tyrrhenian Sea: Genoa, Marseilles, etc.

Another point which emerges from the *gheniza* documents and must be emphasized is the complete absence of the term « *ḥawāla* », which suggested the idea that the Oriental bill of exchange had been adopted by the European West.[72] The absence of this term in the *gheniza* documents testifies to the correctness of the contention upheld by Solmi who denied the Arabic origin of the Italian world « avallo » (endorsement).[73]

V.

I shall now endeavour to interpret the rules Muslim law had established for the *ḥawāla* and the *suftadja*, assuming these rules to reflect the customs in use among the merchants in the various regions of the Muslim world. My supposition that usage preceded the fixing of rules finds confirmation in the difference of the rules established in this connection by the great « *madhāhibs* », the schools of orthodox Muslim law.

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[69] Gottheil-Worrel, *op. cit.*, I (Fostat 1116), T.-S. 13 J 3[21] (Fostat 1190), T.-S. 13 J 4[1] (Minyat Ghamr 1226), T.-S. 13 J 4[9] (Banhā al-'asal 1246); E. Ashtor, *History of the Jews in Egypt and Syria under the Mamlūk domination* (in Hebrew) III (Jerusalem 1970), no. 21 (a. 1265).

[70] T.-S. 13 J 4[4] (Fostat 1229); Ashtor, *op. cit.*, no. 20 (a. 1275), 34 (Fostat 1292).

[71] Goitein, *A Mediterranean Society* I, p. 245.

[72] *Op. cit.*, p. 241.

[73] *Sulla origine della voce «avallo»*, «Rivista del diritto commerciale» VIII (1910), pt. 1, pp. 720 ff., 917 ff.

The chapters of the treatises of the *fiḳh* devoted to these transactions reveal a clearly unfavourable attitude towards the *suftadja* and lay down severe restrictions concerning the use of the *ḥawāla*.

In conformity with their conception of usury, the Muslim jurists allowed the use of the *suftadja* very reluctantly. Sending money by *suftadja* was considered an illicit gain, a benefit (manfa'a) obtained from a loan, deemed similar to usury. The benefit derives from having avoided the risks of transport. Therefore, according to the *hanefite* school, which was less strict than the others in regard to economic activities, it is at least considered « deplorable » (makrūh) if not actually forbidden. However, there was also a further reason that caused the Muslim jurists to condemn the *suftadja*: the implication of a transaction in which goods change hands with a deferment of payment. Therefore the Muslim jurisconsults sustained that the *suftadja* should be forbidden, or at most tolerated because of necessity and advantage (*istiḥsān*).[74]

But it was permitted only on certain conditions. According to the *hanefites* the drawing up a *suftadja* was only permissible on condition that the agreement to pay elsewhere did not appear in the contract. However, if the intention of the contracting parties was implicit, as in the case of a merchant who was known for transactions of this kind, the use of the *suftadja* was forbidden even if the purpose of the transaction was not explicitly stated.[75] The *hanefites* also insisted on the identity of the sum paid and repaid which had always to be equal, that is to say of the same quantity and quality, otherwise it would be lending on usury. However the *hanefite* jurists considered permissible a small commission which was not to appear in the contract or to be taken because being a normal usage.[76] The doctrine of the *malekite* school, in force in

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74 KHALĪL B. ISḤĀḲ AL-DJUNDĪ, *Mukhtaṣar*, translation by Guidi-Santillana II, p. 186 ff.; SHIHĀB AD-DĪN AḤMAD ASH-SHILBĪ, *Comments (Ḥāshiya)* on *the Tabyīn al-ḥaḳā'iḳ* of *'Uthmān b. 'Alī az-Zaila'ī* (Cairo 1313-15), IV, p. 175. *Istiḥsān* means more exactly to allow rules dictated by considerations of utility, practicality and equity to prevail over those dictated by analogy, see SANTILLANA, *Istituzioni* II, p. 721.

75 ASH-SHILBĪ, *l. c.*

76 AL-MARGHINĀNĪ, *al-Hidāya* III (Cairo 1326), p. 81; AS-SARAKHSĪ, *al-Mabsūṭ* (Cairo 1324-31) 14, p. 37 cf. p. 35; AKMAL AD-DĪN AL-BĀBARTĪ, *Sharḥ al-'ināya*, on the work by IBN AL-HUMĀM, *al Fatḥ al-ḳadīr* V, p. 452; IBN NUDJAIM, *al-Baḥr ar-rā'iḳ* (Cairo 1311)

