

The Soncino Babylonian Talmud

Book I

Folios 2a-25a



SANHEDRIN

**TRANSLATED INTO ENGLISH
WITH NOTES**

**CHAPTERS I - VI
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**CHAPTERS VII - XI
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Reformatted by Reuven Brauner, Raanana 5771

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INTRODUCTION

The word Sanhedrin in the tractate which bears its name has a specialized meaning somewhat remote from that of its Greek original ([G]). It designates the higher courts of law which in the latter part of the period of the Second Temple administered justice in Palestine according to the Mosaic law in the more serious criminal, and especially capital, cases. The main subject of our tractate is the composition, powers, and functions of these courts. Incidentally, as is only natural, it deals in some detail with the conduct of criminal cases; and in this way it forms, along with Makkoth, the chief repository of the criminal law of the Talmud.

When the Mishnah was compiled, towards the end of the second century CE, the Sanhedrin was already a thing of the more or less distant past. As an institution it does not seem to have survived the destruction of the Second Temple; it may even have been falling into decay for some time before that event. Consequently, the information about it given in the Talmud, in this and other tractates, has neither the fullness nor the precision that we could desire. Both Josephus and the New Testament contain references to what is called the "Synhedrion" of the Jewish people, which it is not easy to reconcile with what we are told about any of the Sanhedrin mentioned in the Talmud.

From this tractate itself we learn that there were two kinds of Sanhedrin — the Great Sanhedrin, with 71 members, and the Lesser, with 23. Both, according to tradition, were instituted by Moses, but the first date at which a Sanhedrin is mentioned as actually functioning is 57 B.C.E. In the Talmud the Sanhedrin is almost always spoken of as a purely judicial institution, and the name seems in fact to be interchangeable with Beth Din Haggadol...the great Court of Justice. The Great Sanhedrin met in the *Lishkath Hagazith* [Chamber of Hewn Stone] in the Temple at Jerusalem; the Lesser Sanhedrin

[there seem to have been several of them] met both in Jerusalem and at other places. The Lesser Sanhedrin was also competent to try capital cases, but the Great Sanhedrin was the supreme Court of Appeal on all disputed points of law or religious practice. By whom members of the Sanhedrin were appointed is not clear from the Talmud. Naturally they were chosen primarily on account of their learning, but it seems that priests had a prior claim, other things being equal. In the period of the Hasmoneans, Sadducean or Pharisaic elements seem to have predominated in the Great Sanhedrin according to the disposition of the ruling prince.

According to the Talmud, the two most distinguished members of the Great Sanhedrin were known as *Nasi* [Prince] and *Ab-beth-din* [Father of the Beth din], while there was a third known as *Mufla* [distinguished]. The last named may have been a kind of expert adviser; the other two titles seem to have been purely honorary, and not to have denoted any official position. Certain it is that in Josephus and the New Testament it is the High Priest who is spoken of as the President of the Synhedrion, and this in itself seems inherently probable. Josephus and the New Testament also picture the Synhedrion as an institution of some political importance; whether this institution was identical with the Great Sanhedrin of the Talmud it is difficult to say.¹

In the eyes of Christian students, Sanhedrin has always occupied a favored place among the tractates of the Talmud on account of the light which it is capable of throwing on the trial of Jesus of Nazareth. It is not without significance that when Reuchlin, the Christian champion of Jewish learning, searched Europe to find a copy of the Talmud, the only Treatise he could find was Sanhedrin. For the Jewish student also, in spite of the fact that its main theme was already at the time of its compilation one of academic interest only, it possesses a peculiar fascination, partly on account of the

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fundamental importance of the legal principles with which it deals, partly on account of the wide range of its digressions and the exceptionally high quality of its aggadic material. In particular in view of their influence on the teaching of Maimonides, may be mentioned its famous statement on the limits of monarchic power, with the consequent disputation on the reasons for the Mosaic laws, and the celebrated eleventh chapter, which is the *locus classicus* for the problem of Dogma.

CHAPTER I. This chapter deals with the composition of Courts enumerating the cases, civil, criminal, religious or political, which are brought before either a court of three, a minor, or a major Sanhedrin. The Biblical sources for the number of judges in each of these courts are then quoted, leading to an interesting discussion on the question whether *Mikra* or *Massora* is the determinant in Biblical exegesis. The status of the specially authorized judge [*Mumhe*] is defined, as well as that of the Palestinian and Babylonian authorizations. The attitude of the judge towards the litigants, as well as the merit, or otherwise, of settlement by compromise, is elaborately dealt with, these discussions being intermingled with many moral maxims, indicating among other things the serious consequences of appointing incompetent judges. A considerable part of this chapter is devoted to the procedure and conditions governing intercalation, which became the basis for the compilation of our calendar, and in this connection many incidents of interest are cited. The chapter concludes with references to the *Urim* and *Tummim* and David's council of war, and specifies the qualifications required from members of the Sanhedrin, and from a city to be eligible for a seat of the Sanhedrin.

CHAPTER II. The privileges of the High Priest and King, in judicial courts and elsewhere, are here discussed. The aggadic portion covers such subjects as the original script and language of the Torah, the deciphering of the 'writing on the wall,' and the non

revelation of reasons for the Biblical commands, and contains touching homilies on the sanctity of a first marriage and the evils of divorce.

CHAPTER III discusses the rights of the parties to a suit to choose or reject judges in courts of arbitration, as well as the rejection of witnesses. The discussions are interwoven with aggadic passages regarding Babylonian and Palestinian scholars, Included are also rulings on omissions in the drafting of documents. The grounds on which judges or witnesses are disqualified are given in extenso, and these are followed by the rules governing procedure and the admonition of witnesses, and laws as to when and how evidence can be upset and the manner in which the verdict is announced. The chapter concludes with the general procedure in the event of a dispute arising between the litigants regarding the place of trial.

CHAPTER IV begins with differentiating between the procedures in civil and capital cases. The legal principle of the judges' liability to compensation or revocation of judgment in cases of error is discussed in detail, and the position in which the Sanhedrin, their secretaries, and supplementary members were seated, is described. The aggadic portion of this chapter contains some beautiful stories, historic and folkloristic, as in connection with the creation of man, and disputations with heretics.

CHAPTER V gives the rules for the cross-examination of witnesses, and refers also to the cases which render them subject to the law of retaliation. The procedure in cases of discrepancies or contradictions in the evidence is also discussed. This chapter also deals with the mode of procedure on the part of the judges at the voting and at the promulgation of the sentence.

CHAPTER VI describes how the condemned man was led to the place of execution, and how a last opportunity was offered to him by the court for the revocation of the sentence.

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Such details as the announcement of the execution by a herald, confession of sins before the execution and the numbing of the criminal's senses before execution are vividly portrayed. Hanging as a posthumous addition and the different procedure in the case of women criminals, to lessen shame, are also discussed. The burial of the condemned in special cemeteries and the resignation of their relatives to the verdict are referred to, leading to an extensive discussion on the practice of burial as a whole. The chapter concludes by raising the interesting point to what extent one may act in self-defense.

CHAPTER VII deals with the four modes of execution practiced in ancient Israel — stoning, burning, decapitation and strangulation — and proceeds to describe the methods of the last three, stoning having already been dealt with in the previous chapter. In the discussion on decapitation, the important principle is laid down that a practice derived from the Torah is not to be rejected merely because it is similar to non-Jewish practice.

The Noachian precepts form also one of the main subjects of discussion in this chapter.

CHAPTER VIII treats of the stubborn and rebellious son, and lays down the age limits within which the term 'son' is applicable and the conditions that must be fulfilled before he incurs the supreme penalty. By a natural transition the right to kill a housebreaker in self-defense is discussed, and this leads to a list of those who may be killed to prevent them from sinning, followed by a discussion on the sins which may not be committed even under threat of death.

The Aggada treats of the age at which childbirth was possible in ancient days, the insidious dangers of wine, and the nature of the forbidden tree in the Garden of Eden.

CHAPTER IX continues with the four modes of execution, and burning is stated to be the penalty of certain forms of incest. Those who are decapitated follow, viz., a murderer and

the inhabitants of a condemned city. Noteworthy are the statements that a person who was twice flagellated and a murderer whose guilt, though adequately proved, was not attested with all the minutiae of the law, were irregularly put to death. This leads to the enumeration of other offences likewise punished irregularly. The Aggada deals at some length with the sinning of Israel at Baal Peor and Phineas's revenge.

CHAPTER X deals with the last of the four deaths, viz., strangulation, and the crimes for which it is imposed. The rebellious elder we are told, was put to death only for giving a practical ruling [as opposed to stating a mere theoretical view] in conflict with the accepted Rabbinical interpretation of a Biblical Law, but not if he denied the Biblical law itself. An interesting Baraitha relates how halachic disputes arose when the two schools of Shammai and Hillel sprang up, consisting largely of immature disciples. The Aggada treats of the false prophesying of Zedekiah the son of Chenaanal and also contains a fanciful elaboration of the Biblical narrative Isaac's sacrifice.

CHAPTER XI consists almost entirely of Aggada. Commencing with the principle that all Israel have a portion in the world come, the Mishnah proceeds to enumerate those who forfeit it. Of the interesting portions of the Aggada may be mentioned the stories of Gebiha b. Passisa, the conversations between Rabbi and Antoninus on sin and other subjects, the praise of knowledge and study, the stories of Bar Coziba, Sennacherib's siege of Jerusalem and Nebuchadnezzar's siege and conquest of Jerusalem, the picture of the times preceding the coming of the Messiah, and the discussion whether Israel's redemption through the Messiah depends on repentance.

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1. On this question v. Krauss, Introduction to *Die Misshna Sanhedrin-Makkot*, 1933; Buchler, *Das Synedrion in Jerusalem und das Grosse Beth Din in*

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der Quaderhalle des Jerusalemischen Tempels, and Tausch. Z. [H].

A C K N O W L E D G M E N T S

Rabbi J. Shachter wishes to record his

indebtedness to Professor J. Ernest Davey. MA.. D.D.. of Belfast, who spent much of his valuable time in reading the manuscript and proofs and by whose suggestions this work has greatly benefited. His thanks are also due to his son Chaim for his technical assistance in preparing work for the press.

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CHAPTER I

MISHNAH. MONETARY CASES [MUST BE ADJUDICATED] BY THREE JUDGES; CASES OF LARCENY AND MAYHEM,¹ BY THREE; CLAIMS FOR FULL OR HALF DAMAGES,² THE REPAYMENT OF THE DOUBLE³ OR FOUR- OR FIVE-FOLD RESTITUTION [OF STOLEN GOODS],⁴ BY THREE, AS MUST CASES OF RAPE⁵ SEDUCTION⁶ AND LIBEL;⁷ SO SAYS R. MEIR. BUT THE SAGES⁸ HOLD THAT A CASE OF LIBEL REQUIRES A COURT OF TWENTY-THREE SINCE IT MAY INVOLVE A CAPITAL CHARGE.⁹ CASES INVOLVING FLOGGING,¹⁰ BY THREE; IN THE NAME OF R. ISHMAEL IT IS SAID, BY TWENTY-THREE. THE INTERCALATION OF THE MONTH IS EFFECTED BY A COURT OF THREE;¹¹ THE INTERCALATION OF THE YEAR,¹² BY THREE: SO R. MEIR. BUT R. SIMEON B. GAMALIEL SAYS THE MATTER IS INITIATED BY THREE, DISCUSSED BY FIVE AND DETERMINED BY SEVEN. IF HOWEVER, IT BE DETERMINED ONLY BY THREE, THE INTERCALATION HOLDS GOOD. THE LAYING OF THE ELDERS' HANDS [ON THE HEAD OF A COMMUNAL SACRIFICE]¹³ AND THE BREAKING OF THE HEIFER'S NECK¹⁴ REQUIRE THE PRESENCE OF THREE: SO SAYS R. SIMEON. ACCORDING TO R. JUDAH, FIVE. THE PERFORMANCE OF *HALIZAH*,¹⁵ AND THE DECISION AS TO *MI'UN*¹⁶ IS MADE BY THREE. THE FOURTH YEAR FRUIT¹⁷ AND THE SECOND TITHE¹⁸ OF UNKNOWN VALUE ARE ASSESSED BY THREE. THE ASSESSMENT OF CONSECRATED OBJECTS FOR REDEMPTION PURPOSES IS MADE BY THREE; VALUATIONS OF MOVABLE PROPERTY¹⁹ BY THREE. ACCORDING TO R. JUDAH ONE OF THEM MUST BE A KOHEN;²⁰ IN THE CASE OF REAL ESTATE, BY TEN INCLUDING A KOHEN, IN THE CASE OF A PERSON, BY THE SAME NUMBER.

CAPITAL CASES ARE ADJUDICATED BY TWENTY-THREE. THE PERSON OR BEAST CHARGED WITH UNNATURAL INTERCOURSE, BY TWENTY-THREE, AS IT IS WRITTEN, THOU SHALT KILL THE WOMAN AND THE BEAST,²¹ AND ALSO, AND YE SHALL SLAY THE BEAST.²² THE OX TO BE STONED²³ IS TRIED BY TWENTY-THREE, AS IT IS WRITTEN, THE OX SHALL BE STONED AND ITS OWNER SHALL BE PUT TO DEATH²⁴ — AS THE DEATH OF THE OWNER, SO THAT OF THE OX, CAN BE DECIDED ONLY BY TWENTY-THREE. THE DEATH SENTENCE ON THE WOLF OR THE LION OR THE BEAR OR THE LEOPARD OR THE HYENA OR THE SERPENT²⁵ IS TO BE PASSED BY TWENTY-THREE. R. ELIEZER SAYS: WHOEVER IS FIRST TO KILL THEM [WITHOUT TRIAL], ACQUIRES MERIT, R. AKIBA, HOWEVER, HOLDS THAT THEIR DEATH IS TO BE DECIDED BY TWENTY-THREE. A TRIBE,²⁶ A FALSE PROPHET²⁷ AND A HIGH PRIEST CAN ONLY BE TRIED BY A COURT OF SEVENTY-ONE. WAR OF FREE CHOICE²⁸ CAN BE WAGED ONLY BY THE AUTHORITY OF A COURT OF SEVENTY-ONE. NO ADDITION TO THE CITY OF JERUSALEM OR THE TEMPLE COURTYARDS CAN BE SANCTIONED SAVE BY A COURT OF SEVENTY-ONE. SMALL SANHEDRINS FOR THE TRIBES CAN BE INSTITUTED ONLY BY A COURT OF SEVENTY-ONE. NO CITY CAN BE DECLARED CONDEMNED²⁹ SAVE BY A DECREE OF A COURT OF SEVENTY-ONE. A FRONTIER TOWN CANNOT BE CONDEMNED NOR THREE CITIES AT A TIME,³⁰ BUT ONLY ONE OR TWO. THE GREAT SANHEDRIN CONSISTED OF SEVENTY-ONE MEMBERS; THE SMALL SANHEDRIN OF TWENTY-THREE. WHENCE DO WE DEDUCE THAT THE GREAT SANHEDRIN IS OF SEVENTY-ONE? — IT IS SAID, GATHER UNTO ME SEVENTY MEN;³¹ WITH MOSES AT THEIR HEAD WE HAVE SEVENTY-ONE. R. JUDAH SAID IT CONSISTED ONLY OF SEVENTY. WHENCE DO WE KNOW THAT THE SMALL SANHEDRIN IS OF ONLY TWENTY-THREE?

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— IT IS SAID, AND THE 'EDAH³² SHALL JUDGE ... AND THE 'EDAH SHALL DELIVER.³³ ONE 'EDAH JUDGES, [I.E. CONDEMNS] AND THE OTHER MAY DELIVER [I.E. ACQUIT], HENCE WE HAVE TWENTY. BUT HOW DO WE KNOW THAT A CONGREGATION CONSISTS OF NOT LESS THAN TEN? — IT IS WRITTEN, HOW LONG SHALL I BEAR WITH THIS EVIL 'EDAH?³⁴ EXCLUDING JOSHUA AND CALEB, WE HAVE TEN. AND WHENCE DO WE DERIVE THE ADDITIONAL THREE? — BY THE IMPLICATIONS OF THE TEXT, THOU SHALT NOT FOLLOW A MAJORITY FOR EVIL,³⁵ I INFER THAT I MAY FOLLOW THEM FOR GOOD;³⁶ IF SO, WHY IS IT SAID, TO INCLINE AFTER THE MAJORITY?³⁷ TO TEACH THAT THE MAJORITY TO 'INCLINE AFTER' FOR GOOD [I.E. FOR A FAVOURABLE DECISION] IS NOT THE ONE TO 'INCLINE AFTER' FOR EVIL [I.E. FOR AN ADVERSE DECISION] SINCE FOR GOOD, A MAJORITY OF ONE SUFFICES; WHEREAS FOR EVIL, A MAJORITY OF TWO IS REQUIRED.

1. An assault on a person involving bodily injury, Lev. XXIV, 19.
2. Done by a goring ox, Ex. XXI, 35.
3. Ex. XXII, 3.
4. Ex. XXI, 37.
5. Deut. XXII, 28-29.
6. Ex. XXII, 15-16.
7. Deut. XXII, 14ff.
8. Representing the opinion of teachers in general.
9. For if the woman is proved guilty she is stoned.
10. Deut. XXV, 2-3.
11. V. p. 42.
12. Making it 13 instead of 12 months.
13. Lev. IV, 15. According to Maimonides, 'The Ordination of Elders'.
14. Deut. XXI, 1 - 9.
15. Deut. XXV, 5-10. V. p. 91, lit., the 'drawing off' of the shoe.
16. The annulment of a woman's marriage following her refusal to agree to the union contracted by her as a fatherless girl during her minority.
17. V. Lev. XIX, 23-25. It could be exchanged into money and its equivalent consumed in Jerusalem.
18. The tithe taken by the landowner to Jerusalem there to be consumed, as distinct

from the 'first tithe' assigned to the Levites, according to Rabbinic interpretation of Deut. XIV, 22-26.

19. The value of which had been vowed to the Sanctuary.
20. Priest, v. [Glos.](#)
21. Lev. XX, 16.
22. Lev. XX, 15. The procedure at the trial of the beast and the person is thus made alike.
23. If he gored a person. Ex. XXI, 28.
24. Ex. XXI, 29.
25. Which has killed a human being.
26. That has gone astray after idol-worship, v. p. 76.
27. Deut. XVIII, 20.
28. I.e., all wars apart from the conquest of the seven nations inhabiting Canaan.
29. Deut. XIII, 13.
30. V. p. 82.
31. Num. XI, 16.
32. [H] Congregation.
33. Ibid. XXXV, 24.
34. Ibid. XIV, 27. Referring to the twelve spies. Ibid. XXXV, 24.
35. I.e., for condemnation. Ex. XXIII, 2.
36. For acquittal.
37. Ibid.

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AND AS A COURT CANNOT CONSIST OF AN EVEN NUMBER¹ ANOTHER ONE IS ADDED, MAKING A TOTAL OF TWENTY THREE. WHAT MUST BE THE POPULATION OF A TOWN TO MAKE IT ELIGIBLE FOR A [SMALL] SANHEDRIN? — ONE HUNDRED AND TWENTY. R. NEHEMIA SAYS: TWO HUNDRED AND THIRTY, SO THAT EACH MEMBER SHOULD BE A RULER OF [AT LEAST] TEN.²

GEMARA. Do not LARCENY AND MAYHEM come under the category of MONETARY CASES? [Why then this specification?] R. Abbahu says: The Tanna adds here an explanatory clause, teaching that the MONETARY CASES of the Mishnah refer only to LARCENY AND MAYHEM, but not to admission and transaction of loans³— [i. e. cases of indebtedness]. And both clauses are necessary. For had the Tanna mentioned only MONETARY CASES I might have said

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that they included also cases of indebtedness. Hence the necessity of the explanatory LARCENY AND MAYHEM; or again had the Tanna mentioned only LARCENY AND MAYHEM, I might have said that these included cases of indebtedness, and that the reason for specifying particularly LARCENY AND MAYHEM is that the regulation requiring three judges is laid down in Scripture In connection with larceny and mayhem (the verse, *the master of the house shall come near unto the judges*,⁴— though primarily dealing with cases of larceny,⁵— includes also those of mayhem, there being actually no difference in regard to an injury whether it is inflicted on one's person or on one's property). The Tanna had accordingly to supplement the MONETARY clause by that of LARCENY AND MAYHEM, to exclude thereby cases of indebtedness.

And what is the point in excluding cases of indebtedness? Shall I say it is to show that three judges are not required for them? But did not R. Abbahu [himself] say that all agree that no judgment given by two in monetary cases is valid? — It is to teach that cases of indebtedness require no *Mumhin*⁶ of their adjudication. [This being the case, let us consider] what is the determining principle of the Tanna. Does he hold that we have here an instance of transposition of sections, [in which case all the provisions in this section⁷ apply to cases of indebtedness]?⁸ He should then demand *Mumhin* here also [since the term *Elohim* denoting *Mumhin* is mentioned in this place]. If on the other hand, he does not hold this view [and in this case the provisions in this section are limited to the cases of larceny as set forth], where is the authority for the necessity of three judges? — Indeed the Tanna accepts the principle of 'transposition of sections' — and consequently, in accordance with the strict application of the Law, in cases of indebtedness he would require [three] *Mumhin* — nevertheless they have become exempted from this regulation for the reason

advanced by R. Hanina. For R. Hanina said:⁹

In accordance with the Biblical law, the juridical procedure in regard to the investigation¹⁰ and examination¹¹ of witnesses applies to monetary as well as to capital cases, for it is written,

1. For if their opinion were halved no verdict could be established.
2. V. Ex. XVIII, 25.
3. Claims supported by witnesses attesting the defendant's former *admission* of his liability, or who were actually present at the time of the transaction.
4. The term '*Elohim*' denoting 'Judges' occurs three times in this section, Ex. XXII, 7.
5. Arising from the denial of the bailment.
6. Plural of *Mumheh*, specially ordained judges; v. [Glos.](#)
7. Ex. XXII, 6-8
8. Ex. XXII, 24. [On the principle 'transposition of sections', [H] V. Responsa Solomon Duran, 541, and B.K. (Sonc. ed.) 107a, n. a.l.]
9. *Infra* 32a; Yeb. 122b.
10. As to the day and hour.
11. As to attendant circumstances.

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*One manner of judgment shall you have.*¹ Why then did they [the Sages] declare that monetary cases are not subject to this exacting procedure? In order not to 'bolt the door' against borrowers.² But if non-*Mumhin* are competent to adjudicate in monetary cases, ought they not to be protected against any claim of compensation in case of their having given an erroneous decision? — All the more then would you be 'bolting the door' against borrowers.

If it be so, [that cases of indebtedness require three, why does R. Abbahu say that the Tanna adds an explanatory clause, and not simply that] the Mishnah teaches two separate laws; viz. MONETARY cases are tried by three laymen³ whilst cases of LARCENY AND MAYHEM are tried by three *Mumhin*.³ Moreover, if the two clauses merely explain each other, why mention 'three' in each? — indeed, said Raba,⁴ the Tanna teaches two separate laws; and cases

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of indebtedness need no *Mumhin* for the reason given above by R. Hanina.

R. Aha the son of R. Ika says: According to Scriptural law, even a single person is competent to try cases of indebtedness as it is said: *In righteousness shalt thou judge thy neighbor.*⁵ Three, however, are needed in case traffickers⁶ presume to act as judges. But even with the provision of three might they not all be traffickers? — It is, however unlikely that none of them should have any knowledge of the law. If this be so, they should be exempt from liability in case they erred? — But how much more would traffickers presume in such circumstances to act as judges?⁷ Wherein then lies the difference between Raba and R. Aha the son of R. Ika [since both agree that mere laymen are competent]? Their difference centers round the opinion of Samuel who said: 'if two [laymen] have tried a monetary case, their decision holds good. but they are called a presumptuous *Beth din.*' Whereas Raba⁸ does not agree with Samuel, R. Aha does agree with him.

CLAIMS FOR FULL OR HALF DAMAGES, etc. Do not FULL DAMAGES come under the category of MAYHEM² [why then this specification]? — Since the Tanna had to state HALF DAMAGES he mentions, also FULL DAMAGES. But is not HALF DAMAGES also included in the same category? — The Tanna speaks of two classes of payment — *kenas*¹⁰ [fine] and indemnity. This opinion would be in accord with the Amora who considers HALF DAMAGES *kenas*, but how meet the difficulty according to the one who regards it as indemnity?¹¹ — Since the Tanna had to state DOUBLE AND FOUR- OR FIVE-FOLD RESTITUTION, which is an indemnity

1. Lev. XXIV, 22.

2. Creditors would refuse to advance loans should difficulties confront them in collecting their debts; and the same consideration has led to the suspension of the law regarding the need of *Mumhin*.

3. [G], an ordinary person.
4. Differing from R. Abbahu.
5. Lev. XIX, 15.
6. Unversed in the law. [Heb. [H], lit., rendered sit (a) at street corners, (b) in wagons, (c) in markets, (d) a company (of musicians), connecting the word with the Latin corona, (e) a corruption of the abbreviations [H] 'circuses and theatres', a reading supported by the J.T.]
7. Since they would be protected against all claims of compensation.
8. Since according to him three are biblically required.
9. The term *Nezek* (damage), being the *terminus technicus* for all kinds of damages including those rising out of mayhem.
10. I.e. a fine imposed upon the owner for not guarding his animal from causing damage, as distinct from damages in cases of mayhem, which are considered indemnity.
11. V. B.K. 15a.

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not corresponding with the exact amount of damage done, he mentions HALF DAMAGES which is likewise an indemnity that does not correspond with the exact amount of damage done. And as he has to state HALF DAMAGES, WHOLE DAMAGES is incidentally also stated.

Whence do we deduce that three are needed [for the composition of a court]? — From what our Rabbis taught: 'It is written: *The master of the house shall come near unto the judge.* here you have one; and again: *the cause of both parties shall come before the judge,* here you have two; and again: *whom the judge shall condemn,*¹ so you have three.' So says R. Josiah. R. Jonathan holds the initial reference to judges occurs In the first passage above, and cannot as such, be employed for exegetical purposes.² But [the deduction is as follows:] *The cause of both ... judge,* here you have one; again whom the judge shall condemn, here you have two; and since a court must not be of an even number, another is added, making the total of three. Shall we say that R. Josiah and R. Jonathan have as point of dispute the question whether

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or not first citations can be used for exegetical purposes. R. Josiah being of the opinion that they can be used, and R. Jonathan that they cannot? — No! Both agree that first citations cannot be used. R. Josiah nevertheless employs one such in this case because were its purpose merely to indicate the need of a judge, the text should have stated *The master... unto the Shofet* [judge]. Why does it say 'Elohim'? — To enable us to infer that the first citation is to be used to derive from it the number of three judges. R. Jonathan, however, argues that the verse employed the popular term ['Elohim' for a recognized judge]. even as the current saying goes; 'Whoever has a trial let him go to the *Dayyan*.'³

And is not R. Josiah of the opinion that a court must consist of an uneven number of judges?⁴ Has it not been taught; R. Eliezer the son of R. Jose the Galilean says: 'What is the signification of the phrase *to incline after many to arrest judgement*?'⁵ The Torah implies: Set up for thyself a court of an uneven number, the members of which may be able to incline to one side or the other? — R. Josiah is of the opinion of R. Judah that the Great Sanhedrin consisted of seventy. For we learnt: THE GREAT SANHEDRIN CONSISTED OF SEVENTY-ONE ... R. JUDAH SAYS OF SEVENTY. It might, however, be objected that R. Judah has been known to express this view only regarding the Great Sanhedrin [and that on Biblical authority]; but have you heard him express it with regard to other courts? Should you presume to say that [R. Judah] makes no such distinction, how then explain what we learnt: THE LAYING OF HANDS BY THE ELDERS AND THE CEREMONY OF BREAKING THE HEIFER'S NECK [REQUIRE THE PRESENCE OF] THREE. SO HOLDS R. SIMEON. R. JUDAH SAYS FIVE. And it has been stated. 'What is R. Judah's reason? He finds it in the text, *the elders shall lay*.'⁶ the plural in each word indicating at least two, and so four in all, and since there cannot be a court of an even

number, a fifth is added.'⁷ R. Josiah's opinion goes further than that of R. Judah. Whilst the latter is of the opinion that only the Great Sanhedrin needs an uneven number, but not other courts, R. Josiah extends that requirement to all courts.

But [on R. Josiah's opinion] how is 'to incline' explained?⁸ — He applies it to capital but not to monetary cases. If so, what of the ruling which we learnt that in [monetary] cases: if *two* of the judges acquit the defendant and the third condemns him, he is acquitted; if *two* condemn him and one acquits, he is condemned.⁹ Can it be said it does not accord with R. Josiah's view?¹⁰ — No! you can correlate that Mishnah's ruling even with that of R. Josiah [for he will agree that the decision of the majority is valid even in civil cases] by virtue of a *kal wahomer*¹¹ from capital cases. If in capital cases that are so grave, the Divine Law¹² vested the authority in the majority, all the more so in monetary cases.

Our Rabbis taught: Monetary cases are tried by three. Rabbi says, by five, so that in case of a division there will be a majority verdict, i.e., of three. But surely even in the case of three there is possible a majority verdict [namely, of two]? — What Rabbi means is that a unanimous decision of three is required for the verdict. Hence he holds that the stage at which three judges are prescribed is the final decision. This opinion was ridiculed by R. Abbahu, for the Great Sanhedrin would accordingly have to consist of one hundred and forty one, in order that the final verdict might be given [in case of a division] by a majority of at least seventy-one; and the small Sanhedrin would have to consist of forty-five, in order that the final verdict might be given by twenty-three? This however cannot be maintained, since the text, *Gather unto me seventy men of the elders of Israel*¹³ prescribes seventy at the time of gathering; and likewise, the verse, *The congregation shall judge, and the congregation shall deliver*¹⁴ refers to the time

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when the congregation proceeds to judge. Similarly it may be concluded that the verse, *The master of the house shall come near unto the judges*¹⁵ [from which the need of three judges in monetary cases is derived], is to be explained as referring to the time when the plaintiff appears before the Court, at which point three judges are required. [Whence then does Rabbi deduce that three are needed?] — Rabbi derives this from the plural form of the predicate 'yarshi'un' [they shall condemn], arguing that the subject 'Elohim' [judges] is here a plural, indicating at least two; and similarly the earlier 'Elohim'¹⁶ in the same context denotes two. So we have four. Adding another, since a court cannot consist of an even number, there are five;

1. Ex. XXII, 7-8. [The plural Elohim is treated as plural of 'majesty', cf. G. K. 124, g-i.]
2. As it is required simply to indicate the need of a judge.
3. An authoritative judge.
4. Otherwise he would not have resorted to the first citation for deducing the number three.
5. Ex. XXIII, 2.
6. Lev. IV, 5. It might have sufficed to state, 'The elders, having their hands on the head of the Sacrifice, etc.' v. infra 13b.
7. All of which proves that R. Josiah cannot find in R. Judah any support for an even court.
8. Which shows that the court must be uneven.
9. V. infra 29a.
10. Who requires the unanimous verdict of three since that number is specially prescribed for deciding a case.
11. A conclusion a minori ad majus.
12. Lit. 'The All Merciful One', i.e. God, whose word the Law (Scripture) reveals.
13. Num. XI. 16.
14. Num. XXXV, 24 from which the membership of a small Sanhedrin is derived, v. p. 3.
15. Ex. XXII, 7.
16. The cause of both parties shall come before the Judges, *ibid*, 8.

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but the Rabbis [who hold that only three are needed] adopt the written form *yarshi'un*.¹

R. Isaac b. Joseph² said in the name of R. Johanan: Rabbi and R. Judah b. Ro'ez, the Shammaites. R. Simeon and R. Akiba, all hold that *Mikra*³ is determinant in Biblical exposition.

Rabbi's opinion is reflected in what has been said; that he reads *yarshi'un*.

The opinion of R. Judah b. Ro'ez is given in the following: For it has been taught: The disciples of R. Judah b. Ro'ez asked him: Why not read *shibe'im* [seventy] instead of *shebu'ayim* [two weeks]⁴ [extending the period of uncleanness to seventy days]? He answered: The law has fixed the period of purity and impurity in the case of a male child and it has fixed the period of purity and impurity in case of a female child. Just as the period of purification after the birth of a female child is double that after the birth of a male child, so must the period of uncleanness after the birth of a female child be no more than double that after the birth of a male child [which is only seven days]. After they left him he sought them out again and said 'You have no need of that explanation since *Mikra* is determinant, and we read *shebu'ayim* [two weeks].

The opinion of the Shammaites is advanced in the following [Mishnah]: For we learned:⁵ Beth Shammai said: If the blood of sacrifices that is to be sprinkled on the outer altar was applied only once,⁶ the offering is valid, as it is said, *the blood of thy sacrifice shall be poured out*⁷ [denoting one application]. In the case of a sin offering, however, they hold that two applications are required; but the Hillelites hold that in the case of a sin offering also a single sprinkling effects atonement. And R. Huna said: What is the Shammaites' reason for their opinion? — It is that the plural 'karnoth' [horns of the altar] occurs three times in this context⁸ denoting six, and so implying that four sprinklings are prescribed in the first instance, but that two are indispensable. But the Hillelites argue that since 'karnoth'⁹ is

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twice written defectively, and can be read 'karnath'¹⁰ [singular], only four sprinklings are implied, three being prescribed in the first instance, and that only one is indispensable. But why not argue that all the four are merely prescribed without a single one being indispensable? — We do not find an act of expiation effected without an accompanying rite.

R. Simeon's opinion is expressed in the following [Baraita]: It has been taught:¹¹ A *Sukkah*¹² needs at least two walls of the prescribed dimensions and a third of the width of at least a hand-breadth. R. Simeon says; Three complete walls and the fourth the width of a hand-breadth. What is really their point of dispute? — The Rabbis¹³ hold that Masorah¹⁴ is determinant in Biblical exegesis, while R. Simeon holds that Mikra is determinant. The Rabbis, taking the former view, argue that as the word 'bassukoth' which occurs three times¹⁵ is written once plene [in the plural] and twice defectively¹⁶ making in all four references. So, subtracting one as required for the command itself, there are three left. Next comes the Sinaitic *Halachah*¹⁷ and diminishes the third and fixes it at a hand-breadth. But R. Simeon is of the opinion that Mikra is determinant and thus all the three *bassukoth* are to be read in the plural, making a total of six. One of these is required for the command itself, leaving four, and the fourth is diminished in virtue of the Sinaitic *Halachah*, to a handbreadth.

As to R. Akiba's opinion — it has been taught:¹⁸ R. Akiba said: Whence is it deduced that a fourth of a *log*¹⁹ of blood which issues front two corpses carries uncleanness according to the law relating to the pollution of tents.²⁰ It is said: *He shall not go in unto any dead body.*²¹ [The plural *nafshoth* translated 'body' indicates that] even from two bodies a single [vital] quantity suffices to carry uncleanness; but the Rabbis argue that it is written *nafshath* [singular], [denoting that a vital quantity can defile only if it issues from one corpse].

R. Aha b. Jacob questioned this statement of R. Isaac b. Joseph — Is there no one [apart from those above mentioned] who does not accept the *Mikra* as determinant? Has it not been taught: *Thou shalt not seethe a kid in the milk of [bahaleb]²² its mother²³ in which verse you might read beheleb²⁴ [in the fat of]?*

1. [The singular form, cf. the Arabic ending in an, and the subject *Elohim* is taken throughout as singular.]
2. *Var. lec.*: R. Jose.
3. [Lit. 'Mikra has a mother,' or' these is preference to Mikra (Halper. B., ZAW. XXX, p. 100), i.e. the reading of the sacred text according to the Kere [H] the established vocalization has an authentic origin, hence well-founded, as distinct from the 'Masorah the Kethib, [H] the traditional text of consonants without vowels.]
4. In the verse: If she bear a female child, she shall be unclean, etc. Lev. XII, 5.
5. Zeb. 36b.
6. Instead of two sprinklings constituting four at the two opposite angles of the altar.
7. Deut. XII, 27.
8. Lev. IV, 25, 30, 34.
9. Following the Mikra.
10. [H] instead of [H] cf. the feminine ending at.
11. Suk. 6b.
12. A booth, erected for the Festival of Booths. v. [Glos.](#)
13. The representatives of the anonymous opinion quoted first.
14. V. p. 10, n. 4.
15. In connection with the command of Festival of Booths.
16. [H] and [H] Lev. XXIII, 42-43.
17. The traditional interpretation of the Law traceable to Sinai, see Hoffmann, *Die Erste Mischna*, p. 3.
18. Hul. 72a.
19. A liquid measure, about two-thirds of a pint.
20. Num. XIX, 14.
21. Lev. XXI, 11; Lit., 'souls of the dead', the soul denoting blood, as the life-force, cf. Deut. XII, 23., and the loss of a quarter of a *log* is regarded as the loss of vital blood.
22. [H]
23. Ex. XXIII, 19.
24. [H]

Sanhedrin 4b

Say: this is unacceptable, as *Mikra* is determinant?¹ — Hence all agree that Mikra

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is determinant, but Rabbi and the Rabbis² differ in the following: Rabbi holds that the plural *yarshi'un*³ refers to two judges [*Elohim*] other than those prescribed in the previous verse;⁴ while the Rabbis maintain that it refers to *Elohim* here [its own subject] and to that in the previous clause.⁵

As to R. Judah b. Ro'ez, the Rabbis do not oppose him.⁶

As for the Hillelites, they derive their ruling⁷ from the following: For it has been taught: *wekipper*⁸ has to be repeated three times [in connection with the sin offering]⁹ to indicate that even one application is adequate, contrary to an analogy which might otherwise be advanced in favor of the need of four applications. But could we not have deduced this by [the following] analogy? The use of blood is mentioned [for application] above the line;¹⁰ and the use of blood is mentioned [for application] below the line.¹¹ Just as in the case of the blood to be applied below the line, one application effects atonement,¹² so should it be with the blood to be applied above the line.

But you may argue this way: Sprinkling is prescribed for sacrifices offered on the outer altar¹³ and also for those offered on the inner altar.¹⁴ As in the case of those offered on the inner altar, expiation is not effected if one application has been omitted, so should it be with sacrifices offered on the outer altar!

Let us, however, see to which it is to be compared. Comparisons may be made between sacrifices offered on [the same] the outer altar, but not between sacrifices offered on the outer and inner altars.¹⁵

But may you not, on the other hand, argue in this way? We can compare sin offerings, the blood of which is applied on the four horns of the altar,¹⁶ to other sin offerings, the blood of which is applied on the four horns,¹⁷ but no proof can be deduced from such a sacrifice as is neither a sin offering nor has the blood

sprinkled on the four horns of the altar!¹⁸ Hence on account of this latter analogy, *Wekipper* has to be repeated three times, to indicate that atonement is effected by means of three sprinklings, or even by means of two, or indeed even by means of one alone.

Now as to R. Simeon and the Rabbis, their real point of difference is the following: R. Simeon holds that a cover for a *Sukkah* needs no textual basis,¹⁹ while the Rabbis maintain that a special textual basis is necessary for a cover.²⁰

R. Akiba and the Rabbis again disagree on the following point: According to the former, *nafshoth* denotes two bodies,²¹ while the Rabbis say that *nafshoth* is a general term for bodies.²²

But do all, indeed, regard the *Mikra* as determinant? Has it not been taught: '*letotafoth* [frontlets] occurs thrice in the Torah, twice defective and once plene,²³ four in all, to indicate [that four sections are to be inserted in the phylacteries]. Such is the opinion of R. Ishmael. But R. Akiba maintains that there is no need of that interpretation, for the word *totafoth* itself implies four, [it being composed of] *tot* which means two in *Katpi*²⁴ and *foth* which means two in *Afriki*?²⁵ — Hence, in reality, it is disputable whether *Mikra* is always determinant in Biblical exegesis, but this is true only of cases where *Mikra* and *Masorah* differ in the spelling of a word.²⁶ But whereas for example, in the case of the milk — the reading *behaleb* involves no change in the spelling,²⁷ *Mikra* is determinant. But does not the text, Three times in the year all thy males shall appear [shall be seen] before the Lord²⁸, occasion a dispute whether we shall follow the *Mikra* [*yera'eh*]²⁹ or read *yir'eh*³⁰ according to *Masorah*?³¹ For it has been taught: R. Johanan b. Dahabai said on behalf of R. Judah b. Tema: One who is blind in one eye is exempted from visiting the Temple, for we read YR'H³² which according to *Mikra* means *he shall be seen* and according to

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Masorah, he shall see. That is to say, as He comes to see the worshipper, so should man come to be seen by Him; as He [the Lord] comes to see [so to speak] with both eyes.³³ so should he, who comes to be seen by Him, come with both eyes!³⁴ Hence, says R. Aha, the son of R. Ika: The scriptural text says. *Thou shalt not seethe a kid in its mother's milk.* It is seething, as a method of cooking, that the law forbids.³⁵

Our Rabbis taught: Monetary cases are decided by three;

1. And this is disputed by no one, as otherwise there would be no foundation for the prohibition.
2. V. p. 9.
3. *Whom the judges shall condemn.* Ex XXII, 8.
4. Ex. XXII, 7, and that accounts for his view that five judges are required.
5. *Elohim* in each case being taken as plural of majesty and so no additional judges are implied.
6. V. p. 10.
7. That one application of blood suffices in a sin offering.
8. [H] *he shall make an atonement.*
9. Lev. IV, 26, 31, 35.
10. I.e., the red line which marked the middle of the altar's height. The blood of sin offerings was applied above the line.
11. I.e., the blood of burnt, trespass, and peace offerings, v. Zeb. 53a, Mid. III, 1.
12. Deduced from Deut. XII, 27. *The blood of thy sacrifices shall be poured out,* v. Zeb. 37a.
13. All sacrifices, except those of the Day of Atonement, the offering prescribed for the anointed Priest and the community's sacrifice on having erred (Lev. IV, 13) were offered on this, the brazen altar.
14. V. n. 4.
15. As for example between the sin offering of the anointed Priest and these sin offerings in connection with which wekipper is mentioned.
16. The offerings in regard to which wekipper occurs.
17. Such as that of the anointed Priest.
18. Such as the burnt (v. Lev. III, 1-11), the trespass and peace offerings. V. p. II.
19. The term *sukkah* ([H] 'to cover') itself denotes a cover, and all the references are thus employed for the walls of the *sukkah* to indicate that three complete walls and one diminished are needed.
20. V. p. 11.
21. So that one quantity of blood pollutes even if it issues from two corpses.
22. And does not indicate any definite number.
23. [H] (defective) (a) Deut. VI, 8. (b) ib. XI, 18; [H] (plene) Ex. XIII, 16. (Rashi) v. Tosaf. Zeb. 25a; Men. 34b. In our versions, the defective form occurs only once: Deut. VI, 8.
24. Coptic language? [V. Neubauer, p. 418]
25. The language of N. Africa or Phrygia in Asia Minor.
26. As, for example, in the following words: '*totafoth*', '*bassukkoth*', '*karnoth*', in each case of which the *Mikra* implies an extra letter.
27. [H] might be read [H] (fat) or [H] from [H] (milk).
28. Ex. XXIII, 17.
29. [H] 'shall be seen.'
30. [H] 'he shall see.'
31. Although the spelling in both readings is the same.
32. [H]
33. Cf. Deut. XI, 12.
34. Hence we see that the authority of *Mikra* is a moot point in every case, and if so, what is the definite basis for the prohibition relating to meat and milk?
35. *Seething* is a term applicable only to a liquid, such as *milk*, and not to *fat* which would require such a word as *roasting*. Therefore we must read *behaleb*, (in the milk of) according to *Mikra*.

Sanhedrin 5a

but one who is a recognized *Mumheh*¹ may judge alone.

R. Nahman said: One like myself may adjudicate monetary cases alone. And so said R. Hiyya.

The following problem was [consequently] propounded: Does the statement 'one like myself' mean that as I have learned traditions and am able to reason them out, and have also obtained authorisation² [so must he who wishes to render a legal decision alone]; but that if he has not obtained authorization, his judgment is invalid; or is his judgment valid without such authorization? Come and hear! Mar Zutra, the son of R. Nahman, judged a case alone and gave an erroneous decision. On appearing before R. Joseph, he was told: If

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both parties accepted you as their judge, you are not liable to make restitution. Otherwise, go and indemnify the injured party. Hence it can be inferred that the judgment of one, though not authorized, is valid.

Said Rab: Whosoever wishes to decide monetary cases by himself and be free from liability in case of an erroneous decision, should obtain sanction from the *Resh Galutha*,³ And so said Samuel.

It is clear that an authorization held from the *Resh Galutha* 'here' [in Babylonia] holds good 'here' — And one from the Palestinian authority 'there' [in Palestine] is valid 'there' — Likewise, the authorization received 'here' is valid 'there', because the authority in Babylon is designated 'scepter' — but that of Palestine, 'lawgiver' [denoting a lower rank] — as it has been taught: *The scepter shall not depart from Judah*,⁴ this refers to the Exilarchs of Babylon who rule over Israel with sceptres;⁵ and a lawgiver ... this refers to the descendants of Hillel [in Palestine] who teach the Torah in public. Is, however, a permission given 'there' valid 'here'? Come and hear! Rabbah b. Hana gave an erroneous judgment [in Babylonia]. He then came before R. Hiyya, who said to him: If both parties accepted you as their judge, you are not liable to make restitution; otherwise you must indemnify them. Now — Rabbah b. Hana did hold permission [but from the Palestinian authority]. Hence we infer that the Palestinian authorization does not hold good for Babylon.⁶

But is it really not valid in Babylon? Did not Rabbah, son of R. Huna, when quarrelling with the members of the household of the *Resh Galutha*, maintain, I do not hold my authorization from you. I hold it from my father who had it from Rab, and he from R. Hiyya, who received it from Rabbi [in Palestine]? — He was only trying to put them in their place with mere words.

Well, then, if such authorization is invalid in Babylon, what good was it to Rabbah, son of R. Huna? — It held good for cities that were situated on the Babylonian border [which were under the jurisdiction of Palestine].²

Now, what is the content of an authorization? — When Rabbah b. Hana was about to go to Babylon, R. Hiyya said to Rabbi: 'My brother's son is going⁸ to Babylon. May he, decide in matters of ritual law?' Rabbi answered: 'He may. May he decide monetary cases?' — He may.' 'May he declare firstborn animals permissible [for slaughter]?'⁹ — 'He may.' When Rab went there, R. Hiyya said to Rabbi: 'My sister's son is going to Babylon. May he decide on matters of ritual law?' — He may. 'May he decide [monetary] cases?' — 'He may.' 'May he declare firstborn animals permissible for slaughter?' — 'He may not.' Why did R. Hiyya call the former 'brother's son' and the latter 'sister's son'? You cannot say that it was actually so, since a Master said that Aibu [Rab's father] and Hana [Rabbah's father], Shila and Martha and R. Hiyya were the sons of Abba b. Aha Karsela of Kafri?¹⁰ — Rab was also R. Hiyya's sister's son [on his mother's side], while Rabbah was only his brother's son. Or, if you prefer, I might say he chose to call him sister's son'

1. V. [Glos.](#)
2. V. n. 6.
3. Lit. — 'head of the Golah', Exilarch. Title given to the chief of the Babylonian Jews who from the time of the exile were designated by the term Golah, v. Jer. XXVIII, 6.
4. Gen. XLIX. 10.
5. Scepter, symbol of the authority of a ruler appointed by the Government, as was the *Resh Galutha*, 'Lawgiver' designates the heads of Palestinian schools who have no political authority.
6. Otherwise he should not have been liable to indemnification.
7. [V. Zuri, Toledoth Hamishpat Haziburi I, pp. 384 ff.]
8. Lit., 'descending'.
9. On finding, after careful examination, that they had permanent blemishes. After the destruction of the Temple, firstborn animals

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could be slaughtered only on having permanent defects.

10. In Babylonia. Hence Rab was also the son of R. Hiyya's brother's.

Sanhedrin 5b

on account of his eminent wisdom, as it is written: *Say unto wisdom, thou art my sister.*¹

What was the reason that Rab was not authorized to permit the slaughter of firstborn animals? Was it that he was not learned² enough? But have we not just said that he was very learned? Was it because he was not an expert in judging defects? But did not Rab himself say: I spent eighteen months with a shepherd in order to learn which was a permanent and which a passing blemish? — Rabbi withheld that authorization from Rab, as a special mark of respect to Rabbah b. Hana.³ Or, if you prefer, I might say that for the very reason that Rab was a special expert in judging blemishes, he might in consequence declare permissible, with a view to slaughter, [permanent] defects which to others might not be known as such. These latter might thus be led to maintain that Rab had passed cases of such a kind and so to declare permissible transitory blemishes.

We were told above that Rabbi authorized him, Rabbah, and Rab respectively, to] decide in matters of ritual law. Since he was learned in the law, what need had he to obtain permission? — Because of the following incident, for it has been taught: Once Rabbi went to a certain place and saw its inhabitants kneading the dough without the necessary precaution against Levitical uncleanness.⁴ Upon inquiry, they told him that a certain scholar on a visit taught them: Water of *bize'im* [ponds] does not render food liable to become unclean. In reality, he referred to [eggs], but they thought he said *bize'im* [ponds].⁵ They further erred in the application of the following Mishnah:⁶ The waters of Keramyon and Pigah,⁷ because they are ponds, are unfit for purification

purposes.⁸ They thought that since this water was unfit for purification, it likewise could not render food liable to become unclean. But this conclusion is unwarranted, for whereas there, that is in connection with the purification offering, running water is required, waters, from any source, can render food liable to uncleanness. There and then⁹ it was decreed that a disciple must not give decisions unless he was granted permission by his teacher.

Tanhum son of R. Ammi happened to be at Hatar, and in expounding the law to its inhabitants, taught them that they might soak the grain before grinding for Passover.¹⁰ But they said to him: Does not R. Mani of Tyre live here, and has it not been taught that a disciple should not give an halachic decision in the place where his teacher resides, unless there is a distance of three parasangs — the space occupied by the camp of Israel — between them? He answered: The point did not occur to me.

R. Hiyya saw a man standing in a cemetery and asked him: 'Are you not the son of so and so who was a Priest?'¹¹ 'Yes,' he answered, 'but my father being willful, set his eyes upon a divorced woman, and by marrying her, profaned his priesthood.'¹²

It is obvious that a partial authorization is valid,¹³ as has already been said. But how is it with a conditional authorisation?¹⁴ Come and hear! R. Johanan said to R. Shaman:¹⁵ You have our authorization until you return to us.

The text [above states]: 'Samuel said, If two [commoners] try a case [instead of three] their decision holds good, but they are called a presumptuous Beth din.'

R. Nahman sat and reported this teaching, but Rabbah objected to it on the ground of the following [Mishnah]:¹⁶ Even if two acquit or condemn, but the third is undecided¹⁷ the number of the judges must be increased.

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Now if it were so, as Samuel maintains, why add; why not let the decision of these two be as valid as that of two who have tried a case? — There [in the Mishnah] the case is different, since from the outset they sat with the intention of constituting a court of three; whereas here they did not sit with that intention.

He raised a further objection:¹⁸ 'R. Simeon b. Gamaliel says: Legal judgment is by three; arbitration is valid if made by two. And the force of arbitration is greater than that of legal judgment, for if two judges decide a case, the litigants can repudiate their decision, whilst if two judges arbitrate, the parties cannot repudiate their decision.'¹⁹

1. Prov. VII, 4.
2. Lit, 'wise'.
3. So as to establish him firmly in the respect of Babylonians, whilst Rab's standing was in any case high.
4. V. Lev. XI, 38.
5. That disciple must have been defective of speech, and the listener could easily fall into error owing to the similarity of pronunciation of [H] 'ponds' — (cf. Job VIII, 11) — and [H] 'eggs'.
6. Parah VIII. 10.
7. In Palestine. V. B. B. (Sonc. ed.), p. 298, n. 10
8. Num. XIX, 17.
9. Lit., 'in that hour'.
10. Leavenness, the result of dampness, does not occur in this, as the grain is ground immediately after washing.
11. According to Levitical law, the Priest is forbidden to have direct contact with a dead body or come within a roofed enclosure where such lies buried.
12. The offspring of the marriage between a priest and a woman disqualified for him (v. Lev. XXI, 14) are profane and the laws pertaining to priestly status do not apply to them. [In J. Sheb. the incident is ascribed to Rabbi, which explains the mention of it in this connection, v. *Hazofeh* XIII, 346.]
13. As in the case of Rab.
14. For a definite time.
15. [R. Shaman b. Abbe, on the occasion of his visit to Babylon. v. D. S. a. l.]
16. *Infra* 29a.
17. Lit., 'he says. 'I do not know' (how to decide).'
18. Tosef. Sanh. 1.

19. Because the arbitrators were of their own choice. Hence we see clearly that the decision of two in a legal judgment is not valid.

Sanhedrin 6a

And should you maintain that the Rabbis differ from R. Simeon b. Gamaliel,¹ it may be asked: Did not R. Abbahu say that all agree that a judgment given by two in monetary cases is not valid? — But why should you seek to show a disagreement between two persons?²

The text [above states]: 'R. Abbahu says all agree that a judgment given by two in monetary cases is not valid.' R. Abba objected and asked R. Abbahu [from the following]: If one has judged a case by himself and pronounced the guilty 'guiltless' and the guiltless 'guilty', or the clean 'unclean' and the unclean 'clean', his act cannot be undone, but he has to pay indemnity from his own pocket?³ — Here we are dealing with a case where the parties accepted the judge. If so, why make him pay indemnity? — Because they had said to him: We agree to abide by your award on condition that you give a decision in accordance with the Torah.

R. Safra asked R. Abba: What did the judge overlook in giving this erroneous decision? Was it a law cited in the Mishnah? But did not R. Shesheth say in the name of R. Ashi: 'If one overlooks a law cited in the Mishnah, he may revoke his decision'? — Hence it must be he erred in deciding against common practice. How can we conceive that? R. Papa said: If, for example, two Tannaim or Amoraim opposed each other's views in a certain matter and it was not clear with whom the true decision lay, but the general trend of practice followed the opinion of one of them, and yet he decided according to the opinion of the other, that is termed 'an error of judgment against common practice'.

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Is it true to say that the point of difference [between Samuel and R. Abbahu] had been anticipated by Tannaim in the following controversy? Arbitration is by three, so says R. Meir. The Sages say that one is sufficient. Now the Schoolmen presumed that all agree that the force of arbitration is equal to that of legal decision; their point of difference would accordingly resolve itself into one holding that three are required for legal decision and the other holding that two are enough.⁴ — No, all [both R. Meir and the Sages] agree that legal decision is by three, and the point in which they differ is this: One [R. Meir] holds that the force of arbitration should be regarded as equal to that of legal decision, while the other disputes it.

May it be assumed then that there are three views held by the Tannaim with regard to arbitration, viz., one [R. Meir] holds that three are needed; another [R. Simeon b. Gamaliel] holds that two are sufficient,⁵ while the Sages hold that one is enough? — R. Aha the son of R. Ika, or according to others R. Yemar b. Salomi, said: The Tanna who says two are necessary is really of the opinion that a single one is sufficient. And the reason he requires two is that they might act as witnesses in the case, if required.

R. Ashi said: We may infer from this that no *Kinyan*⁶ is needed for arbitration, for if it be thought necessary, why does the Tanna in question require three? Surely two should suffice, the two parties being bound by *Kinyan*!⁷ The adopted law however, is that arbitration requires *Kinyan* [even when made by three].⁸

Our Rabbis taught: Just as for legal judgment three are required, so are three required for settlement by arbitration. After a case has been decided by legal judgment, thou must not attempt a settlement.

1. I.e. the majority opinion is that the decision of two is valid.

2. Why should Samuel, unlike R. Abbahu, hold that the Rabbis differ from R. Simeon b. Gamaliel?
3. B. K. 100a. It is thus seen that the decision of even one is valid.
4. I.e. their point of difference is thus the same as that between R. Abbahu and Samuel.
5. *Supra* 5b.
6. A formal act of acquisition effected when two enter into mutual obligation.
7. Pledging themselves to adhere to the award.
8. Because, strictly speaking, the decision is not one of law, and unless the parties have bound themselves by *Kinyan*, they can retract.

Sanhedrin 6b

(Mnemonic: *SaRMaSH BaNKaSH*.)¹

R. Eliezer the son of R. Jose the Galilean says: It is forbidden to arbitrate in a settlement, and he who arbitrates thus offends, and whoever praises such an arbitrator [bozea'] contemneth the Lord, for it is written, *He that blesseth an arbiter [bozea'], contemneth the Lord.*² But let the law cut through the mountain,³ for it is written, *For the judgment is God's.*⁴ And so Moses's motto was: Let the law cut through the mountain. Aaron, however, loved peace and pursued peace and made peace between man and man, as it is written, The law of truth was in his mouth, unrighteousness was not found in his lips, he walked with Me in peace and uprightness and did turn many away from iniquity.⁵

R. Eliezer says: If one stole a *se'ah* [a measure] of wheat, ground and baked it and set apart the *Hallah*,⁶ what benediction can he pronounce? This man would not be blessing, but contemning, and of him it is written, The robber [bozea'] who blesseth, *contemneth the Lord.*⁷

R. Meir says: This text refers to none but Judah, for it is written, *And Judah said to his brethren, What profit [beza'] is it if we slay our brother?*⁸ And whosoever praises Judah, blasphemes, as it is written, *He who praiseth the man who is greedy of gain [bozea']*

SANHEDRIN – 2a-25a

*contemneth the Lord.*⁹ R. Judah b. Korha says: Settlement by arbitration is a meritorious act, for it is written, *Execute the judgment of truth and peace in your gates.*¹⁰ Surely where there is strict justice there is no peace, and where there is peace, there is no strict justice! But what is that kind of justice with which peace abides? — We must say: Arbitration.¹¹ So it was in the case of David, as we read, *And David executed justice and righteousness [charity] towards all his people.*¹² Surely where there is strict justice there is no charity, and where there is charity, there is no justice! But what is the kind of justice with which abides charity? — We must say: Arbitration.

But the following interpretation of this verse will accord with the First Tanna [who holds arbitration to be prohibited]: In rendering legal judgment, David used to acquit the guiltless and condemn the guilty; but when he saw that the condemned man was poor, he helped him out of his own purse [to pay the required sum], thus executing judgment and charity, justice to the one by awarding him his dues, and charity to the other by assisting him out of his own pocket. And therefore Scripture says, *David practiced justice and charity towards all his people.*¹³

Rabbi, however, objected to this interpretation, for in that case [he said], the text ought to have read 'towards the poor' instead towards all his people? Indeed, [he maintained,] even if he had not given assistance out of his own pocket, he would nevertheless have executed justice and charity; justice to the one by awarding him his dues, and charity to the other by freeing him from an ill-gotten thing in his possession.