North Africa, was much stricter. According to the *malekites* the *suftadja* was forbidden except in cases in which the transport of money in cash was dangerous. Some *malekites* stressed that the use of the *suftadja* was only justified when there was a general danger;[77] others, on the contrary, sustained that the sending of money by *suftadja* should be permitted only in the case of a danger threatening the merchant wishing to send the money.[78] The *malekites'* strict attitude regarding the *suftadja* is perfectly in keeping with the conclusions drawn from the *gheniza* documents; we saw in fact that the *suftadja* was not used in North Africa to the west of Egypt. The third great school of orthodox Muslim jurisprudence, the *shafiites*, was more inclined to allow the *suftadja*. Like the *hanefites*, they sustained that, according to law, the repayment of a loan in a place other than where it had been contracted or in another coin, or with the delayed exchange of money, was forbidden. But this school was also of the opinion that the contract as a whole remained valid and could not be rescinded, and that only the part thereof concerning the agreements reached for the repayment of the debt in another place, etc. lapsed. The *shafiites* also allowed the use of the *suftadja* in place where it was common usage ('urf). In the latter case it would only be deplored.[79]

The reluctance shown by the Muslim jurists regarding the use of this banking instrument is clearly recognizable. The same disapproving attitude is even clearer in the chapters dealing with the *ḥawāla*, the delegation of a credit. According to three schools of orthodox Muslim law, the *malekite*, the *shafiite* and the *hanefites*, the *ḥawāla* was in fact allowed only if the credit concerned was in

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VI, p. 276; Ṣadr ash-sharī'a 'Ubaidallāh b. Mas'ūd, *Sharḥ al-wiḳāya*, on the *Kashf al-ḥaḳā'iḳ*, commentary on the *Kanz ad-daḳā'iḳ* of 'Abdalḥakam al-Afghānī (Cairo 1318-22) II, p. 62; 'Alī al-Ḳārī, *Sharḥ mukhtaṣar al-wiḳāya* (Kazan 1899-1902) II, p. 153; al-Maidānī, *Commentary on al-Ḳudūrī* (Cairo 1940), p. 152; Muḥammad b. 'Abidīn, *Radd al-mukhtaṣar* (Cairo 1323-1326) IV, p. 308.

[77] Khalīl b. Isḥāḳ II, p. 282; ad-Dasūḳī, *Notes on the Commentary of Aḥmad b. Dardīr* (on the latter) (Cairo 1931-34) III, 226.

[78] al-Khirshī, *Commentary* on *Mukhtaṣar* of *Khalīl b. Isḥāḳ* (Cairo 1316-17) IV, p. 141 f.

[79] an-Nawāwī, *Minhādj aṭ-ṭālibīn*, ed. Van den Berg (Batavia 1883) I, p. 326 f.; Ibn Ḥadjar al-Haithamī, *Tuḥfat al-muḥtādj* (Cairo 1938) V, p. 46 ff.; Sulaimān al-Badjīramī, *Notes* on the *Manhadj aṭ-ṭullāb* of *Zakarīyā al-Anṣārī* (s.l., s. ed.) II, p. 390 f.

the same money.[80] These three schools also confine permission to use the *ḥawāla* to the case of a pre-existing debt of the endorsee to the endorser. Moreover this debt must have expired.[81] To make clear the great difference in legal concepts concerning the *suftadja* and those characterizing the birth of the primitive Western draft, it must finally be noted that according to two schools of Muslim law, the *malekite* and the *hanefites*, the debtor who wished to repay a loan through a delegation of credit was not exonerated by the endorsee's acceptance of the debt.[82]

Let us conclude this summary of the rules sustained by the Muslim jurisconsults with reference to the *ḥawāla* and *suftadja*, stating that the malekite school, whose laws were in force in the countries bordering on the Central and Western basin of the Mediterranean, can be said to have been clearly opposed to these banking instruments. This is surely a conclusion which weakens the supposition that the *suftadja* was adopted by the Westerners, since the bill of exchange developed in the cities on the Northern coast of the Tyrrhenian Sea trading always with those Muslim countries that were opposed to it and limited its use.

VI.

To prove that the bill of exchange originated in Southern Europe, where it came into being irrespective of the banking usages of the Muslim world, it is useful to take a look at the banking operations of the Venetians, whose relations with the Muslim countries in the Near East had been very close since the second half of the tenth century. The Venetians traded in regions where

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80 AL-AZHARĪ, *Djawāhir al-iklīl* (Cairo 1951) II, p. 107 f.; cf. S. M. IMAMUDDIN, *Business Contracts in Muslim Spain*, « Journal of the Pakistan Historical Society » X (1962), p. 301; SHAMS AD-DĪN MUḤAMMAD B. AḤMAD AR-RAMLĪ, *Nihāyat al-muḥtādj* (Cairo 1304) III, p. 392 f. Cf. A. CHÉRON-M. S. FAHMY, *Le transport de dette (hewala) en droit musulman*, in « L'Egypte contemporaine » 22 (1931), p. 145.

81 See CHÉRON-FAHMY, *art. cit.*, pp. 143, 145; AN-NAWĀWĪ II, p. 36.

82 GRASSHOFF, *op. cit.*, p. 65 s.; CHÉRON-FAHMY, p. 143. See text of a *ḥawāla* in AN-NUWAIRĪ, *Nihāyat al-arab* IX, p. 17 (quoted by LABIB in « JESHO » II, p. 246).

the *suftadja* was much in use. What conclusions can be drawn from the scrutiny of the hundreds of documents concerning Venice's trade in the Near East at the time of the Crusades?