R. Simeon b. Manasya says: When two come before you for judgment, before you have heard their case, or even afterwards, if you have not made up your mind whither¹⁴ judgment is inclining,¹⁵ you may suggest to them that they should go and settle the dispute amongst themselves. But if you have

already heard their case and have made up your mind in whose favor the verdict inclines, you are not at liberty to suggest a settlement, for it is written: *The beginning of strife is as one that letteth out water. Therefore, leave off contention before the quarrel break out.*¹⁶ Before the case has been laid bare, you may leave off [give up] the contention;¹⁷ after the case has been laid bare, you cannot leave it off.

The view of Resh Lakish¹⁸ is as follows: When two men bring a case before you, one weak [i.e. of small influence], the other strong [of great influence], before you have heard their case, or even after, so long as you are in doubt in whose favor judgment is inclining, you may tell them: 'I am not bound to decide in your case', lest the man of great influence should be found guilty, and use his influence to harass the judge. But, if you have heard their case and know in whose favor the judgment inclines, you cannot withdraw and say, 'I am not bound to decide in your case', because it is written: *Ye shall not be afraid of the face of any man.*¹⁹

R. Joshua b. Korha says: Whence do we know that a disciple, who is present when his master judges a case and sees a point which would tell in favor of a poor man or against a rich man, should not keep silence? From the words of the text: *Ye shall not be afraid [lo taguru] of the face of any man.*²⁰ R. Hanin explains this word to mean, 'Ye shall not hold back your words because of anyone.'²¹ Further, witnesses should know against whom they are giving evidence, before whom they are giving evidence and who will call them to account [in the event of false evidence]. For it is written: *Then both the men, between whom the controversy is, shall stand before the Lord.*²² Judges should also know whom it is they are judging, before whom they are judging, and who will call them to account [if they pervert justice], as it is written: *God standeth in the Congregation of God [in the midst of judges doth He judge].*²³ And thus it is said, concerning

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Jehoshaphat, He said to the judges, *Consider what ye do, for ye judge not for man, but for the Lord.*²⁴ And lest the judge should say: Why have all this trouble and responsibility? It is further said: *He is with you in giving judgment.*²⁴ The judge is to be concerned only with what he actually sees with his own eyes.

When is judgment to be regarded as rendered [i.e. at which point is arbitration forbidden]? — Rab Judah, in the name of Rab. says: On the pronouncement of the words: So and so, thou art guilty; or, so and so, thou art not guilty.

Rab says: the *halachah* is in agreement with R. Joshua b. Korha [who holds arbitration to be a meritorious act]. How can this be? Was not R. Huna a disciple of Rab, and yet, when a case was brought to him, he would ask the litigants whether they desired to resort to law or to a settlement?²⁵ As to the expression, 'meritorious act which R. Joshua b. Korha uses, he means

1. Mnemonic device to recollect names of authorities that follow: Jose, Eliezer, Meir, JoSHua, RaBbi, Simeon b. MaNasya, Judah b. LaKish. JoSHua b. Karha. These letters have been chosen because they afford in addition aids to their respective statements, v. Hyman. *Toledoth*, I, p. 23]
2. Ps. X. 3. The root-meaning of [H] is 'to cut'; hence the word translated, 'covetous', is taken in the sense of an arbiter in a compromise, when the difference between two claims is split.
3. Take its course.
4. Deut I, 17. And no court has the right to tamper with it.
5. Mal. II, 6.
6. Priest's share of the dough. Num XV, 20-21.
7. Ps. X, 3. Lit. 'he who is greedy of gain, etc.' Cf. Prov. I, 19.
8. [H] Gen. XXXVII, 26.
9. Taking [H] as object of the verb 'who praiseth'.
10. Zech. VIII, 16.
11. Because the strict application of the law does not always set both parties at peace.
12. II Sam. VIII, 15. It is noteworthy that 'charity to the poor', in the usage of Rabbinic speech, is described by *Zedakah* — a word denoting 'righteousness', 'just doing'.

13. Ibid.
14. I.e., In whose favor.
15. I.e., before the court becomes cognizant of the respective merits of the litigants.
16. Prov. XVII, 14.
17. I.e., suggest a settlement.
18. Other readings: (a) R. Judah b. Lakish. (b) R. Joshua b. Lakish. V. [H] a.l.
19. Deut. I, 17.
20. Ibid.
21. [H] from [H] 'gather in'. According to the Tosef., and other versions, R. Joshua b. Korha is the author of this interpretation.
22. Deut. XIX, 17. This refers to the witnesses (cf. Shebu. 30a).
23. Ps. LXXXII, 1.
24. II Chron. XIX, 6.
25. Hence we see that Rab does not favor R. Joshua b. Korha's opinion, as it is unlikely that R. Huna the disciple would deviate from the ruling of his master.

Sanhedrin 7a

that it is a meritorious act to ask the litigants whether they wish to resort to law or to a settlement. If so, this agrees with the opinion of the first Tanna?¹ There is this difference, however: R. Joshua b. Korha regards this as a moral obligation; the first Tanna merely as a permissible act. But this would make the first Tanna express the same opinion as R. Simeon b. Manasya? — The difference centers round the latter part of R. Simeon's statement: 'If you have already heard the case and know in whose favor the verdict inclines, you are not at liberty to suggest a settlement', [a distinction which the first Tanna does not admit].

A difference of opinion is expressed by R. Tanhum b. Hanilai, who says that the verse quoted² refers only to the story of the golden calf, as it is written: *And when Aaron saw it, he built an altar before it.*³ What did he actually see? — R. Benjamin b. Japhet says, reporting R. Eleazar: He saw Hur lying slain before him and said [to himself]: If I do not obey them, they will now do unto me as they did unto Hur, and so will be fulfilled [the fear of] the prophet, *Shall the Priest and the Prophet be slain in the Sanctuary of God?*⁴

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and they will never find forgiveness. Better let them worship the golden calf, for which offence they may yet find forgiveness through repentance.⁵

And how do those other Tannaim, who allow a settlement even when a case has been heard, interpret the verse: *The beginning of strife is as one that letteth out water?*⁶ They interpret it as does R. Hamnuna. For R. Hamnuna says: The first matter for which a man is called to give account in the Hereafter is regarding the study of the Torah, as it is said: The beginning of judgment⁷ concerns the letting out of *water*.⁸

R. Huna says [with reference to this verse]: Strife is compared to an opening made by a rush of water that widens as the water presses through it.

Abaye the Elder² says: Strife is like the planks of a wooden bridge; the longer they lie, the firmer they grow.

(Mnemonic: *Hear, And Two, Seven, Songs, Another.*)¹⁰

There was a man who used to say: Happy is he who hears abuse of himself and ignores it; for a hundred evils pass him by. Samuel said to Rab Judah: This is alluded to in the verse: *He who letteth out water [of strife] causeth the beginning of madon*¹¹ [the numerical value of which is a hundred].¹² that is, the beginning of a hundred strifes.

Again, there was a man who used to say: Do not be surprised if a thief goes unchanged for two or three thefts; he will be caught in the end. Samuel said to Rab Judah: This is alluded to in the verse: *Thus saith the Lord: for three transgressions of Judah, but for four I will not reverse it*¹³ [i.e. My judgment].

Another used to say: Seven pits lie open for the good man [but he escapes]; for the evil-doer there is only one, into which he falls. This, said Samuel to Rab Judah, is alluded to

in the verse: *The righteous man falleth seven times and riseth up again.*¹⁴

Yet another used to say: Let him who comes from a court that has taken from him his cloak sing his song and go his way.¹⁵ Said Samuel to Rab Judah: This is alluded to in the verse, *And all this people also* [i.e. including the losers] *shall come to their place in peace.*¹⁶

There was yet another who used to say: When a woman slumbers the [working] basket drops off her head.¹⁷ Said Samuel to Rab Judah: This is alluded to in the verse, *By slothfulness the rafters sink in.*¹⁸

Another man used to say: The man on whom I relied shook his fist at me.¹⁹ Samuel said to Rab Judah: This is alluded to in the verse: *Yea, mine own familiar friend, in whom I trusted and who did eat of my bread, hath lifted up his heel against me.*²⁰

Another used to say: When love²¹ was strong, we could have made our bed on a sword-blade; now that our love has grown weak, a bed of sixty [cubits] is not large enough for us. Said R. Huna: This is alluded to in the verses: Of the former age [when Israel was loyal to God] it is said: *And I will meet with thee and speak with thee from above the ark-cover;*²² and further it is taught: The Ark measured nine hand-breadths high and the cover one hand-breadth, i.e. ten in all. Again it is written: *As for the House which King Solomon built for the Lord, the length thereof was three score cubits, the breadth thereof twenty cubits, and the height thereof thirty cubits.*²³ But of the latter age [when they had forsaken God] it is written: *Thus saith the Lord, The Heaven is my throne and the earth my footstool. Where is the house that ye may build unto me?*²⁴

What evidence is there that the verb taguru [translated 'be afraid'] can also be rendered 'gather in'?²⁵ R. Nahman answered by quoting the verse: Thou shalt neither drink

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of the wine nor gather [te'egor] the grapes.²⁶ R. Aha b. Jacob says that it can be proved from the following verse: *Provideth her bread in the summer and gathereth [agerah] her food in the harvest.*²⁷ R. Aha the son of R. Ika says it can be derived from the following verse: *A wise son gathereth [oger] in summer.*²⁸

(Mnemonic: *Truth, Money, Shall See.*)

R. Nahman said, reporting R. Jonathan: A judge who delivers a judgment in perfect truth²⁹ causes the *Shechinah* to dwell in Israel, for it is written: *God standeth in the Congregation of God; in the midst of the judges He judgeth.*³⁰ And he who does not deliver judgments in perfect truth causes the *Shechinah* to depart from the midst of Israel, for it is written: *Because of the oppression of the poor, because of the sighing of the needy, now will I arise, saith the Lord.*³¹

Again. R. Samuel b. Nahmani, reporting R. Jonathan. said: A judge who unjustly takes the possessions³² of one and gives them to another, the Holy One, blessed be He, takes from him his life, for it is written: *Rob not the poor because he is poor; neither oppress the afflicted in the gate, for the Lord will plead their cause, and will despoil of life those that despoil them.*³³

R. Samuel b. Nahmani further said, reporting R. Jonathan: A judge should always think of³⁴ himself as if he had a sword hanging over his head³⁵ and *Gehenna*³⁶ gaping under him,

1. Who holds that arbitration may be suggested before the verdict is given.
2. Ps. X, 3.
3. Ex. XXXII, 5.
4. Lam. II, 20.
5. He thus made a compromise, and this compromise is denounced by the Psalmist.
6. Prov. XVII, 14.
7. [H] 'Strife' or 'judgment'.
8. I.e. the Torah, which is compared by the Rabbis to water. V. Ex. Rab. II, 9.

9. Abaye Kashisha, as distinct from the more famous Abaye. In fact, the latter quotes him in Keth. 94a.
10. Or, '*Hear, Vashti, Seven, Songs, Another*'; *Vashti* and '*And Two*' being spelled alike in Hebrew, [H] V. p. 21, n. 5.
11. Prov. XVII, 14.
12. [H] = 40, 4, 6, 50 respectively — 100 in all.
13. Amos II, 6. Taken as an elliptical verse, with the meaning: 'Though I may reverse or keep back My judgment for the first three offences, punishment shall not be withheld for the fourth.'
14. Prov. XXIV, 16.
15. He should be happy that he was relieved of an ill-gotten thing.
16. Ex. XVIII, 23.
17. Carelessness is the immediate cause of ruin.
18. I.e. the house falleth to decay. Ecc. X, 18.
19. Or, 'raised his club against me.'
20. Ps. XLI, 10.
21. Between my wife and myself.
22. Ex. XXV, 22.
23. I Kings VI, 2.
24. Isa. LXVI, 1. Thus at first the *Shechinah* rested on an Ark of small dimensions, but when Israel sinned, even Solomon's Temple was too small.
25. Referring back to p. 24.
26. Deut. XXVIII, 39. [H]
27. Prov VI, 8. [H]
28. Ibid. X, 5. [H]
29. Lit. 'true to its own truth', i.e. an absolutely true verdict which can be arrived at by the judge if he endeavors to find out the truth himself and does not rely on the evidence alone. V. Tosaf B.B. 8b; Meg. 15b.
30. Ps. LXXXII, 1.
31. Ibid. XII, 6.
32. Lit., 'money'.
33. Prov. XXII, 22-23.
34. Lit., 'see'.
35. Lit. 'resting between his flanks'.
36. V. [Glos.](#)

Sanhedrin 7b

for it is written, *Behold, it is the litter of Solomon [symbolically the Shechinah], and round about it three score of the mighty men of Israel [symbolizing the scholars]; they all handle the sword and are expert in war [in debates] and every man has his sword upon his flank because of the dread in the night.*¹ [the dread of Gehenna, which is likened unto night].

SANHEDRIN – 2a-25a

R. Josiah, or, according to others, R. Nahman b. Isaac, gave the following exposition: What is the meaning of the verse, *O house of David, thus saith the Lord: Execute justice in the morning and deliver the spoiled out of the hand of the oppressor!*² Is it only in the morning that one acts as judge and not during the whole day? — No, it means: If the judgment you are about to give is clear to you as the morning [light], give it; but if not, do not give it.

R. Hiyya b. Abba says: R. Johanan derived this from the following verse: Say unto wisdom, Thou art my sister.³ If the matter is as clear to you as is the prohibition of your sister [in marriage], give your decision, but not otherwise.

R. Joshua b. Levi says: If ten judge a case, the chain hangs on the neck of all,⁴ Is not this self-evident? — This need not be stated except in reference to the case of a disciple who sits in the presence of his master, and allows to pass unchallenged an erroneous decision of his master.

When a case was submitted to R. Huna he used to summon and gather ten schoolmen, in order, as he put it, that each of them might carry a chip from the beam.⁵

R. Ashi, when a *terefah*⁶ was submitted to him for inspection, sent and gathered all the slaughterers of Matha Mehasia, in order, as he put it, that each of them should carry a chip from the beam.

When R. Dimi came [from Palestine] he related that R. Nahman b. Kohen had given the following exposition of the verse, *The King by justice establisheth the land, but he that loveth gifts overthroweth it.*⁷ If the judge is like a king, in that he needs no one's help, he establishes the land, but if he is like a priest who goes about threshing floors to collect his dues, he overthrows it.

The members of the Nasi's⁸ household once appointed an incompetent teacher,⁹ and the Rabbis said to Judah b. Nahmani, the interpreter¹⁰ of Resh Lakish: Go and stand at his side as interpreter. Standing by him, he [Judah] bent down to hear what he wished to teach, but the teacher made no attempt to say anything. Thereupon R. Judah took as his opening text: *Woe unto him who saith unto wood: Awake! — to the dumb stone: Arise! Can this teach? Behold, it is overlaid with gold and silver, and there is no breath at all in the midst of it;*¹¹ but the Holy One, blessed be He, [he proceeded], will call to account those who set them up, as it is written: *But the Lord is in His holy Temple; let all the earth, keep silence before Him.*¹²

Resh Lakish said: He who appoints an incompetent judge over the Community is as though he had planted an *Asherah*¹³ in Israel, for it is written: *Judges and officers shalt thou appoint unto thee*, and soon after it is said: *Thou shalt not plant thee Asherah of any kind of tree.*¹⁴ R. Ashi said: And if such an appointment be made in a place where scholars are to be found, it is as though the *Asherah* were planted beside the Altar, for the verse concludes with the words: *beside the altar of the Lord thy God.*¹⁵

Again, it is written: *Ye shall not make with Me gods of silver or gods of gold.*¹⁶ Is it only gods of silver and gold that may not be made, while those of wood are permitted? — The verse, says R. Ashi, refers to judges appointed through the power of silver or gold.

Rab, whenever he was to sit in court used to say: Of his own free will he [the judge] goes to meet death. He makes no provision for the needs of his household, and empty does he return home. Would only that he returned [as clean of hand] as he came!¹⁷ When [at the entrance] he saw a crowd escorting him, he said: *Though his Excellency mount up to the heavens, and his head reach unto the clouds, yet he shall perish for ever like his own dung.*¹⁸

SANHEDRIN – 2a-25a

Mar Zutra the Pious, as he was carried shoulder-high¹⁹ on the Sabbaths preceding the Pilgrimage Festivals [when he preached on the Festival Laws], used to quote the verse: *For riches are not for ever, and doth the crown endure unto all generations?*²⁰

Bar Kappara said in a lecture: Whence can we derive the dictum of our Rabbis: Be deliberate in judgment? From the words: *Neither shalt thou go up by steps upon My altar.*²¹ For this is followed by: *And these are the judgments ...*²²

R. Eleazar said: Whence is it to be derived that a judge should not trample over the heads of the people?²³ It is written: *Neither shalt thou go up by steps* [i.e. force thy way] *upon My altar*; and this is followed by: *And these are the judgments.*

The same verse continues: *which thou shalt set before them.* It should have stated: *which thou shalt teach them.* R. Jeremiah, or according to some, R. Hiyya b. Aha, said: This refers to the insignia of the judges [which they have to set before the public].²⁴

R. Huna, before entering the Court, used to say: Bring forth the implements of my office: the rod;²⁵ the lash;²⁶ the horn;²⁷ and the sandal.²⁸

Again, it is written: *And I charged your judges at that time.*²⁹ R. Johanan said: This is a warning to them to use the rod and lash with caution.

Again: *Hear [the causes] between your brethren and judge righteously.*³⁰ This, said R. Hanina, is a warning to the court not to listen to the claims of a litigant in the absence of his opponent; and to the litigant not to explain his case to the judge before his adversary appears. Shamo'a³¹ [hear], in the verse, can also be read, *shamma'*.³²

R. Kahana, however, says: We can derive this rule from the verse: *Thou shalt not take*

*up [tissa] a false report*³³ [referring to the judge], which may be read, *tashshi*.³⁴

As for the text quoted above, *You shall judge righteously.*³⁵ Resh Lakish says that it means: Consider rightly all the aspects of the case before giving the decision.

As for the words, *Between a man and his brother ...* R. Judah says that this refers to disputes between brothers about trifles such as, for instance, who should occupy the lower and who the upper part of a house. *And the stranger that is with him ...* This, says R. Judah, refers even to so insignificant a dispute as one concerning a stove and an oven.³⁶

You shall not respect persons [lo takkiru] *in judgment.*³⁷ R. Judah says this means: You shall not favor [lit. recognize] any one [even if he is your friend]; and R. Eleazar takes it to mean; You shall not estrange anyone [even if he is your enemy].³⁸

A former host of Rab came before him with a law-suit, and said: 'Were you not once my guest?' 'Yes,' he answered, [and what is your wish?]³⁹ 'I have a case to be tried,' he replied. 'Then,' said Rab,

1. Cant. III, 7-8.
2. Jer. XXI, 12.
3. Prov. VII, 4.
4. I.e., all share the responsibility.
5. I.e. share the responsibility with him.
6. An animal afflicted with an organic disease.
7. Prov. XXIX, 4.
8. Judah II.
9. Lit., 'judge'.
10. Whose function it was to expound aloud to the audience what the teacher had spoken concisely and in a low voice.
11. Hab. II, 19.
12. Ibid.
13. A sacred tree or pole associated with the ancient Semitic cults.
14. Deut. XVI. 18-19.
15. The scholars are compared to the Altar, because they impress upon sinners that they should mend their ways. Cf. Rashi a.l.
16. Ex. XX, 23.

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17. He gave expression to the thankless nature of the judge's task, full of responsibility and fraught with danger.
18. Job XX, 6-7.
19. Being advanced in age and unable to walk quickly, he was carried, so that the audience should not have to wait long for his arrival.
20. Prov. XXVII, 24.
21. Ex. XX, 26.
22. The juxtaposition shows that for judgments, one should proceed slowly and avoid large paces, as one does on ascending the altar.
23. Listeners usually sat on the floor, and by forcing his way through the crowd, it would appear as if he were trampling over their heads.
24. V. passage below and Notes 1-4.
25. For beating, according to the court's discretion.
26. For the thirty-nine stripes. Deut. XXV, 3.
27. Blown for excommunication.
28. For *Halizah*, v. [Glos.](#)
29. Deut. I, 16.
30. Ibid.
31. [H]
32. [H] In the *Pi'el*, which has a causative sense, (make hear).
33. Ex. XXIII, 1. ta,
34. [H] in the *hiph'il* from [H] 'entice', 'induce', 'mislead', with reference to the litigant that he should not attempt to win over the judge to his side by stating his case in the absence of his adversary.
35. Deut. I, 16.
36. [H] interpreted here as sojourner', who sojourns in the same house. The nature of the disputes between them will be mostly over articles associated with the household — stoves and ovens.
37. Deut. I, 16.
38. R. Eleazar interprets *takkiru* as if it were *tenakkru* [H]
39. [So Rashi. According to Rashal, Rab asked, on seeing the man: Are you not my former host?' The man replied. Yes! Thereupon Rab asked him, 'What is your wish', the words in brackets being embodied in the text.]

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'I am disqualified from being your judge,' and turning to R. Kahana, said: 'Go you and judge the case'. R. Kahana noticed that the man presumed too much on his acquaintance with Rab, so he remarked: 'If you will submit to my judgment, well and good; If not, I shall

put Rab out of your mind [by showing you my authority].¹

*Ye shall hear the small and the great alike.*² Resh Lakish says: This verse indicates that a law-suit involving a mere *perutah*³ must be regarded as of the same importance as one involving a hundred mina.⁴ For what practical purpose is this laid down? If it is to urge the need of equal consideration and investigation, is it not self-evident! Rather, it is to give the case due priority, if it should be first in order.

*For the judgment is God's.*⁵ R. Hamma, son of R. Hanina, comments: The Holy One, blessed be He, hath said: It is not enough for the wicked [judges] that they take away money from one and give it to another unjustly, but they put Me to the trouble of returning it to its owner.

*And the cause that is too hard for you, bring unto me.*⁶ R. Hanina, [according to some, R. Josiah,] says: For this utterance Moses was punished,⁷ as we can infer from this later passage: *And Moses brought their cause before the Lord.*⁸

R. Nahman objects to this comment, and asks: Did Moses say: 'Bring it unto me and I will let you hear it'? No, he said: '*I will hear it*'; if I am instructed, it is well! If not, I will get me instruction [how to deal with it]'. And the case of the daughters of Zelophehad is to be explained as was taught:⁹ The section relating to the laws of inheritance was intended to have been written at the instance of Moses our Teacher. The daughters of Zelophehad, however, were found worthy to have the section recorded on their account. Similarly, the law concerning the gathering of sticks on the Sabbath¹⁰ was to have been written at the instance of Moses our Teacher. The gatherer, however, was found culpable, and so it was recorded on his account. This is to teach us that evil is brought about through the agency of sinful men, and good through that of worthy men.

SANHEDRIN – 2a-25a

It is written, *And I charged your judges at that time,*¹¹ and again, *I charged you at that time.*¹² R. Eleazar, on the authority of R. Simlai, says: These passages are a warning to the Congregation to revere their judges, and to the judges to bear patiently with the Congregation. To what extent! — R. Hanan, [some say R. Shabatai,] says: *As the nursing father carrieth the sucking child.*¹³

One text reads: *For thou [Joshua] must go with this people, etc.*¹⁴ And another text says: *For thou shalt bring the Children of Israel.*¹⁵ R. Johanan said: *Thou shalt be like the elders of the generation that are among them.*¹⁶ But the Holy One, blessed be He, said to Joshua: *Take a stick and strike them upon their head;*¹⁷ there is only one leader to a generation not two.

A Tanna taught: A summons [*Zimmun*]¹⁸ requires three. What is meant by a summons? Shall I say it means a summons to say Grace after a common meal?¹⁹ But has it not been already taught that a summons and a summons to Grace need three?²⁰ Again, you cannot maintain that they both mean the same thing, the latter phrase merely explaining the earlier [and both referring to a summons to Grace], since it has been taught: A summons needs three, and a summons to Grace needs three [i. e., *Zimmun* is here particularly specified afresh as requiring three persons] — 'Summons' here, consequently, must mean a summons to appear before Court. As Raba said: When three judges sit in judgment, and the Court messenger, on summoning to Court, conveys the summons in the name of one only, the summons is of no account until he has brought it in the names of all three. This procedure, however, is necessary only on an ordinary day; on a Court-day²¹ it is unnecessary. R. Nahman, son of R. Hisda, sent to ask R. Nahman b. Jacob: Would our teacher inform us how many judges are required for the adjudication of cases of *Kenas*? But what did his question imply? Surely we learnt, THE REPAYMENT OF

THE DOUBLE²² ... BY THREE. What he meant to ask was whether or not cases of fine may be adjudicated by one *Mumheh*. R. Nahman b. Jacob said to him: We have learnt, THE REPAYMENT OF DOUBLE OR OF FOUR OR FIVE-FOLD RESTITUTION, BY THREE. Now what kind of persons are these three to be? Shall I say they are commoners? But did not your father's father say, in the name of Rab, that even ten commoners are incompetent to adjudicate cases of fine? Hence it must refer to *Mumhin*, and even of these, three are required.

BUT THE SAGES HOLD THAT A CASE OF LIBEL²³ REQUIRES A COURT OF TWENTY-THREE, etc. But, even though it may lead to capital punishment, what does it matter? [Since there are no witnesses yet known to be available, to corroborate the husband's suspicion, is it not merely a monetary case, involving only the *Kethubah*?]²⁴

'Ulla says that the point of dispute [in the Mishnah between R. Meir and the Sages] is whether we consider seriously the effect of the husband's allegation.²⁵ R. Meir does not consider seriously the effect of the allegation — while the Rabbis do.

Raba says that all agree that the effect of the allegation need not be seriously considered.²⁶ They differ, however, as to whether [in cases where the judges have been reduced in number]²⁷ the honor of those who retired has to be considered or not. The actual case treated here is where the husband — [having had expectations of supporting his allegation with evidence,] appeared before a court of twenty-three²⁸ assembled to judge a capital case. Afterwards, [when he could not produce the required witnesses,] the Court began to disperse, and he then appealed to it that three should remain to decide his monetary claim.²⁹ [The Sages, in order to protect the dignity of those judges who would

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have left, require them to reassemble, while R. Meir does not hold this view.]

1. Lit., 'I shall get Rab out of your ears'; i.e., by applying the sanctions of excommunication
2. Deut. I, 17
3. The smallest of coins.
4. A weight in gold or silver, equal to one hundred *shekels*.
5. Deut. I, 17.
6. Ibid.
7. Because he attached too much authority to himself.
8. Num. XXVII, 5 i.e., the case of the daughters of Zelophehad which he knows not how to decide.
9. B.B. 119a.
10. Num. XV, 32.
11. Deut. I, 16.
12. Ibid. I, 18.
13. Num. XI, 12.
14. Deut. XXXI, 7. Where Moses thus places Joshua on an equality with the people.
15. Ibid. 23. Where Joshua is declared their leader.
16. [So Yad Ramah a.l.
17. I.e., show your authority.
18. [H] Invitation or summons.
19. By inviting the guests to join in saying Grace.
20. Which shows that *Zimmun* is not identical with Grace said by invitation.
21. Usually Mondays and Thursdays.
22. Which is also Kenas.
23. An accusation made by a husband against his wife, that she was not a virgin at marriage. If adultery is not proved, the accused as a non-virgin, suffers the loss of half the amount payable to her under the *Kethubah* (see note 4). If the woman is found guilty of adultery during her betrothed state, she is stoned. Hence the dispute in the Mishnah between R. Meir and the Sages. In Talmudic days Betrothal bound the couple as husband and wife, save for cohabitation and minor details.
24. The marriage contract containing, among other things, the settlement on the wife of a minimum of two hundred *zuz* if she was a virgin, and a hundred *zuz* if she was not a virgin at marriage. This amount, payable on her husband's death, or on her being divorced, the woman forfeits on a charge of infidelity committed during her betrothed state. (See Keth. 10b, and Rashi and Tosaf. a.l.).
25. Lit., 'gossip'. As soon as the charge is made before the Court, the report might be bruited, and witnesses, of whom the husband may be

at the moment unaware, may come to support it, the charge thus becoming capital.

26. And in the absence of witnesses three judges alone are sufficient.
27. V. *infra*.
28. As is required for a capital case.
29. The husband's allegation of non-virginity is accepted by the rabbis even without evidence, in respect of the *Kethubah*. v. Keth. 10a.

Sanhedrin 8b

The scholars, however, raised an objection from the following: The Sages say: If there is only a monetary claim, three are sufficient; if it involves capital punishment, twenty-three are needed.¹ This may be correct according to Raba,² [in which case the Baraitha should be understood thus:] If [the husband did not offer support of his allegation] his claim, being then only monetary, is decided by three. If however he proposed to bring evidence [on which basis a court of twenty-three was set up], as for a capital charge, but in the end, [owing to the failure to produce witnesses,] only makes a monetary claim, nevertheless the twenty-three remain. But how would 'Ulla³ explain the Baraitha? Raba said: [In answer] I and the lion⁴ of the group, namely R. Hiyya b. Abin, have elucidated it. The case in question is one in which the husband attested his wife's guilt by witnesses. Her father, however, brought witnesses refuting their evidence.⁵ In that case the father's monetary claim from the husband⁶ is decided by three.⁷ But in a case [where witnesses have not yet been produced and consequently not refuted, and] which may yet turn out a capital charge, twenty-three are required.

Abaye says that all [even R. Meir] agree that the eventual effect of the allegation is to be taken into consideration, as well as the honor of the judges who had retired. And the reason that three are sufficient, according to R. Meir, is that the case treated here is that of a woman who, before committing adultery, was cautioned in general terms [as to the penalty of death to which she would

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make herself liable, but without the kind of death being defined]. And his opinion concurs with that of the following Tanna: For it has been taught:⁸ All those under sentence of death according to the Torah are to be executed only by the decree of a court of twenty-three, after proper evidence and warning, and provided the warners have let them know that they are liable to a death sentence at the hand of the Court. According to R. Judah, the warners must also inform them of the kind of death they would suffer [and failing that, they are not to be executed].⁹

R. Papa¹⁰ said: The case discussed here is that of a scholarly woman who received no warning at all; and they differ according to the difference of opinion between R. Jose b. Judah and the [other] Rabbis. For it has been taught: R. Jose b. Judah, [with whom the Rabbis who oppose R. Meir agree.] holds that a scholar¹¹ is held responsible for his crimes even without being formally warned, as warning is only a means of deciding whether one has committed the crime willfully or not.¹²

R. Ashi says, R. Meir and the Rabbis treat of a case where

1. Tos. cf. Sanh. I.
2. According to whom even the Rabbis agree that the husband's allegation alone can involve only a monetary claim.
3. In whose opinion the rabbis consider the husband's suspicions alone as involving a capital charge.
4. The distinguished one.
5. By proving them to be *Zomemim*, 'plotters', 'schemers', as having been absent at the time of the alleged offence and so subject to the penalties under the law of retaliation. V. Deut. XIX, 18-19, and Mak. I, 2-4. V. [Glos.](#)
6. The hundred pieces of silver, compensation for libel. V. Deut. XXII, 19.
7. Even according to 'Ulla, the rabbis no longer apprehend the appearance of witnesses, because the husband's evidence was in the beginning false; neither is his allegation of non-virginity considered in this case, even in connection with the *Kethubah*, since he has become discredited.

8. Tosef. Sanh. X.
9. Consequently, in this case the woman is not liable to death, nor can any capital punishment follow.
10. Who is in agreement with Abaye.
11. Haber, v. [Glos.](#)
12. In this case, even without warning, capital punishment is involved, and hence twenty-three are required.

Sanhedrin 9a

the woman was cautioned in regard to her liability to lashes¹ only and not to capital punishment; and they differ in accordance with the difference of opinion between R. Ishmael and the [other] Rabbis. For we learnt: CASES INVOLVING LASHES BY THREE JUDGES; IN THE NAME OF R. ISHMAEL IT IS SAID BY TWENTY-THREE.

Rabina said that [R. Meir and the Rabbis are dealing with a case] where one of the witnesses, [who testified to the woman's guilt,] was found afterwards to be a relative or otherwise disqualified. Their point of difference is the same as that in which R. Jose and Rabbi differ in applying the opinion of R. Akiba. For we learnt: R. Akiba says that the third witness² is mentioned in the Torah, [not for the purpose of making him less responsible], but, on the contrary, to increase his responsibility, by making his status equal to that of the other two, indicating, incidentally, that if Scripture punishes as sinners those who associate with sinners, much more will it reward those who associate with men who fulfill the commandments, as though they themselves had actually fulfilled them.³ And just as in the case of two witnesses, if one is found to be a near kinsman or otherwise disqualified⁴ person, the whole testimony is rendered void, so in the case of three witnesses, the disqualification of one invalidates the whole evidence. And whence do we infer that this law would apply even if the number of witnesses reached a hundred? — We infer it from the repetition of the word witnesses.⁵ R.

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Jose says: These aforementioned limitations apply only to witnesses in capital charges, whereas, in monetary cases, the evidence offered can be established by those remaining. Rabbi says it is one and the same rule; whether in monetary or capital cases the evidence becomes equally void, that is, provided the disqualified witnesses took part in the prerequisite warning. But if they were not among those who gave the warning, why should the evidence be affected by disqualified witnesses?

1. Deut. XXV, 3.
2. Deut. XIX, 15. Since the testimony of two suffices, the mention of the third seems superfluous. V. Mak. 5b.
3. Lit., 'as those who fulfill the commandments'.
4. By reason of status, crime, evil repute and infamous bearing. V. *infra*, fol. 24b.
5. Deut. XIX, 15. V. Mak. 5b.

Sanhedrin 9b

And what would be the situation of three acting as witnesses in a murder case, of whom two were brothers?¹ Or if you wish, you may say that the case [of the Mishnah] is one where the woman was warned by others and not by the witnesses. The point of difference, again, is the same as that between R. Jose and the Rabbis, as we learnt.² R. Jose says: A criminal cannot be executed unless he was cautioned by two who witnessed the crime, for it says: *At the mouth of two witnesses or three shall he be put to death.*³

Or, if you prefer, you may say that [R. Meir and the Rabbis differ in a case] where the witnesses contradicted themselves during the Court cross-examination regarding accompanying circumstances⁴ but corroborated each other during cross-examination [on such matters as date, time and place]. And their point of dispute is that of the principle on which the Rabbis and Ben Zakkai differ; for we learnt:⁵ Ben Zakkai once examined the witnesses minutely, enquiring as to the size of the prickles on the

fig-[tree under which a certain crime had been committed].⁶

R. Joseph said: If a husband has produced witnesses testifying to his wife's guilt, and her father has brought witnesses refuting their evidence,⁷ the former are liable to death⁸ but are exempted from paying [the value of the *Kethubah*].⁹ If, however, the husband has again brought witnesses to refute the father's witnesses, the latter are then liable to death¹⁰ and also to pay the fines¹¹ — the money fine for intended injury to one person, and the death penalty for intended death to another.

R. Joseph again said: If a man says that so and so committed sodomy with him against his will, he himself with another witness can combine to testify to the crime. If, however, he admits that he acceded to the act, he is a wicked man [and therefore disqualified from acting as witness] since the Torah says: *Put not thy hand with the wicked to be an unrighteous witness.*¹² Raba said: Every man is considered a relative to himself, and no one can incriminate himself.¹³ Again Raba said:

1. In this case the disqualified brother must not have participated in the warning, or the whole evidence is void. If he did not participate in the warning, the evidence of the remaining two holds good. Hence, in such a case the Rabbis, holding with Rabbi that the evidence is not invalidated by the presence of one disqualified witness, consider this a capital charge requiring twenty-three.
2. Mak. 6b.
3. Deut. XVII, 6.
4. V. p. 225.
5. *Infra* 40a.
6. Hence, according to R. Meir, who agrees with Ben Zakkai, the testimony is invalidated as a result of contradictions in the evidence regarding accompanying circumstances.
7. I.e., they proved them *Zomemim*, v. [Glos.](#)
8. For intending to bring about the death of the woman according to the law of retaliation. Deut. XIX, 16 ff. cf. Mak. I.
9. Of which she would also have been deprived in the case of her condemnation, for he who has committed two offences simultaneously is held liable in law for the graver only. V. Keth. 36b.

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10. For intending to bring about the death of the husband's witnesses.
11. A hundred pieces of silver, which the husband would have been fined in case his allegation was disproved.
12. Ex. XXIII, 1.
13. Consequently his evidence is valid only with regard to the criminal but not to himself, on the principle that we consider only half of his testimony as evidence.

Sanhedrin 10a

[If one gives evidence, saying,] So and so has committed adultery with my wife, he and another witness can convict him [the adulterer] but not her [the wife]. What does he intend to teach us thereby? Does he mean to say that only half of a man's evidence is to be considered? Was this not understood from his previous teaching? — No, for you might have thought that whereas the principle was admitted that one is considered a relative of himself, we did not admit the principle that a man is considered a relative of his wife. Hence this rule.

Again Raba said: [If witnesses testify] that so and so committed adultery with a betrothed woman¹ and their evidence is refuted, they are liable to capital punishment, but not to the indemnification of the *Kethubah*.² If, however, they say, 'with the [betrothed] daughter of so and so,'³ they are liable to both capital punishment and the indemnification of the *Kethubah*. The money fine for intended injury to one person, and the death penalty for intended death to another.

Raba said further: [If witnesses testify] that so and so committed an unnatural crime with an ox, and the evidence is afterwards refuted, they are liable to capital punishment, but not to be mulcted in respect of the ox.⁴ If, however, they say, 'with the ox of so-and-so,' they must pay the fine and are put to death; the fine because of the loss they intended to inflict on one person, and death because they sought to bring about the death of another

person. Why is it necessary to state this latter law? Is not the underlying principle the same as in the previous case? — It had to be stressed because Raba propounded in connection with it a question as follows: If witnesses declare that 'so-and-so has committed an unnatural crime with my ox,' what would in this case be the law?⁵ While adopting the principle, 'one is considered a relative to himself', do we admit the principle, 'one is considered related to his property', or do we not? After propounding the problem, he later solved it. We accept the principle as affecting his own person, but not as affecting his property.⁶

CASES OF FLOGGING BY THREE, etc. Whence do we infer this? — R. Huna said: Scripture says: *They* [the judges] *judge them*,⁷ indicating [at least] two, and since no *Beth din* can consist of an even number, another judge is added, giving a total of three.

But now, according to our exegesis, the verb '*vehizdiku*' — [and they shall justify] — should also denote two, and so likewise the verb '*vehirshi'u*' [and they shall condemn]⁸ an additional two, [so making, together with, the above three], a total of seven in all? — These verbs are to be explained according to 'Ulla. For 'Ulla said: Where in the Torah do we find an allusion to the treatment of witnesses attested as *Zomemim*? Where is there found any allusion to *Zomemim* [witnesses]! Do we not read, *Then shall ye do unto him as he had purposed to do to his brother?*⁹ What is required is some allusion supporting infliction of stripes upon *Zomemim*.¹⁰ This we find where it is written: *And they shall justify the righteous, and shall condemn the wicked.*¹¹ Now [assuming that this refers to the judges], how, since the judges justify the righteous and condemn the wicked, does it follow that the wicked man deserves to be beaten?¹² — [The text cannot therefore refer to judges;] rather it must refer to witnesses who have incriminated a righteous man, after whom other witnesses came and *justified the*

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righteous, and rehabilitated his [the injured man's] character, and thus condemned the wicked, that is, established the wickedness of the witnesses, in which case, if the wicked man [the false witness] deserve to be beaten, the judge shall cause him to lie down and be beaten. But why, could not this be deduced from the commandment: *Thou shalt not bear false witness against thy neighbour?*¹³ — No! Because that is a prohibition involving no material action, and the transgression of a prohibition involving no material action is not punishable by flogging.

IN THE NAME OF R. ISHMAEL IT IS SAID, BY TWENTY-THREE. Whence is this deduced? — Said Abaye: It is derived from the word *rasha'*, which occurs alike in connection with flogging and with capital punishment. In the one case it is written: If the wicked [guilty] man [ha-rasha'] deserve to be beaten,¹⁴ and in the other, it is written, that is guilty, [rasha] of death.¹⁵ Just as in the case of the extreme penalty twenty-three are needed, so in the case of flogging. Raba says: Flogging is considered a substitute for death.¹⁶ R. Aha son of Raba said to R. Ashi: If so, why then the need of medical opinion as to the amount of lashes the condemned can stand? Let him be beaten, and, should he die, well, let him die!¹⁷ — R. Ashi answered: Scripture says: *Then thy brother should be dishonored before thine eyes,*¹⁸ to indicate that when the lashes are applied, they must be applied to the back of a living person. But in this case [how explain what] has been taught: If in their [the medical] opinion he can stand no more than, say, twenty lashes, he is to be given a number of lashes divisible by three; namely, eighteen?¹⁹

1. V. Deut. XXII, 25; v. p. 34, n. 3.
2. Of which they intended to deprive her, because the woman was not named.
3. To whom the amount of the *Kethubah* belongs before marriage.
4. If they have not named the owner.
5. Is the evidence of the owner valid with regard to the ox?
6. The evidence is thus valid with regard to the ox.

7. In the plural Deut. XXV, 1.
8. Ibid.
9. Deut. XIX, 19.
10. In cases where the law of retaliation cannot be applied, v. Mak. 2b.
11. Deut. XXV, 1.
12. I.e., if so, why this reference to the justification of the righteous? Surely the application of the punishment does not depend on it! V. Rashi on same passage in Mak. 2b.
13. Ex. XX, 16.
14. Deut. XXV, 2. [H] ([H])
15. Num. XXXV, 31. [H]
16. The sinner in reality deserves the death penalty for trespassing the command of his Creator (Rashi), and a death penalty must be administered by twenty-three.
17. Since death is his real desert, v. Mak. 22a.
18. Deut. XXV, 3.
19. Tosef. Mak. IV, 12.

Sanhedrin 10b

Rather let him receive twenty-one. For even if he should die by reason of the twenty-first lash, he would still be alive when it [the twenty-first] begins to be applied? — R. Ashi replied: Scripture says, *Then thy brother should be dishonored before thine eyes.*¹ that is to say, after the last lash has been administered, he must still be 'thy [living] brother.'

THE INTERCALATION² OF THE MONTH BY THREE. [The Tanna of the Mishnah] mentions neither the 'calculation'³ nor the 'sanctification',⁴ but the INTERCALATION of the month. [Why then the need of three for this?] Suppose it is not sanctified [on the thirtieth day] it will then be automatically intercalated! — Abaye therefore said: Read then, THE SANCTIFICATION OF THE MONTH. It is also taught to the same effect: The sanctification of the month and the intercalation of the year is to be determined by three. So R. Meir holds. But, asked Raba, does not the Mishnah say, the INTERCALATION? — Hence, said Raba, the Mishnah means that the sanctification made on INTERCALATION, that is on the

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intercalary day,⁵ is determined by three; but on the day after it there is to be no sanctification. And this represents the opinion of R. Eliezer b. Zadok, as it has been taught: R. Eliezer b. Zadok says: If the new moon has not been visible in time, there is no need for the Sanctification next day, as it has already been sanctified in Heaven.⁶

R. Nahman said: [The Mishnah means] that Sanctification is held on the day *after* INTERCALATION [that is after the intercalary day] by three; but on the day itself, there is to be no Sanctification. And whose view is this? — Polemo's, as it was taught: Polemo says, [If the new moon has appeared] at its due time,⁷ there is not to be Sanctification; but if it has not appeared at its due time, Sanctification is to be proclaimed.

R, Ashi said: In reality, the Mishnah refers to the 'calculation', and as for THE INTERCALATION, it means the calculation relating to THE INTERCALATION. But having to state [explicitly] THE INTERCALATION OF THE YEAR,⁸ the Tanna also employs the phrase THE INTERCALATION OF THE MONTH.

The Mishnah thus holds that only 'calculation' is required in fixing the length of the month, but no formal 'sanctification'. Whose view is this? — R. Eliezer's; as it has been taught: R. Eliezer says: Whether the moon appears at its due time or not, no sanctification is needed, for it is written, Ye shall sanctify the fiftieth year⁹ [from which it is to be inferred that] thou art to sanctify years¹⁰ but not months.

R. SIMEON B. GAMALIEL SAYS, BY THREE, etc. It has been taught: How [are we to understand] R. Simeon b. Gamaliel when he says, THE MATTER IS INITIATED BY THREE, DISCUSSED BY FIVE AND DETERMINED BY SEVEN? — If, for example, one holds a meeting [for the purpose of considering the question of

intercalation] to be necessary, but two hold that it is unwarranted, the opinion of the single one, being in the minority, is overruled. If, however, two are in favor of the meeting and one is not, two more are co-opted, and the matter is then discussed. Should then two [of the five] find intercalation necessary, and three not, the opinion of the two, being in the minority, is overruled. If, however, three favor intercalation and two not, an additional two are co-opted, as not less than seven form a quorum to determine an intercalation [where there is a division of opinion].

To what do these numbers, three, five and seven, correspond? — R. Isaac b. Nahmani, and an associate of his, namely, R. Simeon b. Pazi; or according to others [who invert the order], it was R. Simeon b. Pazi and an associate of his, namely, R. Isaac b. Nahmani, differ in the matter. One said [that the numbers, three, five and seven] correspond to [the respective number of Hebrew words] in [the three verses of] the Priestly Benediction;¹¹ the other said, they correspond to *the three keepers of the threshold*,¹² *the five of them that saw the king's face*,¹³ and the *seven ... who saw the king's face*.¹⁴

R. Joseph learned: [The numbers] three, five and seven, correspond [as follows]: Three, to *the keepers of the threshold*, five, to those of *them that saw the king's face*, and seven, to those who saw the king's face. Whereupon Abaye asked him: 'Why has the Master not explained it to us hitherto?' He answered: 'I knew not that you needed it. Did you ever ask me to interpret anything and I refused to do it?'

(Mnemonic: *Appointment, Nasi, Necessary, Kid.*)

Our Rabbis taught: The year can be intercalated only by a Court

1. Ibid.

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2. The commencement of the month was dated from the time when the earliest visible appearance of the new moon was reported to the Sanhedrin. If this happened on the 30th day of the current month, that month was considered to have ended on the preceding 29th day, and was called *deficient*. But if no announcement was made on the 30th day, that day was reckoned to the current month, which was then called *full*, and the ensuing day was considered the first of the next month.
3. The 'calculation' as to which and how many months were to be intercalated. It was an established rule that no year should consist of less than four nor more than eight *full* months.
4. The proclamation by formal 'sanctification' of the new moon on the thirtieth day.
5. The thirtieth day.
6. I.e., it is patent to all that the next day is the new moon, as no month exceeds 30 days.
7. I.e., on the thirtieth day.
8. Where a special proclamation is necessary, failing which the year is not intercalated.
9. Lev. XXV, 10.
10. The court is to sanctify the Jubilee Year by a formal proclamation: 'The year is hallowed'.
11. Num. VI, 24-26.
12. II Kings XXV, 18.
13. II Kings XXV, 19.
14. Est. I, 14.

Sanhedrin 11a

whose members have been appointed for that purpose.¹

It once happened that Rabban Gamaliel² said: 'Send me up seven [scholars] early in the morning to the upper chamber³ [for this purpose].' When he came in the morning and found eight, he asked: 'Who is he who has come up without permission? Let him go down.' Thereupon, Samuel the Little arose and said: 'It was I who came up without permission; my object was not to join in the intercalation, but because I felt the necessity of learning the practical application of the law.' Rabban Gamaliel then answered: 'Sit down, my son, sit down; you are worthy of intercalating all years [in need of such], but it is a decision of the Rabbis that it should be done only by those who have been specially

appointed for the purpose.' — But in reality it was not Samuel the Little [who was the uninvited member] but another;⁴ he only wished to save the intruder from humiliation.

Similarly it once happened that while Rabbi was delivering a lecture, he noticed a smell of garlic. Thereupon he said: 'Let him who has eaten garlic go out.' R. Hiyya arose and left; then all the other disciples rose in turn and went out. In the morning R. Simeon, Rabbi's son, met and asked him: 'Was it you who caused annoyance to my father yesterday?' 'Heaven forbid⁵ that such a thing should happen in Israel,' he answered.⁶

And from whom did R. Hiyya learn such conduct? — From R. Meir, for it is taught: A story is related of a woman who appeared at the Beth Hammidrash⁷ of R. Meir and said to him, 'Rabbi, one of you has taken me to wife by cohabitation.' Thereupon he rose up and gave her a bill of divorce,⁸ after which every one of his disciples stood up in turn and did likewise. And from whom did R. Meir learn this? — From Samuel the Little. And Samuel the Little? — From Shecaniah son of Jehiel, for it is written, And Shecaniah son of Jehiel, one of the sons of Elam answered and said unto Ezra: We⁹ have broken faith with our God and have married foreign women of the peoples of the land: yet now there is hope in Israel concerning this thing.¹⁰ And Shecaniah learnt it from [the story told of] Joshua. As it is written, The Lord said unto Joshua, Get thee up, wherefore, now, art thou fallen upon thy face? Israel hath sinned ...¹¹ 'Master of the Universe,' asked Joshua, 'who are the sinners?' 'Am I an informer?' replied God. 'Go and cast lots [to find out].'¹² Or, if you like, I might say that he learnt it from [the incident with] Moses, as we read, And the Lord said unto Moses, How long refuse ye to keep My commandments and My laws?¹³

Our Rabbis taught: Since the death of the last prophets, Haggai, Zechariah and Malachai, the Holy Spirit [of prophetic

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inspiration] departed from Israel; yet they were still able to avail themselves of the Bath-kol.¹⁴ Once when the Rabbis were met in the upper chamber of Gurya's¹⁵ house at Jericho, a Bath-kol was heard from Heaven, saying: 'There is one amongst you who is worthy that the *Shechinah*¹⁶ should rest on him as it did on Moses, but his generation does not merit it.' The Sages present set their eyes on Hillel the Elder. And when he died, they lamented and said: 'Alas, the pious man, the humble man, the disciple of Ezra [is no more].'

Once again they were met in the upper chamber at Jabneh, and a Bath-kol was heard to say: 'There is one amongst you who is worthy that the *Shechinah* should rest on him, but his generation does not merit it.' The Sages present directed their gaze on Samuel the Little. And when he died, they lamented and said: 'Alas! the pious man, alas! the humble man, the disciple of Hillel [is no more].' Samuel the Little also said shortly before he passed away: 'Simeon¹⁷ and Ishmael¹⁸ will meet their death by the sword, and his friends¹⁹ will be executed; the rest of the people will be plundered, and many troubles will come upon the world.' The Rabbis wished to use the same words of lamentation for R. Judah b. Baba;²⁰ the troublous conditions of the time, however, did not permit it, for no funeral orations were delivered over those who were martyred by the [Roman] Government.²¹

Our Rabbis taught: A year cannot be intercalated unless the Nasi sanctions it. It once happened that Rabban Gamaliel was away obtaining permission from the Governor in Syria,²² and, as his return was delayed, the year was intercalated subject to Rabban Gamaliel's later approval. When Rabban Gamaliel returned he gave his approval with the result that the intercalation held good.

Our Rabbis taught: A year may not be intercalated except where it is necessary

either for [the improvement of] roads²³ or for [the repair of] bridges, or for the [drying of the] ovens²⁴ [required for the roasting] of the paschal lambs, or for the sake of pilgrims²⁵ from distant lands who have left their homes and could not otherwise reach [Jerusalem] in time.²⁶ But no intercalation may take place because of [heavy] snows or cold weather²⁷ or for the sake of Jewish exiles [from a distance] who have not yet set out.

Our Rabbis taught: The year may not be intercalated on the ground that the kids²⁸ or the lambs or the doves are too young.²⁹ But we consider each of these circumstances as an auxiliary reason for intercalation.³⁰ How so? — R. Jannai [gave the following example of the law in operation], quoting from R. Simeon b. Gamaliel's [letter to the Communities]: 'We beg to inform you that the doves are still tender and the lambs still young, and the grain has not yet ripened. I have considered the matter and thought it advisable to add thirty days to the year.'

An objection was raised: How long a period was intercalated in the year? Thirty days. R. Simeon b. Gamaliel said: A month?³¹ — R. Papa Said: [The matter is left to the judgment of the intercalary court:] if they wish, they may add a month; or if they wish thirty days.

Come now and see the difference between

1. By the Nasi on the previous evening (Rashi).
2. The Second.
3. The meeting place of the Rabbis. v. Keth. 50b; Shab. Ch. I, M. 4. [V. Krauss, Lewy-Festschrift, pp. 27, ff.]
4. [Probably R. Eliezer b. Hyrcanus, v. Bacher; Agada der Tanaiten, vol. I, p. 84.]
5. This is the reading in Rashi.
6. I.e., he acted with the intention of saving the real offender from humiliation.
7. 'House of Learning,' the school, or college. V. [Glos.](#)
8. Attaching the blame to himself.
9. Including himself, though no guilt was attached to him.
10. Ezra X, 2.
11. Josh. VII, 10-11.

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12. So saving the real sinners from humiliation.
13. Ex. XVI, 28. Though no blame was attached to Moses, he is included to spare the offenders from humiliation.
14. Divine voice, of secondary rank to prophecy. v. [Glos.](#)
15. [J. Sotah IX, reads 'Gadia'.]
16. Divine presence. v. [Glos.](#)
17. R. Simeon b. Gamaliel the First, the father of Gamaliel of Jabneh. So Rashi. Cp. also Semahoth 8. But this statement lacks historical support, as Samuel the Little died nearly half a century after the destruction of the Temple, whereas Simeon died before that event. Halevy (Doroth, Ie, pp. 201 seq.) rightly assumes that Simeon here is the son of R. Hanina (the Segan of the Priests) known as Simeon b. ha-Segan (cf. Men. 100b) who witnessed the Destruction.
18. R. Ishmael b. Elisha, the High Priest.
19. R. Akiba and R. Hinina b. Teradyon.
20. Who was martyred at the age of seventy under the Hadrianic persecution, v. *infra* 14a.
21. Any words of praise spoken in public over the martyred would have been regarded by the Romans as an act of provocation.
22. [I.e., in order to secure confirmation of his appointment as Nasi (Derenbourg, Essai p. 311); or to obtain permission for intercalating the year (Yad Ramah).]
23. Which are impassable by those coming from afar to celebrate the Passover at Jerusalem.
24. These were erected in the open and, being exposed to the winter weather, became slimy and unfit for use, except after being allowed some time to dry.
25. Lit. 'Exiles of Israel', Jews from distant parts of the Diaspora.
26. For the Passover Feast.
27. As this need not prevent pilgrims from proceeding to Jerusalem.
28. Kids set aside for the Paschal Sacrifice.
29. Doves were prescribed as offerings for women after confinement and for persons cured from gonorrhoea. These, as a rule, postponed their offerings until the Passover Pilgrimage. But the reason that doves were too young was inadequate for intercalation, since the law provided the alternative of young pigeons for such offerings. Cf. Lev. XII, 8.
30. Two reasons were required to justify intercalation, v. *infra*.
31. Twenty nine days; whereas R. Simeon b. Gamaliel fixed it at thirty days.

Sanhedrin 11b

the proud leaders of former days and their modest successors of later times. For it has been taught: It once happened that Rabban Gamaliel¹ was sitting on a step on the Temple-hill and the well known² Scribe Johanan was standing before him while three cut sheets were lying before him. 'Take one sheet', he said, 'and write an epistle to our brethren in Upper Galilee and to those in Lower Galilee, saying: "May your peace be great! We beg to inform you that the time of 'removal' has arrived for setting aside [the tithe]³ from the olive heaps." Take another sheet, and write to our brethren of the South, "May your peace be great! We beg to inform you that the time of 'removal' has arrived for setting aside the tithe from the corn sheaves."⁴ And take the third and write to our brethren the Exiles in Babylon and to those in Media, and to all the other exiled [sons] of Israel, saying: "May your peace be great for ever! We beg to inform you that the doves are still tender and the lambs still too young and that the crops are not yet ripe. It seems advisable to me and to my colleagues⁵ to add thirty days to this year.'" [Yet] it is possible [that the modesty shown by Rabban Gamaliel in this case belongs to the period] after he had been deposed [from the office of Nasi].⁶

Our Rabbis taught: A year may be intercalated on three grounds: on account of the premature state of the corn-crops;⁷ or that of the fruit-trees;⁸ or on account of the lateness of the *Tekufah*⁹ Any two of these reasons can justify intercalation, but not one alone. All, however, are glad when the state of the spring-crop is one of them.¹⁰ Rabban Simeon b. Gamaliel says: On account of [the lateness of] the *Tekufah*. The Schoolmen inquired: Did he mean to say that 'on account of the [lateness of the] *Tekufah*' [being one of the two reasons], they rejoiced,¹¹ or that the lateness of the *Tekufah* alone was adequate reason for intercalating

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the year? — The question remains undecided.

Our Rabbis taught: [The grain and fruit of the following] three regions [are taken as the standard] for deciding upon the declaration of a leap-year: Judea,¹² Trans-Jordania,¹³ and Galilee.¹⁴ The requirements of two of these regions might determine the intercalation, but not those of a single one. All, however, were glad when one of the two was Judea, because the barley for the Omer¹⁵ was obtained [by preference] in Judea.¹⁶

Our Rabbis taught: The intercalation of a year can be effected [by the *Beth din*] only in Judea; but if for some reason [it had been decided upon by the *Beth din*] in Galilee, the decision holds good. Hanania of Oni, however, testified: 'If the intercalation was decided upon in Galilee, it is not valid.' R. Judah the son of R. Simeon b. Pazi asked: What is the reason for the view of Hanania of Oni? — Scripture states, Unto His habitation shall ye seek and thither thou shalt come:¹⁷ whatever search¹⁸ you have to make shall be only in the habitation of the Lord.¹⁹

Our Rabbis taught: A leap-year is to be declared only by day, and if it has been declared by night, the declaration is invalid. The sanctification of a month is to be performed by day, and if it has been performed by night it is not valid. R. Abba says: What passage [proves this]? — Blow the horn at the new moon, at the covering²⁰ of the moon our feast-day.²¹ Now on which feast is the moon covered? — We must say on the New Year.²² And it is thereupon written, For this is a statute for Israel, a judgment²³ of the God of Jacob: Just as judgment is executed by day,²⁴ so also must the sanctification of the month take place by day.