There can be no doubt that the Venetian merchants knew the *suftadja* and sometimes used it to send money. I will quote a document of the year 1161: in the city of Armiro (Larmena in the Negroponte) Domenico Centocori gave a receipt to Fantino da Molin for a sum of forty *perpers* loaned in Constantinople to Stefano Mazzorbo for payment at Armiro. According to the original instrument, the loan was payable « michi vel meum missum per se vel per Fantinum da Mulinum ».[83] It is clear that the Venetians knew also the Muslim *ḥawāla* and performed transactions of this kind. A receipt issued at Acre in the same year 1161 refers to the repayment of a loan made in this city by Marco Foscarini to Romano Mairino and payable in other money at Constantinople. This loan was repaid « per commissionis cartulam » to a third person, undoubtedly a creditor of Marco Foscarini.[84] This was therefore a typically hanefite *ḥawāla*.

But the number of contracts drawn up by the Venetians and compiled in conformity with Muslim usages is negligible. Moreover, studying the Venetian documents of this period we note the complete lack of Muslim influence. In the credit bonds mention is made not only of the heirs of both parties, but also of their plenipotentiaries (« *missi* »). Often we find the stipulation of an agreement providing for the repayment of the debt in another money.[85] In the deeds drawn up at Candia by Venetian notaries in the second half of the thirteenth century, on the other hand, it is possible to recognize a certain influence of Muslim usages. Here we do not find the « *missi* » in the credit bonds, mention being made only of the contracting parties and their heirs.[86] But these

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[83] R. Morozzo della Rocca-A. Lombardi, *Documenti del commercio veneziano* (Turin 1940) I, no. 152.

[84] *Op. cit.*, no. 154.

[85] *Op. cit.*, no. 69, 81, 91, 129, 146, 182; *Famiglia Zusto*, edited by L. Lanfranchi (Venice 1955), no. 7, 14, 19 (Alexandria 1147), 27 (Alexandria 1184).

[86] *Leonardo Marcello, notaio in Candia*, edited by M. Chiaudano and A. Lombardi (Venice 1960), no. 5, 30, 35, 36, 45, 53, 55 etc. In these deeds « missi » are very seldom mentioned, see no. 1, 100.

documents belong to a period in which the bill of exchange had already come into being.

The absence of Muslim influence on the juridical customs of the South European regions which were for some time under the domination of the Arabs or in close relations with them has in fact already been shown by several historians of Italian law.[87]

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To sum up the results of this research.

The *suftadja* is a banking instrument used in a monetary system and an economic life very different from that of the Christian West. This environment was characterized by a rapid circulation of large quantities of coins, of every metal and type and, on the other hand, by a lack of important fairs. The *suftadja*, a banking instrument totally distinct from the bill of exchange, was a transaction in which three persons took part and the repayment of the loan was established in the same kind of money originally paid. The *suftadja* was often followed by endorsement.

In the countries of the Maghreb the *suftadja* was not in use at the time of the Crusades, and in the *gheniza* documents we do not even find the term *ḥawāla*. Muslim law reflects the merchants' habits: the absence of the use of the *suftadja* in the Maghrebin countries is confirmed by the rules laid down in this connection by the *malekite* school which was dominant in these countries. As we have seen the *malekites* were categorically opposed to it. The lawyers of the *hanefite* school and the *shafiite* school, which prevailed in the Near East, accept it but limited its use.

Having thus reached the conclusion that the bill of exchange is not a banking instrument of Muslim origin adopted by the Westerners, it must also be stressed, on the other hand, that the contacts of the Christian merchants with the highly developed banking life of the Muslim countries influenced their activity and

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87 E. Besta, *Il diritto consuetudinario di Bari e la sua genesi*, « Rivista italiana per le scienze giuridiche » 36 (1903), pp. 97, 109.

customs considerably.[88] From the Eastern world the Christian merchants learned the delegation of credit, the system of sending money by means of loans and other trading and banking usages.

Lastly I should like to the allowed to draw a further conclusion from the study of the chapters devoted to this subject in the Muslim books of jurisprudence I have quoted. The disapproving attitude towards the *suftadja*, recognizable in these sources, is in keeping with the juridical concepts that inspired the *'ulamā* in fixing the rules concerning the structure of the commercial partnerships. This conclusion is incontestable, I think, after reading the sources studied by Prof. Udovitch in his recently published book.[89] The question thus arises as to whether our concepts regarding Islamic ideas concerning trade and profit-making activities in general should not be modified.

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88 This is also the conclusion reached by P. HUVELIN, *Les travaux récents sur l'histoire de la lettre de change*, « Annales de droit commercial français, étranger et international » 15 (1901), p. 25.

89 A. L. UDOVITCH, *Partnership and Profit in Medieval Islam* (Princeton University Press 1970); see my review in « Bibliotheca Orientalis » 29 (1972).