Our Rabbis taught: A year is not to be intercalated

1. The Second, called also 'Gamaliel of Jabneh', who was noted for his firmness, and the enforcement of his authority. Cf. R.H. 25a; Ber. 27b; Bek. 36a.
2. Lit., 'that.'
3. Tithes were of four classes: (a) the Levitical or First tithe; (b) the Priestly tithe given by the Levites from their own tithe; (c) the Second tithe, and (d) the triennial or Poor tithe. The Second tithe was to be eaten in Jerusalem every year of the septennial cycle, except the third and sixth, when it was replaced by the Poor tithe. The whole series of tithes reached its completion close upon Passover in the fourth and seventh year, and all the tithes which ought to have been paid in the course of the three years, but which, whether through negligence or other circumstances, were not given, had to be removed ([H]) on the eve of Passover, and a prayer of confession ([H]) offered, in accordance with Deut. XXVI, 13. Cf. M. Sh. V, 6.
4. The chief product of Galilee was olives, and that of the south, wheat.
5. He thus associated his colleagues with the epistle, whereas his son did not refer to his colleagues, though he was noted for his modesty. Cf. B.M. 85a. 'Rabbi says: There were three humble men, my father (R.S.b.G.) the children of Bathyra and Jonathan the son of Saul.'
6. He was deprived of his position owing to the great displeasure he aroused in the Assembly by his harsh attack on R. Joshua b. Hanina, a famous pupil of R. Johanan b. Zakkai, but subsequently reinstated as joint-president with R. Eliezer b. Azaria. Cf. Ber. 27.
7. This species must be ripe in the mouth of Nisan which is known in the Bible as the Abib (Ex. XIII, 44) the month of ears (of corn), in reference to the ripeness of the corn in that month.
8. Which should, as a rule, ripen close before 'Azereth (Pentecost), the time when the Pilgrims bring the first fruits to Jerusalem (Num. XXVIII, 26). If it happens that the fruit is unripe, the year may be intercalated so as to prevent a special journey.
9. Lit. 'cycle', 'season'. The Jewish Calendar, while being lunar, takes cognizance of the solar system to which it is adjusted at the end of every cycle of nineteen years. For ritual purposes the four Tekufoth seasons, are calculated according to the solar system, each being equal to one fourth of 365 days, viz. 91 days, 7 1/2 hours. *Tekufah* of Nisan (Vernal equinox) begins March 21; *Tekufah* of Tammuz (Summer Solstice), June 21; *Tekufah* of Tishri (Autumnal equinox),

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September 23; *Tekufah* of Tebeth (Winter Solstice), December 22. Should the *Tekufah* of Tammuz extend till after the Succoth Festival, or the *Tekufah* of Tebeth till the sixteenth of Nisan, the year would be intercalated, so that the festivals might fall in their due seasons, viz., Passover in Spring, Succoth in Autumn.

10. Because if the corn-crop is already ripe and the intercalation prompted by other reasons, the prohibition of new produce till after the Omer Offering (v. p. 50, n. 4) according to Lev. XXIII, 14, would be unduly prolonged for another month.
11. Because if the *Tekufah* was in order, and the intercalation had been effected for other reasons, the pilgrims would be subject to wintry weather when returning from Jerusalem after the Succoth Festival.
12. South of Palestine.
13. East of Palestine.
14. Northern Palestine.
15. A measure of barley (1/10th of an ephah) taken from tender ears, was brought on the 16th day of Nisan to the Temple as a heave-offering. v. Lev. XXIII, 10-11.
16. For two reasons, firstly, because the grain taken for the Omer offering had to be tender, and this could only be so if it was cut from a field in the proximity of Jerusalem, for if it were brought from a far-off distance, the stalks would become hardened in transit, by the wind. Secondly, according to the Talmudic rule, that one must not forego the occasion of performing a commandment (cf. Yoma 33a), the ripe corn in the vicinity of Jerusalem offered the earliest opportunity of fulfilling the precept (v. Men. 64b). If the grain in Judea, however, gave no cause for intercalation, it would be overripe at the time of the Omer, and so unfit for the purpose.
17. Deut. XII, 5.
18. I.e., religious enquiry, or investigation.
19. I.e., Jerusalem the Capital of Judea, which the Lord (Heb. Makom, lit., 'the Place', v. [Glos.](#)) has selected as habitation unto Himself.
20. [H] (E.V. 'full moon') is taken from [H] 'to cover'.
21. Ps. LXXXI, 4.
22. Which alone of all festivals is fixed for the 1st of the month.
23. E.V. 'ordinance'.
24. V. *infra* 32a: 'Money cases are to be tried by day'.

Sanhedrin 12a

in years of famine.¹ It has been taught: Rabbi says: A man came from Baal Shalisha

and brought to the man of God bread of the first fruits; twenty loaves of barley, [bread of the newly ripened crop].² Now, there was no other place in Palestine where the fruit ripened earlier than in Baal Shalisha; yet, according to this account, only one species had ripened there [by that date]. If you suggest that it was wheat,³ the text reads 'barley'. If again you suggest that it was ripened before the bringing of the Omer, the text reads further: Give unto the people that they may eat, which must have been after the bringing of the Omer.⁴ We may conclude therefore that the year should have been intercalated.⁵ But why did Elisha not do so? — For the reason that it was a year of famine⁶ and all hastened to the threshing floor [to procure food].

Our Rabbis taught: The year may not be intercalated before the New Year,⁷ and if it be intercalated, the intercalation is invalid. In case of necessity,⁸ however, a year may be intercalated immediately after the New Year; yet even so, only a [second] Adar is added.⁹ But is this really so? Was not a message once sent to Raba:¹⁰ 'A couple [of scholars] have arrived from Rakkath¹¹ who had been captured by an eagle¹² whilst in possession of articles manufactured at Luz, such as purple,¹³ yet through Divine mercy and their own merits they escaped safely. Further, the offspring of Nahshon¹⁴ wished to establish a Nezib,¹⁵ but yon Edomite¹⁶ would not permit it.¹⁷ The Members of the Assembly,¹⁸ however, met and established a Nezib in the month in which Aaron the Priest died?'¹⁹ Yes, the calculations were indeed made, but not published [until after the New Year].

How was it implied that the term Nezib [mentioned in the message] connoted 'month'? — Because it is written, Now Solomon had twelve Officers [Nezibim] over all Israel who provided victuals for the king and his household; each man his month in the year.²⁰ (But is it not written, And one officer [Nezib] that was in the land?²¹ — Rab Judah and R. Nahman — one holds that one

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single officer was appointed over all [the other officers]: the other is of the opinion that this refers to the [special officer in charge of the provisions during] the intercalated month.)

Our Rabbis taught: We may not, in the current year, intercalate the following year,²² nor intercalate three years in succession. R. Simeon said: It once happened that R. Akiba, when kept in prison,²³ intercalated three years in succession. The Rabbis, however, retorted: 'Is that your proof? The court sat and intercalated each year at its proper time.'²⁴

Our Rabbis taught: We may not intercalate a Sabbatical year²⁵ nor the year following a Sabbatical year.²⁶

But which year was it usual to intercalate? — That preceding the Sabbatical year.²⁷ Those of the House of Rabban Gamaliel, however, used to intercalate the year following the Sabbatical year.²⁸ And this enters into the dispute of the following Tannaim. For it has been taught: Herbs may not be imported from outside the land [of Israel]. But our Rabbis permitted it.²⁹

Wherein do they differ? — R. Jeremiah said: They differ as to whether we apprehend lest the earth attached to them [should also be imported].³⁰

Our Rabbis taught: We may not intercalate a year because of uncleanness.³¹ R. Judah said: We may intercalate. R. Judah observed: It once happened that Hezekiah king of Judah declared a leap year because of uncleanness, and then prayed for mercy, for it is written, For the multitude of the people, even many of Ephraim and Manasseh, Issachar and Zebulun had not cleansed themselves,

1. So as not to prolong the prohibition of using the new produce for another month, v. *supra* p. 49, n. 6.
2. II Kings IV, 42.
3. Which is late in ripening.

4. When alone the new produce is permitted.
5. Owing to the delay of most of the crops in ripening.
6. Cf. II Kings IV, 38: *And there was a dearth in the land.*
7. I.e., *Beth din* may not declare before Tishri that a second Adar shall be added six months later, because in the meantime it may be forgotten and so the prohibition of leaven on the Passover be infringed through misdating.
8. When possibly no intercalatory Board will be available later on, or it is feared that the Roman authorities may forbid intercalation, v. p. 52 n. 9.
9. But not, e. g., a second Tishri.
10. From Palestine.
11. Tiberias, v. Meg. 6a.
12. [H] *aquila*, the eagle as the principal standard of the Roman legions; hence, Roman.
13. I.e., the fringes for four-cornered garments, v. Num. XV, 38.
14. The Nasi of Palestine, descendant of Nahshon, the first of the Princes of Judah. Cf. Ex. VI, 23.
15. *Nezib* means *month* as well as *officer*; v. *infra*. Hence, they wished to intercalate one month.
16. Primarily name given to Esau (Cf. Gen. XXV, 30; XXXVI, 1). [H] (Edom) is used by the Talmudists for the Roman Empire, as they applied to Rome every passage of the Bible referring to Edom or Esau. In the middle ages it came to be used symbolically of Christianity, and that accounts for the substitution of [H] 'Aramean' in censored editions.
17. The above messages were sent in this obscure form to prevent them from being stopped by the Government under the reign of Constantius II (337-361 C.E.) when the persecutions of the Jews reached such a height that, as in the days of Hadrian, all religious exercises, including the computation of the Calendar, were forbidden under pain of severe punishment. Cf. Graetz, *Geschichte*, IV, 332 seq. pp. 402 seq.
18. The Sanhedrin.
19. The month of Ab. It is thus seen that the decision to intercalate may, in case of emergency, be made before the New Year, i.e. before Tishri.
20. I Kings IV, 7. *Nezib* (sing. of *Nezibim*) can thus be employed as metonymy of 'month'.
21. *Ibid.* IV, 19.
22. I.e., make the necessary calculations and arrive at the decision to intercalate. So Tosaf. Rashi: One may not intercalate one year instead of the following. Maim. (Yad, Kid. Hahodesh IV, 13) agrees with the former.

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23. Akiba was kept in prison several years before being finally martyred for practicing and teaching the Jewish religion. V. Ber. 61b.
24. R. Akiba only made the calculation of the next three leap years, since he was the accepted authority on the computation of the calendar and the Rabbis always employed his aid in this matter, but the leap years were not in three successive years.
25. Cf. Lev. XXV, 1-7. So as not to prolong the prohibition against tilling the soil.
26. For the reason that the prohibition of the use of the new produce would be prolonged.
27. To give an additional month for working the soil.
28. They did not apprehend a shortage of provisions during the Sabbatical year, since importation from outside Palestine, which they held permissible (cf. Ned. 53b, and below), would prevent it.
29. V. n. 7.
30. Foreign soil was declared unclean. V. Shab. 14b.
31. Even if it should involve the risk of offering the Paschal lamb in uncleanness. E.g. if the Nasi were dangerously ill, and it was judged that he would die less than a week before Passover, in which case the community, by attending the obsequies in his honor, would become unclean. (Rashi). Cf. Pes. 66b.

Sanhedrin 12b

yet did they eat the Passover otherwise than it is written,¹ for Hezekiah had prayed for them, saying: May the Lord in His goodness pardon everyone.² R. Simeon said: If the intercalation was actually on the ground of uncleanness, it holds good. Why then did Hezekiah implore Divine mercy? — Because only an Adar can be intercalated and he intercalated a Nisan in Nisan.³ R. Simeon b. Judah said on behalf of R. Simeon, that it was because he had persuaded Israel to celebrate a Second Passover [unduly].⁴

The Master has said: 'R. Judah said: We may intercalate [on the ground of uncleanness].' Hence R. Judah holds that [the law of] uncleanness, in the case of an entire Community, is only suspended [and not abrogated].⁵ But has it not been taught: The ziz,⁶ whether it is on his [the Priest's] forehead or not, propitiates. So said R.

Simeon. R. Judah said: Only when it is on his forehead does it propitiate, but not otherwise. R. Simeon thereupon said to him: The case of the High Priest on the Day of Atonement affords proof, seeing that it propitiates even when it is not worn on his forehead.⁷ And R. Judah answered him: Leave the Day of Atonement aside,⁸ for the [laws concerning] impurity are entirely abrogated in the case of a whole Community?⁹ — But even according to this reasoning,¹⁰ is there not a contradiction within the passage itself? [Thus:] R. Judah said: We may intercalate [on account of uncleanness]; and then he himself relates what happened in the case of Hezekiah, king of Judah, who intercalated a year because of uncleanness, but implored Divine mercy on himself [for his action]?¹¹ But the text is evidently defective, and should read as follows: 'We may not intercalate a year on account of uncleanness, but if it has been intercalated, the decision holds good. R. Judah maintained that the intercalation is not valid,¹² and R. Judah observed: It once happened with Hezekiah, etc.

But if so, [when] R. Simeon says: If the year is intercalated for the sake of [avoiding] uncleanness, the decision holds good, is [he not merely repeating] the opinion of the first Tanna? — Said Raba: They differ as to whether [it may be intercalated] at the outset.¹³ It has been taught likewise: A year may not be intercalated at the outset because of uncleanness. R. Simeon said: It may be intercalated. Why then did he [Hezekiah] pray for mercy? — Because only an Adar can be intercalated, whereas he intercalated a Nisan in Nisan.

The Master has said: 'Because only an Adar can be intercalated, whereas he intercalated a Nisan in Nisan.' But did not Hezekiah agree [that the verse], *This month shall be unto you the beginning of months*,¹⁴ [implies], only this month can be Nisan [once proclaimed], and no other?¹⁵ — He erred on a ruling of Samuel, for Samuel said: The year is not to

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be intercalated on the thirtieth day of Adar, since it is eligible to be appointed [the first day of] Nisan.¹⁶ He [Hezekiah] however thought that we do not consider its eligibility [to belong to Nisan].¹⁷ It has been taught likewise: The year may not be intercalated on the thirtieth day of Adar, since it is eligible to be appointed [the first day] of Nisan.

[It was stated above:] 'R. Simeon b. R. Judah said on behalf of R. Simeon that it was because he had [wrongfully] persuaded the people to celebrate a Second Passover [that Hezekiah prayed to be forgiven].' How did it happen?¹⁸ — R. Ashi said: E.g., half of Israel¹⁹ were clean and half unclean, but the women²⁰ made up the number of the clean and turned it into a majority. Now, at first he held that women too are bound [to offer the lamb] on the first [Passover],²¹ so that only a minority²² was unclean; and a minority is relegated to the Second Passover.²³ But later he adopted the view [that the participation of] women in the First [Passover celebration] is only voluntary,²⁴ so that the unclean were in a majority, and a majority is not relegated to the Second Passover.²⁵

The text [states]: 'Samuel said, The year is not to be intercalated on the thirtieth day of Adar, since it is eligible to be appointed [the first day of] Nisan.' But what if it were intercalated? — 'Ulla said: The month must not be sanctified.²⁶ But what if it were sanctified? — Raba said: Then the intercalation is invalid. R Nahman said: Both the intercalation and the sanctification are valid.

Raba said to R. Nahman: Let us consider! Between Purim²⁷ and the Passover there are thirty days, and from Purim we begin to lecture on the laws of Passover, as has been taught: People must begin to inquire into the Passover laws thirty days before the Festival. R. Simeon b. Gamaliel said: A fortnight before. If, then, it [sc. Passover] is postponed at the beginning of the month [of Nisan],²⁸ people²⁹ will be liable to disregard³⁰ the law

regarding leaven [on Passover].³¹ — He [R. Nahman] answered him: It is well-known that the intercalation of a year depends on [minute] calculations, hence they would say that [the declaration was not made until the thirtieth day] because the Rabbis had not completed their calculation until then.

Rab Judah said in Samuel's name: A year is not to be intercalated³² unless the [summer] Tekufah³³ is short of completion by the greater part of the month.³⁴ And how much is that? — Sixteen days: so holds R. Judah.

1. I.e., not at the prescribed time, the 14th day of Nisan. Cf. Ex. XII, 9.
2. II Chron. XXX, 18.
3. I.e., after it had already been sanctified as Nisan, he reconsidered it and sanctified the month as the second Adar.
4. Instead of intercalating, to render this unnecessary.
5. There is a dispute whether uncleanness, in the case of a community, is entirely permitted, as though there were no prohibition at all against it, or whether it is merely suspended on account of the communal need. On the latter view, it is disregarded only when unavoidable, but not here, where it may be avoided by intercalation.
6. [H] The golden front-plate. V. Ex. XXVIII, 36-38. It atoned for sacrifices offered in a state of uncleanness, and rendered them acceptable.
7. The High Priest did not officiate in the interior, i.e., the Holy of Holies, on the Day of Atonement, robed in garments that had gold interwoven, as that would recall the sin of the golden calf. Cf. Lev. XVI, 3-4; R.H. 26a.
8. It is no proof in this case.
9. As on the Day of Atonement, when offerings for the whole Community are made. Hence the above inference of R. Simeon is contradicted.
10. That even in a case involving a whole Community, as that of the Passover Offering, the year should be intercalated so as to avoid the state of uncleanness.
11. Surely, according to the said argument, his action was lawful!
12. Since there was no need at all for intercalation, the laws of impurity being withdrawn for the sake of a whole Community. Hezekiah, in intercalating the year, therefore prayed for forgiveness.

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13. According to R. Simeon it may be intercalated even at the outset, but he speaks of the case as if the act were already performed, merely in contradistinction to R. Judah.
14. Ex. XII, 2.
15. I.e., once Nisan has been proclaimed, it cannot be re-proclaimed Adar, making the ensuing month Nisan.
16. When Adar is deficient.
17. Hence he intercalated the year on that day. But afterwards, coming to agree with the standpoint represented by Samuel, and so realizing his mistake, he prayed for forgiveness.
18. That in the first place he thought it right to intercalate the year, but subsequently repented of his earlier decision?
19. I.e., the male population. From the context, it is seen that the clean were not actually half, but a minority.
20. Who were clean.
21. As is the opinion advanced by R. Judah and R. Jose. Cf. Pes. 91b.
22. Sc., of males, for whom the offering is compulsory.
23. Therefore he intercalated the year, to obviate the necessity of this.
24. As R. Simeon holds (*ibid.*).
25. Hence the intercalation was unnecessary.
26. As the second Adar. The succeeding month, however, will be sanctified as Nisan, the current month remaining unnamed.
27. Feast celebrated on the fourteenth of Adar in commemoration of the deliverance of the Jews from the plot of Haman, as recorded in the Book of Esther.
28. Through the institution of a second Adar, the lecturing on Passover laws having already begun.
29. Not believing the report of the messengers that an intercalation had been made. — Raba's assumption that the messengers might be disbelieved, would seem to show that there were enemies of the Jews who might seek to upset the Calendar. Cf. p. 52, n. 9 on the attitude of the Roman authorities to intercalation.
30. Lit., 'treat lightly'.
31. Because they will not treat the Passover fixed by the Rabbis as such, having already celebrated it a month before.
32. On account of the Tekufah. V. *supra* 11b.
33. The solar year which consists of three hundred and sixty-five and a quarter days is divided into four equal parts, each period consisting of ninety-one days and seven and a half hours. These are called respectively the Nisan (vernal), Tammuz (summer), Tishri (autumnal), Tebeth (winter) Tekufoth. The

lunar year which forms the basis of our calendar comprises altogether three hundred and fifty-four days. Though according to Biblical tradition our months are to be lunar (cf. Ex. XII, 2), yet our Festivals are to be observed at certain agricultural seasons; Passover and Pentecost in the Spring; Tabernacles, or Feast of Ingathering, in the autumn. In order to harmonize the lunar and solar years, a second Adar is intercalated once in two or three years. Our text lays down certain principles by which the Intercalators are to be guided.

34. Tishri. I.e., the greater part of Tishri must be taken in to complete the Tekufah of Tammuz.

Sanhedrin 13a

R. Jose said: Twenty-one days.¹ Now, both deduce it from the same verse, And the Feast of Ingathering at the *Tekufah* [season] of the year.² One Master³ holds that the whole Feast [of ingathering]⁴ is required to be included [in the new Tishri *Tekufah*];⁵ the other,⁶ that only a part of the Festival [of ingathering] must [be included].⁷

Now, which view do they adopt?⁸ If they hold that the *Tekufah* day⁹ is the completion [of the previous season]: then, even if it were not so,¹⁰ it will meet with the requirement neither of him who holds that the whole Festival [must be included,] nor of him who holds that only part of it [is necessary]! — 11 One must say therefore that they both hold that the *Tekufah* day begins [the new *Tekufah*].

An objection is raised: The *Tekufah* day concludes [the previous season]: this is R. Judah's view. R. Jose maintains that it commences [the new].¹² Further has it been taught: A year is not intercalated unless the [summer] *Tekufah* is short of completion by the greater part of the month [Tishri]. And how much is that? Sixteen days. R. Judah said: Two thirds¹³ of the month. And how much is that? Twenty days.¹⁴ R. Jose ruled: It is to be calculated thus: [If there are] sixteen [days short of completing the *Tekufah*] which precedes Passover,¹⁵ the year

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is to be intercalated.¹⁶ [If, however, there are] sixteen [short of completing the *Tekufah*] which precedes the Feast [of Tabernacles],¹⁷ the year is not to be intercalated.¹⁸ R. Simeon maintained: Even where there are sixteen [days short of completing the *Tekufah*] which precedes the Feast [of Tabernacles], the year is intercalated.¹⁹ Others say [that the year is intercalated even if the *Tekufah* is short of completion] by the lesser part of the month. And how much is that? Fourteen days?²⁰ — The difficulty remained unsolved.

The Master has said: 'R. Judah said: Two thirds of the month. And how much is that? Twenty days. R. Jose ruled: It is to be calculated [thus: if there are] sixteen [days short of completing the *Tekufah*] which precedes Passover, the year is to be intercalated.'²¹ But is not this view identical with R. Judah's?²² — They differ as to whether the *Tekufah* day completes [the previous] or begins [the new cycle].²³

The Master has said: '[R. Jose holds that] if there are sixteen [days short of completing the *Tekufah*] which precedes the Feast [of Tabernacles], the year is not intercalated.' According to R. Jose, then, only if there are sixteen [days short of completing the *Tekufah*] preceding the Feast [of Tabernacles is intercalation] not [permitted]; but if there are seventeen or eighteen [days short], the year is intercalated. But has he not himself said: If there are sixteen [days short of completing the *Tekufah*] which precedes Passover, we may intercalate, but not if less?²⁴ — But no; in neither case²⁵ may we intercalate. But seeing that he spoke of the number sixteen [with regard to the *Tekufah*] preceding Passover,²⁶ he gives it also [in connection with the *Tekufah*] preceding the Feast [of Tabernacles].

[It was stated above]: 'R. Simeon maintained:²⁷ Even where there are sixteen [days short of completing the *Tekufah*] which precedes the Feast [of Tabernacles], the year

is intercalated.' But is not this view the same as that of the first Tanna?

1. As seen from the context, the entire statement, including that of the views of R. Judah and R. Jose, is Samuel's.
2. Ex. XXXIV, 22. I.e., it must fall within the Tishri *Tekufah*.
3. R. Judah.
4. I.e., beginning with the day when the work of ingathering is permitted — the 16th day of the month, the day after the Festival.
5. Hence if the summer *Tekufah* is short of completion by sixteen days, the new autumnal *Tekufah* begins on the seventeenth, and will thus not include all the days when the work of ingathering is permitted.
6. R. Jose.
7. Hence its possible delay until the 21st of the month, but not later, because the 22nd of Tishri is a full Festival again, on which no gathering is permitted. Neither consider the possibility of including Ellul, a full month of thirty days, and so giving one day more, because if Ellul were extended, it would interfere with the calculations whereby the first day of New Year must not fall on Sunday, Wednesday or Friday, v. R.H. 19b; Suk. 43b.
8. Viz., with reference to the day on which the sun enters into the new *Tekufah*.
9. I.e., the day on which the new *Tekufah* begins.
10. I.e., even if it were not much short of completion, as sixteen days according to R. Judah, and twenty-one days according to R. Jose, but fifteen or twenty days, respectively.
11. For even if the *Tekufah* day begins on the sixteenth or twenty-first day, the new season will commence only on the following day.
12. Thus, according to R. Judah, none of the Festival of Ingathering is included in the new season.
13. Lit., 'two hands' interpreted as 'two portions'. Cf. Tosef. Men. IX, 10.
14. V. *infra*. This refutes Samuel on both points: (a) R. Judah holds here that part of the Feast is sufficient; and (b) in his view the *Tekufah* day commences the new season, and does not end the last.
15. I.e., the winter *Tekufah*.
16. For if not, the summer *Tekufah* would not end until the 21st of Tishri, the new *Tekufah* beginning on the 22nd. The two *Tekufah*s, the spring and summer, consist of hundred and eighty-two days, and the five lunar months between Nisan and Tishri consist of hundred and forty seven days which, when added to the fourteen days of Nisan and the twenty-one

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days of Tishri make a total of hundred and eighty-two days. The Tishri *Tekufah* beginning on the 22nd of the month will thus not include any part of the Festival of Ingathering.

17. I.e., the summer *Tekufah*.
18. Because at least part of the Feast of Ingathering will then fall in the new *Tekufah*.
19. V. *infra*.
20. Hence the contradiction of the two statements of R. Judah.
21. In that the end of the cycle is delayed until the 21st of Tishri. V. n. 2.
22. As it appears that both require the inclusion of only part of the Festival of Ingathering.
23. According to R. Judah, that day completes the previous *Tekufah*, consequently, if twenty days have passed and the sun has reached its new cycle on the 21st, the new *Tekufah* begins on the 22nd, in which case not even part of the Feast of Ingathering is included; whilst according to R. Jose's calculation, even if the solstice occurs on the 21st day, that day is added to the new cycle.
24. According to the above, in the case of fewer days, if these carry the *Tekufah* seventeen or eighteen days into Tishri, intercalation is permissible.
25. I.e., in the case of a shortage neither of seventeen nor eighteen days. The number 'sixteen' therefore is not to be taken in its exact sense, for even if there is a shortage of more than that, intercalation is not justified.
26. In which case, it is only a shortage of sixteen days which justifies intercalation.
27. In contradistinction to R. Jose.

Sanhedrin 13b

— They differ as to whether the *Tekufah* day completes [the previous] or begins [the new season].¹ But their views were not defined.²

[Again it was stated:] 'Others say: [That the year is intercalated even where there is a shortage] by the lesser part of the month. And how much is that? Fourteen days.' Now, which view do they adopt? Do they hold that the *Tekufah* day completes [the previous season], and that we require the whole Feast [of Ingathering to be included in the new *Tekufah*?] But surely in our case, it is so.³ [Why then intercalate?] — The 'Others', says R. Samuel son of R. Isaac, speak of the Nisan *Tekufah*, for it is written, Observe the month

of Abib [spring];⁴ i.e., take heed that the beginning⁵ of the vernal *Tekufah* shall occur on a day in Nisan [when the moon is still in the process of renewal].⁶

But why not intercalate a day in Adar?⁷ — R. Aha b. Jacob said: The Tanna reckons from higher numbers downward, and says as follows: [If there is a deficiency] as far as [i.e., by more than] the lesser part of the month,⁸ the year is intercalated.⁹ And how much is that? Fourteen days.'

Rabina said: In reality, the 'Others' refer to the Tishri *Tekufah*, but they hold that the whole Feast [of Ingathering]¹⁰ must fall [in the new *Tekufah*] including also the first [day of the Feast].¹¹ '[Including] the first day'?¹² But is it not written, The Feast of Ingathering [shall be] at the *Tekufah* of the year; [meaning the day on which ingathering is permitted]? — [They interpret it as] 'The Feast which occurs in the season of ingathering.'

THE LAYING ON [OF HANDS] BY THE ELDERS. Our Rabbis taught: [And the elders ... shall lay, etc.:]¹³ it might be assumed that it means ordinary people advanced in age;¹⁴ Scripture therefore adds, of the congregation.¹⁵ Now, if [you emphasized] congregation, I might think, [it referred to] the minor members of the congregation;¹⁶ therefore it is stated, 'the congregation',¹⁷ [meaning] the distinguished of the congregation.¹⁸ And how many are required? — The plural of 'wesameku'¹⁹ ['and they shall lay'] implies two; similarly, 'zikne' ['the elders'] implies two, and as there can be no court with an even number, another is added; hence five in all are required: this is R. Judah's view. R. Simeon said: 'Zikne' ['elders'] indicates two, and as a court cannot consist of an even number, another is added, making three in all. But according to R. Simeon, is it not written 'wesameku' ['and they shall lay']? — That is needed for the text itself.²⁰ And R. Judah?²¹ — That is not needed for the text itself, since

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if the word *wesameku* has no significance for deduction, the text could have read [without it]: The Elders, their hands [being] on the head of the bullock.²² And R. Simeon?²³ — Had it been so written,²⁴ I might have translated 'al[on], 'in proximity'.²⁵ And R. Judah?²⁶ — He deduces this [actual contact] from the use of the word *rosh* [head] in this case and in connection with the burnt offering.²⁷ And R. Simeon? — He does not admit the deduction of head written here and in the case of the burnt offering.²⁸

It is taught: The laying on [of hands], and the laying on [of hands] of the Elders is performed by three. What is meant by, 'Laying on [of hands]', and 'Laying on [of hands] of the Elders'? — R. Johanan said: [The latter] refers to the ordination of Elders.

Abaye asked R. Joseph: Whence do we deduce that three are required for the ordination of Elders? Shall we say, from the verse, And he [Moses] laid his hand upon him [Joshua]²⁹ If so, one should be sufficient! And should you say, Moses stood in place of seventy-one,³⁰ then seventy-one should be the right number! — The difficulty remained unanswered.

R. Aha the son of Raba, asked R. Ashi: Is ordination effected by the literal laying on of hands? — [No,] he answered; it is by the conferring of the degree: He is designated by the title of Rabbi and granted the authority to adjudicate cases of *kenas*.³¹

Cannot one man alone ordain? Did not Rab Judah say in Rab's name: 'May this man indeed be remembered for blessing — his name is R. Judah b. Baba; were it not for him, the laws of *kenas* would have been forgotten in Israel.' Forgotten? Then they could have been learned. But

1. Though they both state the number sixteen, the one who holds that the day completes the previous *Tekufah* must count the new season as beginning on the seventeenth.

2. I.e., it is not clear who is of the one and who of the other opinion.
3. For the Tishri *Tekufah* then commences on the fifteenth, whereas the Feast of Ingathering, as defined in p. 58, n. 1, commences on the sixteenth.
4. Deut. XVI, 1.
5. Lit., 'ripening'.
6. That accounts for the limit of fourteen days, after which it is on the wane. This is implied in the word [H] which, derived from [H] 'new', means the 'new month'.
7. Which would bring in the new *Tekufah* on the thirteenth day, when the moon is still waxing, rather than cause the derangement of a whole month; and though the first day of Passover must not fall on Monday, Wednesday or Friday, and the addition of a day might cause that, it would not matter, because the limitation of the days on which Passover may commence is due to the desire to avoid New Year falling on Sunday, Wednesday or Friday, and that could be avoided by adding a day to one of the normally defective months between Nisan and Tishri.
8. I.e., down to, but not including, the fourteenth day.
9. But if there is actually a shortage of fourteen days, only the month Adar is intercalated.
10. Even the first day.
11. And being of the view that the *Tekufah* day completes, the season, if there is a shortage of fourteen days, in which case the new autumnal *Tekufah* will begin on the fifteenth day, the first day of the Feast will not be included in it, so that intercalation is justified.
12. On which work is prohibited.
13. [H] *And the elders (of the Congregation) shall lay*, etc. Lev. IV, 15.
14. Lit., 'elders of the market'.
15. [H] lit., 'Group', or 'Congregation.' '*Edah*' is frequently interpreted by the Rabbis as '*Sanhedrin*'. V. Num. Rab. 15, Ch. 16, and Rashi on Lev. IV, 13. The latter derives his statement from *Sifra*, which again derives it by analogy between '*Edah* in Num. XXXV, 24-25, cf. *supra* 2a.
16. I.e., the minor Sanhedrin of twenty-three.
17. With the definite article.
18. I.e., the major Sanhedrin.
19. It could have been written [H] '*we-samak*', denoting that any one of the elders should lay his hands. Cf. Malbim on Lev. IV, 15.
20. Viz., that there must be laying on of hands,
21. Does he not admit this?
22. A kind of absolute clause.
23. Does he not admit the superfluity of 'and they shall lay'?
24. As R. Judah suggests.

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25. I.e., that the hands need not actually be laid on the head but only brought near. The word *wesameku* makes it clear.
26. Who employs *wesameku* for another interpretation.
27. Lev. I, 4: *And he shall lay his hand upon the head of the burnt offering*, which obviously means actual contact.
28. This type of exegesis, deducing identity of fact from identity of language, is called *gezerah shawah*, and it is a well-established principle that such deduction could not be made by a scholar without a direct tradition from his teacher that that particular identity of phraseology was intended to intimate identity of law. R. Simeon had no such tradition in respect of these two words.
29. Num. XXVII, 23.
30. I.e., having the same authority.
31. V. [Glos.](#)

Sanhedrin 14a

these laws might have been abolished; because once the wicked Government,¹ [as an act of religious persecution],² decreed that whoever performed an ordination should be put to death, and whoever received ordination should be put to death, the city in which the ordination took place demolished, and the boundaries³ wherein it had been performed, uprooted. What did R. Judah b. Baba do? He went and sat between two great mountains, [that lay] between two large cities; between the Sabbath boundaries of the cities of Usha and Shefaram⁴ and there ordained five elders:⁵ viz., R. Meir, R. Judah, R. Simeon, R. Jose and R. Eliezer b. Shamua'. R. Awia adds also R. Nehemia in the list. As soon as their enemies discovered them he [R.J.b.B.] urged them: 'My children, flee.' They said to him, 'What will become of thee, Rabbi?' 'I lie before them like a stone which none [is concerned to] overturn,'⁶ he replied. It was said that the enemy did not stir from the spot until they had driven three hundred iron spear-heads into his body, making it like a sieve.⁷ — With R. Judah b. Baba were in fact some others, but in honor to him, they were not mentioned.

Was R. Meir indeed ordained by R. Judah b. Baba? Did not Rabbah b. Bar Hannah say in R. Johanan's name: He who asserts that R. Meir was not ordained by R. Akiba is certainly in error? — R. Akiba had indeed ordained him, but the ordination was not acceptable;⁸ while R. Judah b. Baba's later ordination, on the other hand, was accepted.

R. Joshua b. Levi said: There is no ordination outside Palestine. What is to be understood by, 'There is no ordination'? Shall we assert that they² have no authority at all to adjudicate cases of Kenas¹⁰ outside Palestine?¹¹ But have we not learnt: The Sanhedrin has competence both within and without Palestine! — This must therefore mean that ordination cannot be conferred outside Palestine.

It is obvious, that if the ordainers are outside Palestine and those to be ordained in Palestine, [then] surely as has been said, they cannot be ordained. But what if the ordainers are in Palestine, and those to be ordained outside? — Come and hear: [It is related] of R. Johanan that he was grieved when R. Shaman b. Abba was not with them [in Palestine] to receive his ordination. [Again it is related of] R. Simeon b. Zirud and another who was with him, viz., R. Jonathan b. Akmai, or according to others [who invert the order,] R. Jonathan b. Akmai and another who was with him, viz., R. Simeon, b. Zirud,¹² that the one who was with them was ordained, and the other, who was not, was not ordained.¹³

R. Johanan was very anxious to ordain R. Hanina and R. Oshaia, but his hope could not be realised,¹⁴ and it grieved him very much. They said to him: Master, you need not grieve, for we are descendants of the house of Eli.¹⁵ For R. Samuel b. Nahman, quoting R. Jonathan, said: Whence do we learn that none of the house of Eli are destined to be ordained? — From the verse, *And there shall be no zaken*¹⁶ [old man] in thy house for ever.¹⁷ What does the word

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'zaken' mean [here]? Shall we say, literally, 'an old man', but it is written [immediately after], and all the increase of thy house shall die [young] men! — It must therefore refer to ordination.¹⁸

R. Zira used to hide himself to avoid ordination, because R. Eleazar had said: Remain always obscure,¹⁹ and [so] live.²⁰ But later, having heard yet another saying of R. Eleazar, viz., One does not attain greatness unless all his sins are forgiven,²¹ he himself strove [to obtain it]. When they ordained him, they²² sang before him, 'Neither paint nor rouge nor [hair-]dye, yet radiating charm.'²³

When the Rabbis ordained R. Ammi and R. Assi, they sang thus of them: Only such men, only such men ordain ye for us, but ordain not for us any of the 'sarmitin' and 'sarmisin', or as some say, 'hamisin' or 'termisin'.²⁴

When R. Abbahu arrived at the Emperor's Court²⁵ from College, the ladies of the court went out to receive him and sang to him: Great man of thy people, leader of thy nation, lantern of light, thy coming be blessed with peace.

BREAKING THE HEIFER'S NECK IS BY THREE. Our Rabbis taught: And thy Elders and thy judges shall come forth.²⁶ 'Elders' [indicates] two; [similarly,] 'judges', two. And as a court must not be evenly-balanced, another is added; hence there are five: this is R. Judah's view. R. Simeon says: 'Elders' indicates two, and as a court cannot consist of an even member, another is added, making three in all. Now, according to R. Simeon, what purpose is served by the words 'thy judges'? — It is needed, in his view, to indicate the necessity of choosing the most distinguished of 'thy judges'.²⁷ And R. Judah?²⁸ — [He deduces it] from the pronominal suffix [appended] to Zaken.²⁹ And R. Simeon? — [He maintains:] Had 'elders' [alone] been written,³⁰ I might have

said that it refers to [any] old men of the street.³¹ Hence the Torah says: 'thy elders'.³² Yet had 'thy elders' [alone] been written, I might have said that it refers to [the members of] the minor Sanhedrin. Therefore Scripture wrote, 'thy judges', to indicate that the reference is to the most distinguished of 'thy judges'.³³ And R. Judah?³⁴ — He derives this³⁵ from a comparison of the word elders [as used here]³⁶ and in the verse, And the elders of the congregation shall lay their hands [on the head of the bullock].³⁷ Just as there, the most distinguished of the congregation³⁸ [are necessary],³⁹ so here, too, the most distinguished of thy elders [are required]. But if this deduction be made, let us infer everything from that passage!⁴⁰ and what need then is there for 'thy elders' and 'and thy judges'? — But [we should say: In R. Judah's opinion,] the [superfluous] *waw* [and] of, and thy judges, intimates the number.⁴¹ And R. Simeon⁴² — He does not employ the conjunction '*waw*' for interpretative purposes.

But according to this line of argument, we might further deduce from the clauses, and they shall come forth, and, and they shall measure — each indicating two — that nine should be required, in R. Judah's opinion, and seven in R. Simeon's? — But these clauses are necessary, even as it has been taught: And they shall come forth, [meaning,] they, and not their deputies. And they shall measure; in all circumstances, even when the corpse is found

1. That of Hadrian, in the second century.
2. [[H] given in some versions, v. D.S.]
3. Heb. [H] denotes the boundaries without the town, as far as which one may go on the Sabbath. That such was meant here is evident from the following passage, which states that Judah b. Baba chose a spot between two Sabbath boundary lines.
4. Two Galilean cities prominent in the second century as places of refuge for the Sanhedrin. His purpose was that no city or region should suffer.
5. Persons ordained bore the title of '*zaken*'.

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6. I.e., as something worthless: let them do their worst.
7. Hence it is evident that even one person was authorized to bestow the degree of Rabbi.
8. Lit., 'they did not accept (him)', because of R. Meir's youth at the time (Rashi). [Herford, R.T., Pirke Aboth, 108, suggests a probable explanation, viz. that R. Akiba had ordained him while on one of his journeys on which R. Meir accompanied him (v. Yeb. 121a). Such an ordination, having been performed outside the land, would not be recognized as valid. V. *infra*.]
9. Who have been ordained in Palestine.
10. V. [Glos.](#)
11. That is, ordination, even if conferred in Palestine, is of no avail outside Palestine for such cases.
12. The order is intended to show who was the principal ordainer and who was his assistant.
13. Hence, a scholar outside Palestine cannot be ordained.
14. Because when they were with him, he could not procure another two to assist him, ordination requiring a board of three.
15. And therefore cannot receive that dignity. V. *infra*.
16. [H]
17. I Sam, II, 32.
18. I.e., there shall be no ordained person, etc. [H], accordingly, is understood in its Rabbinical connotation, 'one who has acquired wisdom', viz., an ordained Rabbi,
19. I.e., without office.
20. V. *infra* 92a.
21. I.e., office brings with it moral improvement.
22. The schoolmen.
23. A snatch of a song sung at weddings in honor of the bride (Rashi).
24. Interpretations of these words are varied. Jastrow says that it was a jest at Talmudic scholars using foreign words, and translates: Do not ordain for us any of those using words like '*sermis*' (*semis*), '*sermit*', (prob. distortion of '*tremis*') '*hemis*' and '*tremis*'. Krupnik-Silberman translate, 'superficial scholars' (*halbwisser*). Dalman suggests, 'half-wits' and 'third-wits' (idiots and madmen).
25. At Caesarea where his academy was.
26. Deut. XXI, 2.
27. I.e., members of the Great Sanhedrin.
28. Whence does he deduce this?
29. [H], thy.
30. Alone, without the suffix.
31. I.e., any people advanced in age.
32. '*Thy*' intimates that the reference is to distinguished elders.
33. I.e., members of the Great Sanhedrin.
34. How does he know that neither old men in general nor the members of the minor Sanhedrin are meant?
35. The law that they must be members of the Great Sanhedrin.
36. Deut. XXI, 2.
37. Lev. IV, 15.
38. I.e., the Great Sanhedrin.
39. Cf. *supra* 13b.
40. I.e., the number of Elders also.
41. In truth, he does not employ the analogy, but derives the necessity of the presence of the Great Sanhedrin from the pronominal suffix to *shofet* ('thy judges') and their number, again from the conjunction '*waw*', for it could have been written, *And they shall go forth, thy elders, thy judges*.
42. Who requires only three.

Sanhedrin 14b

at the entrance of a town, measurement must be made.

Our Mishnah¹ is not in accord with the following Tanna. For it has been taught: R. Eliezer b. Jacob says, Thy elders and thy judges shall come forth.² 'Thy elders', refers to the Sanhedrin; 'and thy judges', to the King and High Priest. [That it 'refers to] the King' is deduced from the verse, The King by justice establisheth the land.³ 'The High Priest', as it is written, And thou shalt come unto the Priests, the Levites and unto the Judges.⁴

The schoolmen asked: Does R. Eliezer b. Jacob differ from the Mishnah in one thing, or in two? Does he differ only with respect to the King and High Priest,⁵ but as to the [number of the members of the] Sanhedrin, [he agrees with] either R. Judah or R. Simeon; or does he differ on that point too, requiring the whole Sanhedrin to come forth? — Said R. Joseph: Come and hear! If he [sc. the rebellious elder]⁶ found them⁷ at Beth Pagi,⁸ and there rebelled against their decision, one might assume that his rebellion was punishable.⁹ Scripture therefore declares, And then shalt thou arise and get thee up unto the place,¹⁰ [thus teaching] that it is the place that conditions [the act].¹¹ Now,

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how many had gone out? If only part of the Sanhedrin [how could the elder be condemned?] Perhaps those remaining inside would have agreed with him? It is clear therefore that the whole of the Sanhedrin must have gone out, But if so, for what? Shall we say, for a secular purpose! Are they then permitted to go out? Is it not written, Thy navel is like a round goblet wherein no mingled wine is wanting?¹² Hence it was obviously for a religious purpose, and for what else, if not for measuring in connection with the heifer, the author of the passage being R. Eliezer b. Jacob, who holds that the attendance of the whole Sanhedrin is required?¹³ Abaye retorted: No; they might have gone out for the purpose of enlarging the city¹⁴ or the Temple court-yards, as we learnt: The city or the Temple court-yards may be enlarged only by [the sanction of] a court of seventy-one.¹⁵

The following Baraita agrees with R. Joseph:¹⁶ If he¹⁷ met them¹⁸ at Beth Pagi and rebelled against their decision, when, for example, they had gone out for the purpose of measuring in connection with the heifer, or for the enlargement of the city or the Temple Courtyards, you might assume that his rebellion is culpable;¹⁹ but it is written, — And thou shalt arise and get thee up to the place,²⁰ to teach that it is the place that conditions [the act].

THE VALUATION OF THE FOURTH YEAR'S FRUIT, AND THE SECOND TITHE THE VALUE OF WHICH IS NOT KNOWN, IS BY THREE. Our Rabbis taught: What kind of second tithe has no established price? Decayed fruit, wine that has grown a skin,²¹ and rusty coins.²²

Our Rabbis taught: The second tithe that has no fixed price is to be redeemed [at the valuation of] three [experienced] dealers, but not by three who are inexperienced.²³ Even a Gentile or the owner may be amongst the assessors. R. Jeremiah propounded: What of three who are business partners,²⁴ [can they

be appointed valuers]? — Come and hear! 'A man and his two wives may redeem the second tithe of unknown value.'²⁵ Perhaps in a case such as that of R. Papa and [his wife], the daughter of Abba from Sura.²⁶

DEDICATION IS BY THREE. Our Mishnah is not in accordance with the following Tanna: For it has been taught: R. Eliezer b. Jacob said: Even a hook of the sanctuary requires ten persons [to assess it] for its redemption.²⁷

R. Papa said to Abaye: As to R. Eliezer b. Jacob's opinion, it is well, its grounds being Samuel's dictum. For Samuel said: There are ten Biblical references to Priest in the Chapter.²⁸ But whence do the Rabbis learn that only three [are required]? And should you answer: Because it [sc. the word Priest] appears three times in relation thereto;²⁹ then since with reference to land [redemption] the word appears four times, let four be sufficient? And should you say that this is indeed so, have we not learnt: **THE VALUATION OF LAND REQUIRES NINE PERSONS AND A PRIEST?** But what [will you say]? — That this is because with these verses the ten references are completed? Then should not other consecrated objects,³⁰ with the section on which six such references are completed, require six assessors? The difficulty was not solved.

THE ASSESSMENT OF MOVABLE OBJECTS, etc. What is meant by **THE ASSESSMENT OF MOVABLE OBJECTS?**³¹ R. Giddal, reporting Rab, says: For example, one who says, 'I undertake to give the value of this vessel';³² for, R. Giddal said, reporting Rab:

1. Which requires only members of the Sanhedrin to come forth.
2. Ibid.
3. Prov. XXIX, 4. The deduction is based on the cognate words 'judges' and 'justice', whence it follows that the same person is meant in both.
4. Deut. XVII, 9.

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5. Viz., that they must come forth,
6. Deut. XVII, 8.
7. The Sanhedrin.
8. 'The house of figs', a place within the walls of Jerusalem, which is treated as Jerusalem in all matters. The place cannot be exactly identified. V. Neubauer, *Geographie*, 147ff.
9. Lit., 'is a rebellion', which is punishable by strangulation.
10. Deut. XVII, 8.
11. I.e., on the Temple Mount alone can a rebellious elder be judged. (V. *infra* 87a).
12. Cant. VII, 3. I.e., if one wished to leave, it must be seen that twenty-three remain. Cf. *infra* 37b.
13. Thus proving that he differs in both matters.
14. Of Jerusalem.
15. Shebu. 14a.
16. Who assumes that their purpose was for measuring in connection with the heifer.
17. The rebellious elder.
18. The Sanhedrin.
19. V. p. 67, n. 10.
20. Deut. XVII, 8.
21. Gone sour.
22. I.e., if the second tithe was redeemed, and the redemption money became rusty, and lost its face value, the coins must be assessed and redeemed (i.e., exchanged) for others of current acceptance.
23. Lit., 'who are not dealers'.
24. Lit., 'Three who throw into one purse'.
25. And those have a common purse.
26. Who traded on her own, and he had therefore no share in her profits (cf. Keth. 39a).
27. V. *infra* 88a.
28. Relating to the laws of Redemption; thrice in reference to human beings, Lev. XXVII, 8; thrice in reference to beasts; *ibid.* 11-13, and four times in reference to land, *ibid.* 14, 18, 23, — from which he deduces the need of ten persons for valuation.
29. I.e., in the section dealing with the redemption of animals, and presumably the same applies to the redemption of all forms of hekdesch.
30. Such as unclean beasts.
31. For the laws of assessment in Lev. XXVII comprise only men, beasts and land.
32. To the Sanctuary.

Sanhedrin 15a

If one declares, 'I dedicate the value of this vessel [to the Sanctuary]', its value must be handed over. Why so? Because it is well known¹ that there is no fixed assessment [in the Torah] for such objects:² he must

therefore have spoken with reference to value;³ consequently, he must pay its value. But if so, [the words in the Mishnah] VALUATIONS OF MOVABLE OBJECTS should have read VALUATION CAUSED BY MOVABLE OBJECTS?⁴ — Read: VALUATIONS CAUSED BY MOVABLE OBJECTS.

R. Hisda, quoting Abimi [said]: It refers to one who pledges movable objects in payment of his own dedicated value.⁵ But in that case the words VALUATIONS OF MOVABLE OBJECTS should have been written MOVABLE OBJECTS OF ASSESSMENT!⁶ Read: MOVABLE OBJECTS OF ASSESSMENT.

R. Abbahu said: This refers to one who declares, 'I dedicate my value;' when the Priest comes to collect it, [on his failure to pay],⁷ movable property is assessed by three; immovable property by ten.⁸

R. Aha of Difti said to Rabina: The requirement of three assessors is correct in the case of one having to redeem anything out of the possession of the Sanctuary;⁹ but why need three to bring them into its possession?¹⁰ — It is common sense, he answered. What is the difference between appropriating a thing to, and expropriating a thing from [the possession of the Sanctuary]? In the case of expropriation, the reason [for three assessors] is the eventuality of error; but the same eventuality exists in the case of appropriation.¹¹

R. JUDAH SAYS, etc. R. Papa said to Abaye: On R. Judah's opinion this is right: for that reason 'Priest' is written. But according to the Rabbis,¹² [who hold that no priest is required] — what is the purpose of that reference? — The question remained unanswered.

LAND VALUATION NEEDS NINE AND A PRIEST. Said Samuel: Whence is this inferred? — [From the] ten Biblical

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references to 'Priest' in the chapter [relating to valuation],¹³ One is needed for the actual law;¹⁴ the others are merely exclusions [of non-priests], one following the other. And [according to Talmudic rule,]¹⁵ exclusion, following exclusion, implies, not limitation, but extension,¹⁶ and so includes [as valid, a valuation made] even by nine non-priests,¹⁷ and [only] one priest.

R. Huna, the son of R. Nathan, demurred: Why not say that the ten assessors must consist of five priests and five non-priests?¹⁸ The difficulty remained unsolved.

THE VALUATION OF A MAN IS SIMILAR. But is a man an object that can be dedicated?¹⁹ — The words refer, said R. Abbahu, to the case of one who says; 'I dedicate my value'; as it has been taught 'If one says, I dedicate my value [to the Sanctuary-]', he is assessed exactly as a slave sold in the market; — and a slave is equated to immovable property.²⁰

R. Abin asked: How many assessors are needed for the valuation of hair that is ready to be shorn? Is it regarded as already shorn, and thus assessed by three,²¹ or as attached to the body, hence by ten?²² — Come and hear! If one dedicates his slave, no liability to a trespass-offering is incurred in respect of him.²³ But R. Simeon b. Gamaliel says: Liability is incurred in respect of his hair. And we know that the point on which they differ is regarding the hair which is ready to be shorn. Infer, therefore, from this [that R. Abin's question is a point of difference among the Rabbis].

Shall we take it that these Tannaim²⁴ differ in the same respect as the Tannaim of the following Mishnah? For we learnt: R. Meir says: There are things that notwithstanding their attachment to the soil are considered as movable property.²⁵ But the Sages disagree with him. In what case? [If A says to B.] 'I handed over to thee ten vines laden with fruit,' and the latter replies, 'They were only

five,' R. Meir imposes [an oath on the defendant],²⁶ while the Sages say that an object which is still attached to the soil is subject to the laws of immovable property.²⁷ And R. Jose b. Hanina said: The case in question is one of grapes ready to be gathered: according to the one master,²⁸ they are considered as gathered; according to the other.²⁹ they are not! — No, you might say it is so³⁰ even according to R. Meir. Only there, in the case of grapes, which after ripening deteriorate by remaining ungathered, does R. Meir hold that they are considered as gathered: whereas hair, the longer it is left, the better it is.

CAPITAL CASES, CASES OF CARNAL CONNEXION WITH BEASTS, etc. The law is stated categorically, without any distinction whether the connection is between a beast and a man or a beast and a woman. It is right as regards the [requirement of twenty-three] in the case of a woman, as this follows from the verse, Thou shalt slay the woman and the beast.³¹ But whence is it to be deduced in the case of a man? — It is written, Whosoever lieth with a beast shall surely be put to death.³² If this has no bearing on a case where a man is the active participant,³³ we must refer it to one in which he is the passive offender. And it is expressed in the Divine Law as if the man were the active sinner, for the purpose of equating the passive sinner to him. Just as in the case where the man approaches the beast, both he and the beast are judged by [a court of] twenty-three; so also, where the man is approached by the beast, both he and the beast are judged by twenty-three.

THE CASE OF AN OX TO BE STONED IS BY TWENTY-THREE, AS IT IS WRITTEN: THE OX SHALL BE STONED AND ITS OWNER ALSO SHALL BE PUT TO DEATH.³⁴ AS THE DEATH OF THE OWNER [IS BY TWENTY-THREE], SO THE DEATH OF THE OX. Abaye said to Raba: Whence do we know that the verse, and its owner also shall be put to death,

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means to [teach that] the judgment of the ox is to be similar to that of the owner?

1. Lit., 'a man knows'.
2. In the Bible, the word [H] ('erek) is used only in reference to men, and indicates a dedication of fixed sums varying according to the age and sex of the person who is the subject of such a dedication. Hence, strictly speaking, the word is meaningless when used in reference to utensils, and therefore a different meaning has to be given to it here.
3. For, according to the Talmudic dictum, 'No man makes a purposeless declaration.' Cf. 'Ar. 5a.
4. The difficulty is a grammatical one. [H] is the absolute form, and therefore [H] really means, 'valuations which are movable' the article [H] being here a relative pronoun. The Talmud answers that the genitive particle [H] is to be understood.
5. Which, until their value is redeemed, are subject to the laws of sacred property, the assessment of which requires three. This interpretation is to justify the grammatical form used in the Mishnah, the meaning of the phrase being VALUATIONS (of human beings) which have been tendered in the form of MOVABLE OBJECTS.
6. I.e., movable objects offered as the redemption price of human dedications.
7. In case of non-payment his property is seized. V. 'Ar. 21a.
8. The Mishnah therefore is to be interpreted thus: As for [H] (human dedications), if movable property be rendered in redemption thereof, it is assessed by three; if real estate, by ten.
9. As in the cases quoted by R. Giddal and R. Hisda.
10. As in the case advanced by R. Abbahu.
11. Hence the need of assessors in either case.
12. The representatives of the first opinion cited anonymously.
13. Lev. XXVII v. p. 69, n. 6.
14. I.e., to state that a priest must be the assessor.
15. Which is based on the following inference: For excluding purposes, one reference to 'priest' would have been sufficient; hence its repetition is not intended to exclude non-priests, but to extend. V. R. Han. a.l.
16. In this case the extension to non-priests of the authority to make assessments.
17. Lit., 'Israelites'. There were three classes in Israel, viz., 'Priests', 'Levites' and 'Israelites'.
18. Since the rule that 'exclusion following exclusion implies extension' is based on redundancy, where there are a whole series of

such exclusions, they are not all redundant. Thus, the first 'priest' teaching the exclusion of an Israelite, the second is redundant, and therefore teaches his inclusion. Hence, when the word has been written twice, we know that one priest and one Israelite are necessary. But for that very reason, the third 'priest' is not redundant, but to intimate that a priest is again required; after which the fourth is redundant, and so on; thus the first, third, fifth, seventh and ninth are needed for the actual law of priests and the others are superfluous, which gives five priests and five Israelites.

19. So that he may be classed with sacred property.
20. V. Meg. 23b. This is derived from the verse, And ye may make them an inheritance to your children after you, to hold for a possession. Lev. XXV, 46. Hence the need of ten assessors.
21. Like movable property.
22. Like immovable property.
23. So, if one puts him to service, as is the case when one makes use of any other consecrated object; for the laws concerning the unlawful use of sacred property are not applicable to lands or things of similar status, as slaves. v. Me'i. 18b.
24. R. Simeon b. Gamaliel and the first Tanna of the Baraitha.
25. Lit., 'there are things which are as real estate (being attached to the soil) yet are not as real estate (in a legal sense).'
26. As in a case where there is partial admission of the claim (cf. B.K. 107a) and though an oath is not administered in cases of immovable property (v. Shebu, VI, 5). Here, however, since the vines no longer depend on the soil for ripening, they are considered as gathered.
27. Hence no oath can be administered.
28. R. Meir.
29. The Rabbis.
30. I.e., that hair, even though ready for cutting, is to be considered as immovable property, because the cases are not alike.
31. Lev. XX, 16, which indicates that the judgment on the ox is similar to that on the woman, and therefore the verdict must be pronounced by a similar body.
32. Ex. XXII, 18.
33. Since the reference in Lev. XX, 15, And if a man lie with a beast, he shall surely be put to death, suffices.
34. Ex. XXI, 29.

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Perhaps it is meant to [indicate] capital punishment [for the owner]? — In that case it should have been written, and the owner also, and no more. But [perhaps] had the Divine Law written so,¹ it could be argued that [the text implies death] by stoning?² — Could this view possibly be entertained! If a man himself is the murderer, his death is by the sword;³ when his property [sc. an ox] slays, shall he [the owner] be stoned!⁴

But might it not be argued⁵ that the reason the Divine Law wrote 'yumath'⁶ is to [indicate] an easier death, i.e., to commute death by the sword to death by strangulation?⁷ Now, on the view that strangulation is a severer death,⁸ it is correct;⁹ but according to the view that strangulation is an easier death [than decapitation],¹⁰ what is there to be said [against it]?¹¹ — This cannot be entertained, because it is written, If there be laid on him a ransom;¹² and, should you maintain that he is liable to death, is it not written, You shall take no ransom for the life of a murderer?¹³ On the contrary, that fact [proves that the text is literal, Thus:] in case of a man's own crime, money is no adequate punishment, only death; whereas, when his beast kills, he can ransom himself with money?¹⁴ — But, said Hezekiah, and thus said a Tanna of the school of Hezekiah: Scripture state, He that smote him [a human being] shall surely be put to death, he is a murderer.¹⁵ For a murder committed by himself, you may put him to death, but you may not put him to death for a murder committed by his ox.¹⁶

The schoolmen asked: How many were needed [to judge] the ox [that sinned in approaching] Mount Sinai?¹⁷ [The question is] whether we can derive a temporary enactment from permanent practice or not? — Come and hear! Rammi b. Ezekiel taught, Whether it be beast or man, it shall not live;¹⁸ just as a man is judged by twenty-three, so is a beast judged by twenty-three.

THE LION AND THE WOLF, etc. ... Resh Lakish said: Provided, however, that they killed [a human being], but not otherwise.¹⁹ Thus he holds that they can be tamed and have owners.²⁰ R. Johanan says [that it is R. Eliezer's view] even when they have killed no one. Hence he holds that they cannot be tamed or have owners.²¹

We learnt: R. ELIEZER SAYS, WHOEVER IS FIRST TO KILL THEM [WITHOUT TRIAL], ACQUIRES. This is correct according to R. Johanan:²² What does he acquire? — He acquires [the possession of] their skin. But according to Resh Lakish, what does he acquire? As soon as they killed someone, the Rabbis regarded them as sentenced [to death], in which case every benefit from them is prohibited!²³ What then does he acquire? — He acquires [merit] in the sight of Heaven.

There is [a Baraita] taught which is in agreement with Resh Lakish: It is all one whether it be an ox, or any other beast or animal that killed a man, [it is judged] by twenty-three. R. Eliezer says: Only an ox that killed [is tried] by twenty-three, but any other animal or beast who killed, whoever is first to kill them acquires merit in the sight of Heaven.²⁴

R. AKIBA SAID, etc. Is not R. Akiba's opinion identical with that of the first Tanna [of the Mishnah]?²⁵ — [No;] they differ in the case of a serpent.²⁶

A WHOLE TRIBE MUST NOT BE JUDGED, etc. What sin was committed by the tribe? Shall I say, that it is a case of a tribe that desecrated the Sabbath? But²⁷ if the Divine Law made a distinction between individual sinners and a multitude, it was only in cases of idolatry; did it then differentiate in cases [of the transgression] of other commandments? — It must therefore refer to a tribe that was beguiled [into idolatry]. Is it to imply that it must be tried like a multitude? [If so,] this coincides with

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the opinion of neither R. Josiah nor R. Jonathan. For it has been taught: How many inhabitants must a town have that it may be proclaimed condemned? Not less than ten and not more than a hundred:²⁸ this is the view of R. Josiah. R. Jonathan says: From a hundred to the majority of the tribe in question. And even R. Jonathan admits only the majority of a tribe, but not the whole of it.²⁹ The case in question, says R. Mathna, is one

1. Without the word *yumath*, [H] ('he shall be put to death').
2. I.e., that the same death should be meted out to both man and ox.
3. V. *infra* 52a.
4. A severer death. Surely not!
5. In support of the literal interpretation.
6. Which is apparently superfluous.
7. For by an unspecified death, strangulation is meant (*infra* 52b).
8. As held by R. Simeon, cf. *infra* 49b.
9. For it would appear illogical to punish the owner more severely than in the case of his own act.
10. As held by the Rabbis, *ibid*.
11. Sc. the argument in support of the literal interpretation of '*yumath*'.
12. Ex. XXI, 30.
13. Num. XXXV, 31; and surely, if he is to be executed, he is considered as such.
14. And where there is no offer of a ransom he is to be put to death. And the question — 'perhaps the verse means to indicate capital punishment for the owner' — remains.
15. *Ibid*.
16. Deduced from the words, 'he is a murderer', which appear superfluous.
17. Cf. Ex. XIX, 13. Approach was forbidden to man and beast on pain of death.
18. *Ibid*.
19. Only then does R. Eliezer maintain that the sooner they are killed the better.
20. I.e., their owners acquire legal title to them. For otherwise, it would be natural to assume that R. Eliezer meant that they should always be slain as potential man-killers.
21. And even if a person does breed them, he acquires no legal title thereto, and anyone is at liberty to kill them.
22. In whose opinion there is no ownership. Moreover, since they are slain even before they have killed a human being, they are not treated as animals sentenced to death, all benefit from which is prohibited.
23. V. B.K. 41b.
24. Tosef. Sanh. III.
25. Why then state his view as though he differed with the first Tanna?
26. Which, according to R. Akiba, can be killed even without trial.
27. Lit., 'Say'.
28. Only a town, referred to as 'ir (v. Deut. XIII, 14) can be condemned. R. Josiah holds that a community of less than ten is a village (*kefar*) and one of more than a hundred is an entire community, of which the 'city' is only a part.
29. For in the case of a whole tribe, the members are to be tried individually as when an entire community, as distinct from a town, practices idolatry (v. preceding note).

Sanhedrin 16a

where the head of the tribe has sinned;¹ did not R. Adda b. Ahabah say: Every great matter they shall bring unto thee² means the delinquencies of the great man;³ so this one [sc. the head of a tribe] too, is a great man.⁴

'Ulla, quoting R. Eleazar says: [This refers to the case of] a dispute over the division of land [where the procedure must be the same] as at the first [division] in Eretz Yisrael. As in the commencement,⁵ [such a dispute was decided by a Court of] seventy-one, so does it stand for all time.⁶ But if so, just as originally the division was made by means of the urn, the Urim and Tummim,⁷ and in the presence of all Israel, so at all times there must be an urn, the Urim and Tummim, and the presence of all Israel! But clearly, the answer given by R. Mathna is the better one.

Rabina says: I still maintain that the case in question is that of a tribe led astray into idolatry, and if you object that such should be judged after the manner of a multitude [I say,] True! though they are executed as individuals,⁸ yet their trial must indeed be by a court competent to try a multitude.⁹ For did not R. Hama son of R. Jose say in the name of R. Oshaia [in reference to the Scriptural passage]: Then shalt thou bring forth that man and that woman,¹⁰ that an individual man or woman may be brought

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unto [the court at] thy gates,¹¹ but not a whole town?¹² Similarly in this case, only an individual man or woman canst thou bring forth to thy gates, but thou canst not bring forth a whole tribe.

NOR THE FALSE PROPHET. Whence is this inferred? — R. Jose son of R. Hanina says: It is derived from [the analogy set up] by the word *hazadah*,¹³ used both here,¹⁴ and in reference to the rebellious elder.¹⁵ Just as there, [the rebellious elder is to be put to death only if he has rebelled against a Sanhedrin of] seventy-one, so here too, [the false prophet is to be tried by a court of] seventy-one. But is not the expression 'hazadah' mentioned in reference to his execution,¹⁶ which is determined by a court of twenty-three? — 17 Resh Lakish therefore said: It is derived from the use of *dabar* [word] employed here,¹⁸ and in reference to his [the elder's] rebelliousness. But let us, in turn, deduce [that the execution of] the rebellious elder [is by seventy-one] by employing the analogy of *hazadah* written therein and in the case of the false prophet.¹⁹ — He [the *Tanna*] had a tradition authorizing the analogy of *dabar*, but not that of *hazadah*.²⁰

NOR THE HIGH PRIEST. Whence is this derived? — R. Adda b. Ahabah said: Scripture states, Every great matter they shall bring unto thee.²¹ [This means:] The matters [viz., delinquencies] of the great [man].²²

An objection is raised: A great matter [means] 'a difficult²³ case'. You say, 'a difficult case'; but perhaps it is not so, the meaning being 'the matters of the great man'? Since Scripture states further on, Hard causes [difficult cases] they brought unto Moses,²⁴ it is clear that difficult cases are meant. [Hence great matter means 'difficult case']? — His²⁵ view is that of the following *Tanna*. For it has been taught: Every great matter, means 'the matters of a great [man]'. You say so, but may it not

mean, 'every difficult case'? When Scripture further refers to 'hard causes' [difficult cases], these have already been mentioned.²⁶ How then, do I interpret, 'great matter'? — 'The matters of the great [man].'²⁷

But according to that *Tanna*,²⁸ why the need of both verses? — The one states the law itself; the other, its practice.²⁹ But the other [*Tanna*]?³⁰ — If so,³¹ either 'great' should be employed in both passages, or 'difficult' in both. Why 'great' in one passage and 'difficult' in the other? We may infer therefrom the two meanings.³²

R. Eleazar asked: How many judges are needed to judge the [goring] ox of the High Priest? Is it assimilated to the execution of his owner,³³ or is it assimilated to that of owners in general?³⁴ — Abaye said: Since he raised the question with regard to his ox, it seems that in regard to his other monetary cases, he is certain.³⁵ But is not this obvious? — No, for you might have supposed from the verse, Every great matter ... that every matter of the great man³⁶ [is to be brought before the great Sanhedrin]. He [Abaye] therefore informs us [otherwise].

WAR OF FREE CHOICE, etc. Whence do we deduce this? — Said R. Abbahu: Scripture states, And he shall stand before Eleazar the Priest [who shall inquire for him by the judgment of the Urim before the Lord. At his word shall they go out and at his word they shall come in, both he and all the children of Israel with him even all the Congregation].³⁷ 'He', refers to the King;³⁸ 'And all the children of Israel with him,' to the Priest anointed for the conduct of war;³⁹ and, 'all the Congregation,' means the Sanhedrin.⁴⁰ But perhaps it is the Sanhedrin whom the Divine Law instructs to inquire of the Urim and Tummim?⁴¹ — But [it may be deduced] from the story related by R. Aha b. Bizna in the name of R. Simeon the Pious: A harp hung over David's bed, and as soon as midnight arrived, a northerly wind blew upon its strings and caused it to play of its

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own accord. Immediately David arose and studied the Torah until the break of dawn. At the coming of dawn, the Sages of Israel entered into his presence and said unto him: 'Our Sovereign King, thy people Israel need sustenance.' 'Go and support yourselves by mutual trading,'⁴² David replied, 'But,' said they, 'a handful does not satisfy the lion, nor can a pit be filled with its own clods.'⁴³ Whereupon David said to them: 'Go and stretch forth your hands with a troop [of soldiers].'⁴⁴ Immediately they held counsel with Ahitophel and took advice from the Sanhedrin⁴⁵ and inquired of the Urim and Tummim. R. Joseph said: What passage [states this]?

1. Irrespective of the manner of transgression, provided it carries with it the penalty of death.
2. Ex. XVIII, 22.
3. I.e., the High Priest ([H] lit., 'great priest'), v. *infra*, and 18b.
4. Who, accordingly, is tried by seventy-one (v. preceding note).
5. When Palestine was divided for the first time amongst the tribes.
6. Lit., 'here'.
7. Objects used as a kind of Divine oracle which the High Priest wore on his breast, v. B.B. 122a.
8. By stoning.
9. Viz., of seventy-one.
10. Deut. XVII, 5.
11. The local court of twenty-three.
12. But before a court of seventy-one.
13. [H], presumption.
14. In reference to the false prophet, Deut. XVIII, 20.
15. Ibid. XVII, 12. *And the man that does presumptuously (bezadon).*
16. Ibid: *that man shall die.*
17. The reference to the Sanhedrin in Deut. XVII, 12, is only with respect to his disregard of their decision.
18. The false prophet: *ibid.* XVIII, 20, *The prophet that shall speak a word.* The elder: *ibid.* XVII, 10, *And thou shalt do according the word.* The need of seventy-one for the false prophet, therefore, is derived from the passage relating to the *rebelliousness* of the elder, which must be directed against the major Sanhedrin.
19. I.e., just as the rule, that the judgment of the false prophet must be by seventy-one, is

derived from an analogy of the two dabars, so, on the other hand, we may deduce that the execution of the elder must be by seventy-one, from an analogy of the two hazadahs.

20. That analogy was not handed down to him by his teachers, and no man may set up an analogy of his own. Cf. Pes. 66a and other places.
21. Moses. Ex. XVIII, 22.
22. E.g., the High Priest. v. p. 76, n. 8.
23. Lit., 'hard'.
24. Ibid. XVIII, 26.
25. R. Adda b. Ahabah.
26. And therefore the previous verse is unnecessary on this assumption.
27. I.e., the High Priest.
28. The first *Tanna*, who interprets 'great matter' as 'difficult case'.
29. Ex. XVIII, 22, states the law; *ibid.* 26 merely relates that this was carried out, but gives no new law.
30. I.e., why interpret both verses (v. n. 11) as stating laws, when the second is obviously mere narrative?
31. That the same thing is referred to in both verses.
32. a) Matters of a great man, b) difficult case. For though the second verse is a narrative, it refers to a difficult case, and is not identical with the first verse.
33. Which is by seventy-one.
34. Which is by twenty-three, v. Mishnah, *supra* 2a.
35. That they must be tried before a court of three.
36. Even monetary cases.
37. Num. XXVII, 21-22.
38. Joshua, who had regal authority.
39. And whose call to war must be heeded by all Israelites.
40. V. p. 3, no. 4.
41. I.e., that none but the Sanhedrin (also the King and the Priest anointed for war) may enquire of the Urim and Tummim: but not because of any need to obtain their permission for the proclamation of war.
42. Lit., 'one from another'.
43. A community cannot live on its own resources.
44. Invade foreign territory.
45. Hence the ruling in the Mishnah, that the permission of the Sanhedrin was required for the proclamation of war.

Sanhedrin 16b

— *And after Ahitophel was Benaiah the son of Jehoiada⁴ and Abiathar; and the Captain of*

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*the king's host was Joab.*² 'Ahitophel' is the adviser, even as it is written, *And the counsel of Ahitophel which he counseled in those days, was as if a man inquired from the word of God.*³ 'Benaiah the son of Jehoiada', refers to the Sanhedrin, and 'Abiathar' to the *Urim and Tummim*. And so it is written, *And Benaiah the son of Jehoiada was over⁴ the Kerethites and Pelethites.*⁵ And why were they⁶ termed *Kerethites*?⁷ — Because they gave definite instructions,⁸ *And Pelethites*?⁹ — Because their acts were wonderful. Only after this [is it written], *And the captain of the king's host was Joab.*¹⁰ R. Isaac the son of R. Adda, — others state, R. Isaac b. Abudimi — said: What verse [tells us of the harp hanging over David's bed]? — *Awake my glory, awake psalter and harp; I will wake the dawn.*¹¹

THE ENLARGEMENT OF THE CITY, etc. Whence is this derived? R. Shimi b. Hiyya said: Scripture states, *According to all that I show thee, the pattern of the Tabernacle [and the pattern of all the furniture thereof] even so shall ye make it*¹² — [meaning,] in future generations¹³ Raba objected: All vessels made by Moses were hallowed by their anointing: those made subsequently were consecrated by [their] service.¹⁴ But why? Let us suppose [that] 'even so shall you make' applies to future generations [in this respect too]¹⁵ — There it is different, for Scripture states, *And he had anointed them and sanctified 'otham' [them];*¹⁶ [hence] only they [were sanctified] by anointing, but not those of later generations. But why not deduce this: those¹⁷ [could be consecrated only] by anointing, whereas the vessels made afterwards might be consecrated either by service or by anointing? — R. Papa said: Scripture reads, ... wherewith they shall minister in the Sanctuary.¹⁸ Thus, Scripture made them [i.e., their consecration] dependent on service.¹⁹ Why then do we need 'otham'?²⁰ — But for 'otham', I might have thought that the consecration of the vessels of the future required both anointing and service, since it is written, so shall you make it;²¹ the Divine Law therefore emphasized,

'otham',²² i.e., only they need anointing, but not those of future generations.

THE APPOINTMENT OF THE SANHEDRIN IS BY SEVENTY-ONE. Whence do we derive this law? — Since we find that Moses set up Sanhedrins,²³ and Moses had an authority equal to that of seventy-one.²⁴

Our Rabbis taught: Whence do we know that judges are to be set up for Israel? — From the verse, *Judges thou shalt make thee.*²⁵ Whence do we deduce the appointment of officers²⁶ for Israel? — From the same verse, *Officers shalt thou make thee.* Whence the appointment of judges for each tribe? — From the words, *Judges ... for thy tribes.*²⁷ And the appointment of officers for each tribe? — From the words, *Officers ... for thy tribes.* Whence the appointment of judges for each town? From the words, *Judges ... in all thy gates.* And the appointment of officers for each town? — From the words, *Officers ... in all thy gates.*²⁸ R. Judah says: One [judicial body]²⁹ is set over all the others, as it is written, ... *shalt thou make thee.*³⁰ Rabban Simeon b. Gamaliel said: [The immediate connection] of 'they shall judge' and 'for thy tribes'³¹ indicates that the tribal court must judge only those of its own tribe.

THE CONDEMNATION OF A TOWN [etc.]. Whence is this derived? — R. Hiyya b. Joseph said in R. Oshaia's name: Scripture states, *Then shalt thou bring forth that man or that woman,*³² [teaching,] an individual man or woman thou mayest bring to thy gates,³³ but not a whole town.³⁴

A CITY ON THE BORDER MAY NOT BE CONDEMNED. Why? — Because the Torah says: *From the midst of thee,*³⁵ but not [a city] on the border.³⁶

NOR CAN THREE CITIES BE CONDEMNED. For it is written, *Concerning one of the cities.*³⁷ Yet one or two may be condemned, as it is written, *of thy cities.*³⁸

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Our Rabbis taught: [Concerning] one [of the cities]: 'one', excludes three. You say that it excludes three; but why not assume that it excludes even two? — When it states, 'thy cities', two then are indicated;³⁹ hence, how do I explain 'one'? — That one [or two] cities may be condemned, but not three. At times Rab said that a single court cannot condemn three cities, but that [that number] may be condemned by two or three courts; at others he maintained that [three cities] can never be condemned, even by two or three courts. What is Rab's reason? — Because of 'baldness'.⁴⁰ Resh Lakish said: They [sc. the Rabbis] taught this [only if the cities are] in a single province,⁴¹ but if they lie in two or three different provinces, they may be condemned. R. Johanan holds that they may not be condemned [even in that case], for fear of 'baldness'. [A Baraitha] was taught which is in agreement with R. Johanan: We cannot condemn three cities in Eretz Yisrael; but we may condemn two [if situated in two provinces] e.g. one in Judea and one in Galilee; but two in Judea or two in Galilee may not be condemned; and near the border, even a single city cannot be condemned. Why? Lest the Gentiles become aware of it and destroy the whole of Eretz Yisrael.⁴² But may not this⁴³ be deduced from the fact that the Divine law wrote, From the midst of thee, [implying], but not from the border? — He [the author of the Baraitha] is R. Simeon, who always interprets the Biblical law on the basis of its meaning.⁴⁴

THE GREAT SANHEDRIN, etc. What is the reason for the Rabbis maintaining that MOSES WAS OVER THEM?⁴⁵ — Scripture says, That they may stand there

1. The Biblical version of the verse is *Jehoiada the son of Benaiah*. Tosaf. Hananel and Aruk (art. [H] a.) base their versions on this reading and comment accordingly. Rashi and this translation follow the text of the printed editions of the Talmud which agree with II Sam. XX, 23, and I Chron. XVIII, 17.
2. I Chron. XXVII, 34.
3. II Sam. XVI, 23.
4. Of higher rank (Rashi).

5. I Chron. XVIII, 17, and II Sam. XX, 23. Since Abiathar is mentioned in the previous verse after Benaiah, it follows that it is he who is referred to by *Kerethites* and *Pelethites*. [According to the text adopted by R. Tam (v. Tosaf.), the verse '*Benaiah the son of Jehoiada*, etc.' follows the word 'Sanhedrin'. The explanation of *Kerethites* and *Pelethites* refers accordingly to the Sanhedrin.]
6. The *Urim* and *Tummim*.
7. [H] 'to cut'.
8. Lit., 'they cut their words.'
9. [H] fr. [H] 'wonder'.
10. I.e., only after the Sanhedrin had authorized a war was there any need for Joab, the chief general.
11. Ps. LVII, 9. '*I will wake the dawn*' implies that 'I am up and stirring before the dawn'.
12. Ex. XXV, 9.
13. Just as the position and bounds of the Tabernacle were regulated by Moses, representing the Great Sanhedrin, so must the boundaries of the city and Temple Courts be decided upon by the Great Sanhedrin.
14. I.e., by their very use itself. Shebu. 15a.
15. I.e., in regard to the consecration of the vessels by the anointing.
16. Num. VII, 1.
17. Of the time of Moses.
18. Num. IV, 12.
19. And the use of the imperfect [H] (*they shall minister*) implies that the reference is to vessels of generations subsequent to Moses.
20. [H] 'them', in Num. VII, 1, which appears to serve as an exclusion — which in face of the said verse is unnecessary.
21. Interpreted to mean, 'for later generations', v. *supra*.
22. 'Them, to indicate a limitation.
23. Ex. XVIII, where it is related how Moses followed the advice of Jethro, his father-in-law.
24. V. *supra* 13b.
25. Deut. XVI, 18.
26. To execute the sentence of the court.
27. Ibid.
28. Ibid.
29. I.e., the major Sanhedrin.
30. Which indicates that the whole of Israel was to be treated as a corporate unit.
31. The verse reads, *Judges ... shalt thou make thee ... for* (E.V. throughout) *thy tribes, and they shall judge ... thus; 'for thy tribes'* is coupled with '*and they shall judge*'.
32. Deut. XVII, 5.
33. I.e., to the court at thy gates which consists of twenty-three.
34. The latter before a court of seventy-one.
35. Ibid. XIII, 14.

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36. V. p. 83, n. 4.
37. Ibid. XIII, 13.
38. 'Undefined plurals mean at least two,' is a Talmudic rule.
39. V. n. 12.
40. I.e., depopulation.
41. Lit., 'place'; e.g., Judea and Galilee.
42. Tosef. Sanh. XIV.
43. That a border city may not be condemned.
44. V. 111.
45. I.e., that the court consisted of seventy besides Moses.

Sanhedrin 17a

with thee:¹ 'With thee' implies, 'and thou with [i.e., in addition to] them.' And R. Judah?² — 'With thee' was stated on account of the *Shechinah*.³ And the Rabbis?⁴ — Scripture saith, And they shall bear the burden of the people with thee:⁵ 'With thee' implies, 'and thou with them'. And R. Judah? — 'With thee' intimates that [the elders must] be like thee,⁶ [Moses]. And the Rabbis?⁷ — Scripture saith, So shall they make it easier for thee and bear the burden with thee;⁸ and the major Sanhedrin is deduced from the minor.

Our Rabbis taught: But there remained two men in the camp.⁹ Some say: They [i.e., their names]¹⁰ remained in the urn.¹¹ For when the Holy One, blessed be He, said to Moses, Gather unto me seventy of the elders of Israel,¹² Moses said [to himself]: 'How shall I do it? If I choose six out of each tribe, there will be two more [than the required number]; if I select five, ten will then be wanting. If, on the other hand, I choose six out of one and five out of another, I shall cause jealousy among the tribes.' What did he do? — He selected six men [out of each tribe], and brought seventy-two slips, on seventy of which he wrote the word 'Elder', leaving the other two blank. He then mixed them all up, deposited them in an urn, and said to them, 'Come and draw your slips.' To each who drew a slip bearing the word 'Elder', he said, 'Heaven has already consecrated thee.' To him who drew a blank, he said: 'Heaven has rejected thee, what can

I do?' Similarly, thou readest, Thou shalt take five *shekels* apiece by the poll.¹³ Moses reasoned: How shall I act toward Israel? If I say to a man, 'Give me [the *shekels* for] thy redemption,' he may answer, 'A Levite has already redeemed me.' What did he do? He brought twenty-two thousand slips and wrote on each, 'Levite', and on another two hundred and seventy-three he wrote, 'five shekels'. Then he mixed them up, put them into an urn and said to the people, 'Draw your slips.' To each who drew a slip bearing the word 'Levite', he said, 'The Levite has redeemed thee.' To each who drew a ticket with 'five shekels' on it, he said, 'Pay thy redemption and go.'

R. Simeon said: They¹⁴ remained in the Camp. For when the Holy One, blessed be He, ordered Moses: Gather unto me seventy of the elders of Israel, Eldad and Medad observed, 'We are not worthy of that dignity.' Thereupon the Holy One, blessed be He, said, 'Because you have humbled yourselves, I will add to your greatness yet more greatness.' And how did He add to their dignity? — In that all [the other prophets] prophesied and ceased, but their prophesying did not cease. And what did they prophesy? — They said, 'Moses shall die and Joshua shall bring Israel into the land.'

Abba Hanin said on the authority of R. Eliezer: They prophesied concerning the matter of the quails,¹⁵ [saying], 'Arise, quail; arise, quail.'

R. Nahman said: They prophesied concerning Gog and Magog.¹⁶ as it is said, Thus saith the Lord God: Art thou he of whom I spoke in old time by My servants the prophets of Israel, that prophesied in those days for many years¹⁷ that I would bring thee against them?, etc.¹⁸ Read not 'shanim' [years] but 'shenayim' [two].¹⁹ And which two prophets prophesied the same thing at the same time? — Say, they are Eldad and Medad.

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The Master said: 'All the other prophets prophesied and ceased, but they prophesied and did not cease.' Whence do we infer that the others ceased? Shall we say, from the verse, They prophesied 'velo yasafu' [but they did so no more]?²⁰ If so, what of the passage. With a great voice, velo yasaf?²¹ Does that too mean, it went on no more?²² But that must be interpreted, It did not cease.²³ — But here²⁴ it is written, And they prophesied,²⁵ whereas there²⁶ it is stated, [they] were prophesying,²⁷ i.e., they were still continuing to prophesy.

Now, according to the statement [that they prophesied] that Moses would die, [Joshua's request,] My Lord Moses, forbid them, is understandable; but on these two other views,²⁸ why [did he say], My Lord Moses, forbid them²⁹ — Because their behavior was not seemly, for they were like a disciple who decides questions in the very presence of his teacher. Now, according to these two other opinions [the wish expressed by Moses,] Would that all the Lord's people were prophets²⁹ is reasonable; but on the view [that they prophesied] that Moses would die, was he then pleased therewith? — They did not complete their prophecy in his presence. How was Moses to 'forbid them' [as Joshua requested]? He [Joshua] said to him: Lay upon them public cares, and they will cease [prophesying] of themselves.³⁰

WHENCE DO WE LEARN THAT WE MUST FIND ANOTHER THREE? But after all, a majority of two for an adverse verdict is impossible:³¹ if eleven find the man not guilty and twelve find him guilty, there is still a majority of only one;³² and if there are ten for not guilty and thirteen for guilty, there is a majority of three? — R. Abbahu said: [The majority of two] is possible only where [two] judges are added,³³ and then the Mishnah agrees with the opinion of all, whilst in the major Sanhedrin, it is possible in accordance with the view of R. Judah, who holds their number to be seventy.³⁴

R. Abbahu also said: Where judges are added, an evenly-balanced court may be appointed from the very outset. But is this not obvious?³⁵ — You might have assumed that the one who says, 'I do not know' is regarded as an existing member, and that anything he says is to be taken into consideration. We are therefore informed that he who says, 'I do not know,' is regarded as nonexistent, and if he gives a reason [for a particular verdict] we do not listen to him.

R. Kahana said: If the Sanhedrin unanimously find [the accused] guilty, he is acquitted. Why? — Because we have learned by tradition that sentence must be postponed till the morrow in hope of finding new points in favor of the defence.³⁶ But this cannot be anticipated in this case.³⁷

R. Johanan said: None are to be appointed members of the Sanhedrin, but men of stature, wisdom, good appearance, mature age, with a knowledge of sorcery,³⁸ and who are conversant with all the seventy languages of mankind,³⁹ in order that the court should have no need of an interpreter. Rab Judah said in Rab's name: None is to be given a seat on the Sanhedrin unless he is able to prove the cleanness of a reptile from Biblical texts.⁴⁰ Rab said: 'I shall put forward an argument to prove its cleanness.

1. Num. XI, 16.
2. How does he interpret 'with thee'?
3. I.e., in order to deserve that the *Shechinah* should rest upon them, as it is written, And I will take of the spirit which is upon thee, etc. (Num. XI, 17). But it does not teach that Moses was to be counted in addition to them.
4. How do they know that Moses was over them, seeing that 'with thee' has a different meaning?
5. Num. XI, 17.
6. E.g., in purity of family descent and bodily perfection.
7. Whence do they deduce this?
8. Ex. XVIII, 22, referring to the minor Sanhedrin.
9. Num. XI, 26.
10. Eldad and Medad.
11. V. *infra*.

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12. Num. XI, 16.
13. Num. III, 47. After the completion of the Tabernacle, the Levites were called to replace the firstborns of all Israelites in the service of the Sanctuary, (cf. Ex. XXIV, 5; XIX, 24.) In order to effect this transfer of office, both the firstborn and the Levites were numbered. And when it was found that of the former there were twenty-two thousand two hundred and seventy-three; and of the latter, twenty-two thousand, the two hundred and seventy-three firstborns who were in excess of the Levites were redeemed at the rate of five *shekels* per head. (Five *shekels* is the legal sum for the redemption of a firstborn. v. Num. XVIII, 16). To solve the difficulty of deciding who was to be redeemed and who exchanged, the above scheme was adopted.
14. Eldad and Medad.
15. The birds by which the Israelites were miraculously fed in the wilderness. Ex XVI, 11-13; Num. XI, 31.
16. According to a widespread tradition, Gog and Magog represented the heathen nations or aggregate powers of evil, as opposed to Israel and the Kingdom of God, v. 'Eduy. II, 5. Ezekiel (XXXVIII, 2; XXXIX, 6) pictured the final destruction of the heathen world before the city of Jerusalem, as the defeat of Gog and Magog.
17. [H] which may be read either '*shanim*' years or '*shenayim*' 'two'.
18. Ezek. XXXVIII, 17.
19. I.e., the two prophets who prophesied, etc.
20. [H]
21. [H] Deut. V, 19.
22. But surely this cannot be said of the *Shechinah*.
23. So in the first verse, [H] must bear the same connotation.
24. Speaking of the elders, Num. XI, 25.
25. [H] (imperfect with *waw* conversive = perfect).
26. In the case of Eldad and Medad, Num. XI, 27.
27. [H] (participle).
28. That they prophesied concerning the quails, or about Gog and Magog.
29. Ibid. XI, 29.
30. There is here a play on words, 'forbid them' being connected with 'ceasing'. Communal activities bring sorrow, and prophecy is possible only to the joyous spirit (Tosaf.).
31. In a Sanhedrin of twenty-three.
32. And for conviction, a majority of two is necessary; v. p. 3.
33. As in the following case: If eleven found him guilty and eleven not guilty, while the twenty-third is dubious, the law provides for an addition of two members. In case these agree

with the accusers, the majority for condemnation is then two, v. Mishnah *infra* 40a.

34. It might happen that thirty-six condemn and thirty-four acquit.
35. Surely this has already been stated in the Mishnah cited. For if two are added when the twenty-third is dubious, the court consists of an even number.
36. V. *infra* 34a; 35a.
37. Lit., 'But these will no more see for him (any merit).'
38. So as to be able to detect those who seduce and pervert by means of witchcraft, cf. Rashi.
39. This number is given frequently in Talmud and Midrash as the number of languages existing in the world. V. Pirke de R. Eliezer, ch. 24; *Targum* Jonathan on Gen. XI, 8, and Rashi on Deut. I, 5. As it is impossible for one man to know all these languages, he must have meant that amongst them all, all the languages were to be known. But cf. Rab's dictum below.
40. I.e., he must be of subtle mind, so as to be able to prove the cleanness of reptiles that are definitely declared unclean in Scripture. V. Lev. XI, 29-39.

Sanhedrin 17b

If a snake which causes so much uncleanness through killing is clean,¹ should not a reptile, which does not kill and spread uncleanness, be clean?' But it is not so, [as is proved] by comparison with an ordinary thorn.²

Rab Judah said in Rab's name: A Sanhedrin must not be established in a city which does not contain [at least] two who can speak [the seventy languages] and one who understands them. In the city of Bethar there were three and in Jabneh four [who knew how to speak them]: [viz.,] R. Eliezer, R. Joshua. R. Akiba, and Simeon the Temanite, who used to discuss before them sitting on the ground.³

An objection is raised: A Sanhedrin that has three⁴ [able to speak the seventy languages] is wise [capable]; if four,⁵ it is of the highest standard possible.⁶ — He⁷ holds the same view as the Tanna [of the following Baraita]: It has been taught: With two, [the

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Sanhedrin is] wise [capable]; with three, it reaches the highest standard possible.

[The following rules apply throughout the Talmud: The statement,] 'It was argued before the Sages,' refers to Levi who argued before Rabbi. 'It was discussed before the Sages,' refers to Simeon b. Azzai, Simeon b. Zoma, Hanan the Egyptian, and Hanania b. Hakinai.⁸ R. Nahman b. Isaac taught that there were five: the three Simeons,⁹ Hanan [the Egyptian] and Hanania [b. Hakinai].

'Our Rabbis in Babylon' refers to Rab and Samuel.

'Our Rabbis in Eretz Yisrael', to R. Abba.

'The judges of the Exile', to Karna.¹⁰

'The judges of Eretz Yisrael', to R. Ammi and R. Assi.

'The judges of Pumbeditha', to R. Papa b. Samuel,

'The judges of Nehardea', to R. Adda bar Minyomi.

'The elders of Sura', to R. Huna and R. Hisda.

'The elders of Pumbeditha', to Rab Judah and R. 'Aina.

'The keen intellects of Pumbeditha', to 'Efa and Abimi, sons of Rehabah.

'The Amoraim of Pumbeditha', to Rabbah and R. Joseph.

'The Amoraim of Nehardea', to R. Hama.

[Where we read,] 'Those of Neharbelai¹¹ taught,' it refers to Rammi b. Berabi.¹²

'They said in the School of Rab', refers to R. Huna. But did not R. Huna himself say,

'They said in the School of Rab'? — R. Hammuna is therefore the one referred to.

'They said in the West',¹³ refers to R. Jeremiah.

'A message was sent from Palestine',¹⁴ to R. Jose b. Hanina. 'They laughed at it in the West', to R. Eleazar. But do we not read: 'A message was sent from Palestine: according to R. Jose b. Hanina ...'?¹⁵ — Therefore reverse it: 'A message was sent from Palestine' refers to R. Eleazar; 'They laughed at it in the West', to R. Jose b. Hanina.

WHAT MUST THE POPULATION OF A CITY BE IN ORDER THAT IT MAY QUALIFY FOR A SANHEDRIN? A HUNDRED AND TWENTY, etc. What is the reason for that NUMBER?¹⁶ — Twenty-three, corresponding to the number of the minor Sanhedrin, and three rows of twenty-three,¹⁷ make ninety-two. Adding the ten 'batlanim'¹⁸ of the Synagogue, we have a hundred and two. Then, a further two clerks,¹⁹ two sheriffs,²⁰ two litigants, two witnesses, two *zomemim*,²¹ and two to refute the *zomemim*,²² gives a hundred and fourteen in all. Moreover, it has been taught: A scholar should not reside in a city where the following ten things are not found: A court of justice that imposes flagellation and decrees penalties; a charity fund²³ collected by two and distributed by three;²⁴ a Synagogue; public baths; a convenience; a circumciser; a surgeon, a notary;²⁵ a slaughterer²⁶ and a school-master.²⁷ R. Akiba is quoted [as including] also several kinds of fruit [in the list], because these are beneficial²⁸ to the eyesight.

R. NEHEMIA SAYS, [TWO HUNDRED AND THIRTY, etc.]. It has been taught: Rabbi said:

1. As it is not included in the list of unclean creatures in Scripture; *ibid.*: and its dead carcass does not defile.

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2. For a thorn-prick also causes death, and so spreads uncleanness, yet it cannot be regarded by anyone as otherwise than clean.
3. Because he was as yet unqualified owing to his immaturity, yet he was allowed to take part in the discussion.
4. [Lit. 'of three', v. Yad. Ramah.]
5. Cf. preceding note.
6. Hence it appears that at least three such men are needed by a city, in order that it may qualify for a Sanhedrin.
7. I.e., Rab, who says that only two are required.
8. Though not ordained they were permitted to join the discussion in the presence of the ordained Rabbis; v. Bacher, AT. I, 409, 3.
9. I.e., the two Simeons referred to above, and Simeon the Temanite.
10. [Var. lec. Samuel and Karna, v. Rashbam, B.B. (Sonc. ed.) p. 279. n. 8; p. 419, n. 3.
11. [Neharbel identified with Nehar Bil, east of Bagdad, Obermeyer, p. 269.]
12. Beribi (v. Rashi, Bezah 8b); or 'Beroki' according to the Aruch.
13. The Babylonians, when alluding to Palestine, called it the West, as Palestine was to the W. of Babylon. V. Ber. 2b.
14. Lit., 'from there', which refers usually to Palestine, v. p. 15.
15. How then could the sender himself be R. Jose b. Hanina?
16. Lit., 'what has (the number) to do (with that)?'
17. Usually seated behind the Sanhedrin for the purpose of completing courts. For full explanation, v. Mishnah, *infra* 37a.
18. [H] fr. [H] 'to rest from labor', 'to be at ease or idle', hence men with leisure. Ten such men were appointed in every Community to attend religious services, in order to ensure the requisite quorum for public worship — the *minyán*. v. Meg. 3b.
19. To take down notes for the prosecution and defense, v. *infra* 37a.
20. The court beadles, who summoned the litigants and carried out the court sentences, such as flagellation.
21. V. Glos. No testimony is valid if there is no possibility of its being refuted. Hence two are necessary for that.
22. As a further precaution, lest false witnesses be hired to refute the first two.
23. [H] *kupah*, the communal fund from which distributions in money were made to the poor every Friday. B.B. 8b.
24. V. B.B. 8b.
25. For writing scrolls, etc.
26. Rashal deletes this; in that case, the charity fund ranks as two institutions, viz., the collection and distribution.

27. Rashi suggests the following persons as the six necessary to complete the hundred and twenty: viz., the two collectors and three distributors of charity, and one man capable of practicing all the other professions.
28. Lit., 'enlighten'.

Sanhedrin 18a

[The population must be] two hundred and seventy-seven.¹ But has it not been taught: Rabbi said, [The population must be] two hundred and seventy-eight? — There is no difficulty: The one statement is according to R. Judah;² the other according to the Rabbis.³

Our Rabbis taught: *And place such over them to be rulers of thousands, rulers of hundreds, rulers of fifties and rulers of tens:*⁴ The rulers of thousands amounted to six hundred;⁵ those of hundreds, six thousand; those of fifties, twelve thousand; and those of tens, sixty thousand. Hence the total number of judges in Israel was seventy-eight thousand and six hundred.

CHAPTER II

MISHNAH. THE HIGH PRIEST MAY JUDGE AND BE JUDGED, TESTIFY AND BE TESTIFIED AGAINST. HE MAY PERFORM *HALIZAH*,⁶ AND THE SAME MAY BE DONE TO HIS WIFE. THE DUTY OF *YIBBUM*⁷ MAY BE PERFORMED TO HIS WIFE; HE HOWEVER, MAY NOT, PERFORM THAT DUTY, SINCE HE IS FORBIDDEN TO MARRY A WIDOW.⁸

IF A DEATH HAPPENS IN HIS FAMILY, HE MUST NOT WALK IMMEDIATELY BEHIND THE BIER,⁹ BUT WHEN THEY¹⁰ DISAPPEAR,¹¹ HE MAY SHOW HIMSELF;¹² WHEN THEY APPEAR [IN ONE STREET], HE MUST BE HIDDEN.¹³ [IN THIS MANNER] HE MAY GO WITH THEM AS FAR AS THE ENTRANCE OF THE GATE OF THE CITY. SO HOLDS R. MEIR. R. JUDAH SAID: HE MUST NOT LEAVE THE SANCTUARY, BECAUSE IT IS WRITTEN, NEITHER SHALL HE GO OUT

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OF THE SANCTUARY'.¹⁴ WHEN HE CONSOLES OTHERS, IT IS CUSTOMARY FOR THE PEOPLE TO PASS ALONG, ONE AFTER THE OTHER,¹⁵ AND FOR THE 'MEMUNNEH',¹⁶ TO PLACE HIM BETWEEN HIMSELF AND THE PEOPLE.¹⁷ IF HE IS CONSOLED BY OTHERS, ALL THE PEOPLE SAY TO HIM, 'MAY WE BE THY ATONEMENT, AND HE ANSWERS THEM,' BE YE BLESSED OF HEAVEN. AND WHEN THE MOURNERS' MEAL¹⁸ IS GIVEN TO HIM, ALL THE PEOPLE ARE SEATED ON THE FLOOR AND HE ON A STOOL.

THE KING MAY NEITHER JUDGE NOR BE JUDGED, TESTIFY NOR BE TESTIFIED AGAINST. HE MAY NOT PERFORM *HALIZAH* NOR MAY IT BE PERFORMED TO HIS WIFE. HE MAY NOT PERFORM YIBBUM, NOR MAY IT BE PERFORMED TO HIS WIFE. R. JUDAH SAID: IF HE WISHES TO PERFORM *HALIZAH* OR YIBBUM, HE SHALL BE REMEMBERED FOR GOOD. BUT THEY [THE RABBIS] SAID: [EVEN IF HE WISHES] HE IS NOT LISTENED TO; NOR MAY ANY ONE MARRY HIS WIDOW. R. JUDAH SAID: A KING MAY MARRY A KING'S WIDOW, FOR SO WE FIND IN THE CASE OF DAVID WHO MARRIED THE WIDOW OF SAUL, AS IT IS WRITTEN, AND I GAVE THEE THY MASTER'S HOUSE AND THY MASTER'S WIVES INTO THY BOSOM.¹⁹

GEMARA. THE HIGH PRIEST [MAY JUDGE]. But is this not obvious? — It is necessary to state, HE MAY BE JUDGED.²⁰ But that too is obvious, for if he cannot be judged, how can he judge? It is not written, *hithkosheshu wa-koshshu*,²¹ which Resh Lakish interpreted: Adorn yourselves first, and then adorn others?²² — But since he [the Tanna] wishes to state: A KING MAY NEITHER JUDGE NOR BE JUDGED, he also, teaches' THE HIGH PRIEST MAY JUDGE AND BE JUDGED. Alternatively, he [the Tanna] informs us of the following: Viz., of what has been taught: If a High priest killed anyone; if intentionally, he is executed, if unintentionally, he is exiled.²³ He

transgresses positive and negative commandments, and ranks as a *hedyot*²⁴ in all respects.²⁵

'If intentionally, he is executed.' Is this not obvious? — It is necessary to state, 'If unintentionally, he is exiled.'²⁶ But is not that, too, evident? It is necessary; for you might have thought that I could argue from the verse, And he shall dwell therein until the death of the High Priest²⁷ that only he whose return is provided for,²⁸ is exiled, but one whose return is not provided for, is not exiled. For we learnt:

1. Tosef. III. Two hundred and thirty in accordance with R. Nehemia, and forty-seven held in reserve for increasing the number of the court of twenty-three, where one is uncertain and the rest equally divided, adding two at a time, up to a maximum of seventy or seventy-one, v. *infra* 40a.
2. Requiring only seventy to constitute the Sanhedrin.
3. Requiring seventy-one.
4. Ex. XVIII, 21.
5. Since the population consisted of 600,000. Likewise for the other officials. (Ex. XII, 35.). [This is to teach that the judges were included in the number of each respective group (Tanh. Mishpatim).
6. V. n. p. 1 and p. 31.
7. [H] The duty of a levirate marriage, i.e., the obligation of marrying one's brother's widow if she be childless. (V. Deut. XXV, 5.) Although marriage with a brother's widow was forbidden as a general rule (Lev. XVIII, 16; XX, 21), in the case of childlessness it was obligatory. This obligation could, however, be avoided by the ceremony of *Halizah*, which was recommended later in Talmudic times in preference to yibbum (v. Yeb. 39b; 109a).
8. Lev. XXI, 14. *A widow, or one divorced, or a profaned woman, or a harlot, these shall he not take.*
9. Though by following the bier, he would not come in actual contact with the dead: (v. p. 18, n. 7), precautions had to be taken so as to prevent any possibility of his becoming Levitically impure.
10. The other mourners.
11. From one street, having entered a second.
12. In the first.
13. I.e., he must always be one street behind the concourse following the bier.
14. Lev. XXI, 12.

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15. In ordinary cases, after the burial, friends of the mourner passed by in a line and offered him comfort. In later times this was reversed, the friends standing in two rows, and the mourner passing between them.
16. Lit., 'the appointed one'. An officer of high rank in the Temple, generally the superintendent of the Temple service. Here identical with the *Segan*; v. R. Papa's statement, p. 97 and n. 5. *loc. cit.*
17. I.e., The High Priest was attended on the right by the *Memunneh* and on the left by the people.
18. '*se'udath habra'ah*', the first meal after the funeral which is prepared and given to the mourners by a neighbor. (v. II Sam. III. 35; M.K. 27b). This meal consists of bread and eggs. V.B.B. 16b.
19. II Sam. XII, 8.
20. And so the first is mentioned too, for completeness.
21. [H] Zeph. II, 1. E.V. *Gather yourselves together, yea, gather together.*
22. By a play on the similarity of 'gather yourselves together', fr. [H] and 'adorn yourselves', Heb. [H]
23. V. Num. XXXV, 11.
24. V. [Glos.](#)
25. V. Sanh. Tosef. IV.
26. V. p. 92, n. 4.
27. Num. XXXV, 25.
28. I.e., by the death of the High Priest.

Sanhedrin 18b

One who killed the High Priest [unintentionally] or the High Priest who [so] killed a person, may never come forth from his place of exile.¹ Hence I would say that he should not be exiled. He therefore informs us [that he is]. But perhaps it is indeed so?² — Scripture states, Every man slayer may flee thither,³ implying even the High Priest.

'He transgresses positive and negative commandments.' But is he bound⁴ to transgress?⁵ — What it means is: If he transgressed a positive or a negative commandment, he is in every respect [equal to] a *hedyot*.⁶ But is this not obvious? — [No,] I might think, since we learnt: 'A whole tribe, a false prophet or a high priest are not to be judged except by a court of seventy one';⁷ and R. Adda b. Ahabah said: [This is

deduced from the verse,] Every great matter they shall bring unto thee,⁸ meaning, 'the matters of a great man':⁹ — therefore (I might think) all matters of a great man [involve trial by the Great Sanhedrin]; the Tanna therefore teaches us [otherwise].¹⁰

But perhaps it is so?¹¹ — Is it actually written, 'matters of a great [man]'? What it states is: 'The great matter', i.e., the really important matter.¹²

HE MAY TESTIFY AND BE TESTIFIED AGAINST. He may testify? But has it not been taught: And hide thyself from them;¹³ there are times when thou mayest hide thyself¹⁴ and there are times when thou mayest not. How so?¹⁵ — [E.g., when the finder is] a Kohen and it [sc. the object found] is in a grave-yard;¹⁶ or an old man, and it is undignified for him;¹⁷ or when his work is of greater value than his neighbor's [loss]: in such cases Scripture says, And hide thyself.¹⁸ — said R. Joseph: He may be a witness for the king.¹⁹ But have we not learnt: **HE [THE KING] MAY NEITHER JUDGE NOR BE JUDGED; TESTIFY NOR BE TESTIFIED AGAINST?** — But, said R. Zera: He may be a witness for the king's son. But the king's son is a commoner!²⁰ — Rather [say thus]: He may testify in the presence of the king.²¹ But surely the king may not be given a seat on the Sanhedrin! — For the sake of the High Priest's dignity, he comes and sits down until his evidence is received, after which he leaves and then we deliberate on his²² case.

The text [states]: 'The king may not be given a seat on the Sanhedrin;' nor may the king or the High Priest be members of the board for the intercalation of the year.

'The king [may not be given a seat] in the Sanhedrin,' — because it is written, Thou shalt not speak 'al rib [in a case].²³ [meaning], thou shalt not speak against the rab [chief of the judges].²⁴ Again, 'nor may the king or the High Priest be members of

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the board for the intercalation of the year.' The king, on account of 'Afsanya' [the upkeep of the army];²⁵ the High Priest, because of the [autumnal] cold.²⁶

R. Papa said: This²⁷ proves that the seasons of the year fall in with the normal lunar months.²⁸ But is it so? Were there not three cowherds who were standing conversing, and who were overheard by some Rabbis. One of them said: If the early and late sowing²⁹ sprout together, the month is Adar; if not, it is not Adar.³⁰ The second said: If in the morning frost is severe enough to injure³¹ an ox, and at mid-day the ox lies in the shade of the fig-tree and scratches its hide,³² then it is Adar, if not, it is not Adar. And the third said: When a strong east wind is blowing and your breath can prevail against it, the month is Adar; if not, it is not Adar. Thereupon the Rabbis intercalated the year?³³ — Is it then logical for you to assume that the Rabbis intercalated the year by a simple reliance upon cowherds? But they relied on their own calculations, and the cowherds [merely] corroborated their proposed action.³⁴

HE MAY PERFORM HALIZAH. The Tanna teaches this³⁵ categorically, irrespective of whether [his sister-in-law was widowed] after *nesu'in* or only after *erusin*.³⁶ Now, as for a widow after *nesu'in*, it is correct, since he is interdicted by a positive and a negative command,³⁷

1. That is, if there was no High Priest at the time when he was exiled. V. Mak. 11b.
2. That he should actually be exempt from exile.
3. Deut. XIX, 3.
4. Lit., 'Is there no way', 'is it impossible that he should not transgress'?
5. 'He transgresses, etc.' implies that he must transgress.
6. V. Tosef. Sanh. IV.
7. V. *supra* 2a.
8. Ex. XVIII, 22.
9. I.e., the High Priest, v *supra* 16b.
10. That through transgression he becomes a mere *hedyot* and is tried by three.
11. May not the interpretation of *the matters of a great man* apply to this also?
12. I.e., one involving capital punishment.

13. Deut. XXII, 4, in reference to the return of lost objects.
14. I.e. refrain from carrying out the duty of returning the find.
15. When is one permitted to retreat?
16. V. p. 18, n. 7.
17. To pick up the object.
18. Thus a man's dignity abrogates the injunction, 'Thou mayest not hide thyself'; in the same way, the duty of bearing testimony (v. Lev. V, 1) should be abrogated in favor of a High Priest, since it is not in keeping with his exalted office.
19. I.e. in a case where the king is one of the litigants.
20. Hence even so it is still undignified for the High Priest to testify.
21. I.e., when the king is a member of the Sanhedrin.
22. The king's son's (Rashi).
23. Ex. XXIII, 2. [H] *rib* is here written defectively, i.e., without a *yod*, hence can be read *rab*, 'master' or 'chief'.
24. I.e. if the king were a member of the Sanhedrin, other members would be inclined to suppress their opinions in deference to him.
25. [G] from [G] wages. As it would be to his interest sometimes to intercalate and sometimes not to intercalate the year, according as the payment of the army is by the year or by the month.
26. Since he might be biased against intercalation which, by placing the Day of Atonement later in the autumn, would make the several ritual baths which he has to take on that day (five immersions in all) rather cold. V. Yoma 31b.
27. The objection to the High Priest's taking part in the intercalation of the year.
28. I.e., when the year is intercalated, the weather in Tishri is the equivalent of that of Marcheshvan in an ordinary year.
29. I.e., the wheat sown earlier and the barley that was sown later (Rashi).
30. But Shewat.
31. Lit., 'kill'.
32. Through the heat.
33. Thus we see that the purpose of intercalation is to readjust the seasons, and the second Adar then has the climate of the first Adar in normal years, therefore Tishri will have its usual degree of heat in an intercalated year.
34. In case, therefore, intercalation has been prompted by a reason other than the readjusting of the seasons, the weather will vary according to the months.
35. That the High Priest may not perform *Yibbum*.
36. V. [Glos.](#) A widow after *erusin* is still a virgin.

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37. a) A virgin of his people he shall take to wife, Lev. XXI, 14; b) A widow he shall not take. *ibid.*

Sanhedrin 19a

and a positive command¹ cannot abrogate a positive and a negative command. But in the case of a widow after erusin, why [is he not permitted to marry her]?² The positive command³ should set aside the negative? — The first act of connubial intercourse was forbidden as a preventive measure against further acts.⁴ It has been taught likewise: [Where the widow is forbidden in marriage to the brother-in-law by a negative or positive command] and he has connubial relations at all with her, he acquires [her in marriage] but may not retain her for further cohabitation.⁵

IF A DEATH HAPPENS IN HIS FAMILY. Our Rabbis taught: Neither shall he go out of the Sanctuary:⁶ [this means,] he shall not go out with them, but he may go after them. How so? — When they [the other mourners] disappear, he may reveal himself [to the public]; and when they appear [in a street], he must be hidden [in another].⁷

AND HE MAY GO WITH THEM AS FAR AS THE ENTRANCE GATE OF THE CITY. [R. JUDAH SAID... BECAUSE IT IS WRITTEN ...]. Surely R. Judah's argument is correct? — R. Meir will tell you: in that case,⁸ he must not [leave the Temple] even for his house!⁹ Hence this must be the meaning of, Neither shall he go out of the Sanctuary: He must not depart from [i.e., profane] his holy status, and in this case, since he has something to remind him [of his status]¹⁰ he will not come into contact [with the dead]. And R. Judah? — Owing to his bitter grief, he might be tempted to overlook that, and thus come into contact [therewith].

WHEN HE GOES TO CONSOLE OTHERS. Our Rabbis taught: When he passes along the row to comfort others, the Segan¹¹ and

the former High Priest¹² stand on his right; whilst the Rosh-Beth-Ab,¹³ the mourners and all the people are on his left. And when he stands in the row to be comforted by others, the Segan is stationed on his right and the Rosh Beth Ab and all the public on his left. But the former High Priest is not present on this latter occasion. Why? — He [the High Priest] might feel depressed by the thought, 'He rejoices at my misfortune.'¹⁴

From this Baraita. says R. Papa, we can infer three things: [i] that the Segan [here] and the Memunneh [in the Mishnah] are identical;¹⁵ [ii] that the mourners stand, while the people pass by; [iii] that the mourners are placed to the left of the comforters.

Our Rabbis taught: Formerly the mourners used to stand still while the people passed by. But there were two families in Jerusalem who contended with one another, each maintaining, 'We shall pass first'. So the Rabbis established the rule that the public should remain standing and the mourners pass by.

Rammi bar Abba said: R. Jose restored the earlier custom in Sepphoris,¹⁶ that the mourners should stand still and the public pass by. He also said: R. Jose enacted in the same town that a woman should not walk in the street followed by her child,¹⁷ owing to an incident that once happened.¹⁸ Further, Rammi B. Abba said: R. Jose also enacted in that town that women while in the closet should talk to one another for the sake of privacy. [from the intrusion of men].

R. Manashia b. 'Awath said: I inquired of R. Josiah the Great, in the grave-yard of Huzal,¹⁹ and he told me that a row [for condolence] must consist of not less than ten people, excluding the mourners, and that it was immaterial whether the mourners stood still and the public passed by, or the mourners passed by and the public remained standing.

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WHEN HE IS COMFORTED BY OTHERS, etc. The schoolmen asked: When he consoled others, what did he say to them? — Come and hear! 'And he said [to them], Be comforted'. On what occasion [did he actually say this]? Shall we say, when others comforted him? But how could he say, 'Be comforted'? He would suggest ill-omen to them! — it must therefore be taken that when he comforted others, he said: 'Be comforted'. Draw your own conclusion!

THE KING MAY NEITHER JUDGE, etc. R. Joseph said: This refers only to the Kings of Israel, but the Kings of the House of David may judge and be judged, as it is written, O House of David, thus saith the Lord, execute justice in the morning;²⁰ and if they may not be judged, how could they judge: is it not written, Hithkosheshu wakoshshu,²¹ which Resh Lakish interpreted. 'adorn yourself first and then adorn others'?²² But why this prohibition of the kings of Israel? Because of an incident which happened with a slave of King Jannai,²³ who killed a man. Simeon b. Shetah²⁴ said to the Sages: 'Set your eyes boldly upon him and let us judge him.' So they sent the King word, saying: 'Your slave has killed a man.' Thereupon he sent him to them [to be tried]. But they again sent him a message 'Thou too must come here, for the Torah says, If warning has been given to its owners,²⁵ [teaching], that the owner of the ox must come and stand by his ox.'²⁶ The king accordingly came and sat down. Then Simeon b. Shetah said: 'Stand on thy feet, King Jannai, and let the witnesses testify against thee; yet it is not before us that thou standest, but before Him who spoke and the world came into being, as it is written, Then both the men between whom the controversy is, shall stand, etc.'²⁷ 'I shall not act in accordance with what thou sayest, but in accordance with what thy colleagues say,' he answered.

1. Sc. Her husband's brother shall go in into her and take her to him to wife. Deut. XXV, 5.

2. Since he is interdicted only by a negative command, viz., a widow he shall not take, Lev. XXI, 14.
3. Of yibbum. — This is a general rule, where two precepts come into opposition.
4. Which would be a transgression, the precept having been fulfilled by the first.
5. V. Yeb. 20b. This proves that a second act of connubial relationship is forbidden.
6. Lev. XXI, 12.
7. V. notes on Mishnah.
8. If the verse is meant literally.
9. Which is absurd. He must go home sometimes.
10. Viz., the unusual procedure.
11. V. p. 91, n. 11. [The Segan generally rendered 'deputy high priest' Schurer, II, 421, identifies him with the [G] mentioned in Josephus, the superintendent of the Temple service. V., however, Schwarz, A., in *MGWJ.*, LXIV, 30ff.
12. [H] lit., 'the anointed who has passed (from his office)'. Provisional High Priest — a Priest who is appointed to act as a substitute for the High Priest when temporarily disqualified by uncleanness. When the first returns to office, this one is known as the ex-anointed.
13. [H]. Priests were divided into eight divisions, each called Mishmar; and each Mishmar was again divided into six subdivisions, called Beth-Ab, for the service of each week-day. The chief of these sub-divisions was called Rosh-beth-ab. Cf. Maim, Yad, Kele Hamikdash, IV, 3-11.
14. Probably because the Mashuah she-'abar would be reluctant to hand over the office, and so bear ill-feelings against the rightful occupant.
15. This is deduced from the fact that the High Priest here also is placed between the mourners and the public.
16. [H] (lit. 'bird'). Important city in Galilee, at one time its capital. Frequently identified in the Talmud (Meg. 6a) with Kitron (Judges I, 30). R. Jose was born in Sepphoris and knew it well. [V. Klein, S. [H] rt. [H], 54ff.]
17. But that she should follow the child.
18. Rashi says: Once immoral men kidnapped a child which was following its mother, and she was searching for it, lured her into a house and there assaulted her.
19. [A place between Nehardea and Sura. Obermeyer *op. cit.* p. 299].
20. Jer. XXI, 12.
21. Zeph. II, 1.
22. V. p. 92, n. 6.
23. Alexander Jannaenus (Jonathan) lived 103-76 B.C.E. third son of John Hyrcanus, King of Judea but not of the House of David.

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24. He was a brother of the queen (v. Ber. 48a), yet the relationship of the ruler with the Pharisees, of whom Simeon b. Shetah was the head, was one of bitter antagonism. History relates most cruel acts which Jannai committed against them (v. Graetz, *Geschichte* III, 146ff.) At times during his reign, the Sanhedrin consisted almost entirely of Sadducees, Simeon being the only Pharisee among them (v. *Meg. Ta'anith* 10). This fact might be traced also from this incident [V. Hyman, A., *Toledoth*, III, 124. A similar story is related by Josephus. (Ant. XIV, 9, 4) of Herod who, as 'servant' of Hyrcanus was charged with murder. The identification of the incident related here with that reported by Josephus, involving a confusion of names on the part of the Talmud, as suggested by Krauss, *Sanhedrin-Makkot*, 103, is quite unwarranted.]
25. Ex. XXI, 29.
26. So too in the case of a slave, who is regarded as one of the chattels of his master.
27. Deut. XIX, 17.

Sanhedrin 19b

[Simeon] then turned first to the right and then to the left, but they all, [for fear of the King], looked down at the ground.¹ Then said Simeon b. Shetah unto them: 'Are ye wrapped in thoughts?² Let the Master of thoughts [God] come and call you to account!' Instantly, Gabriel³ came and smote them to the ground, and they died. It was there and then enacted: A King [not of the House of David] may neither judge nor be judged; testify, nor be testified against.

HE MAY NOT PERFORM *HALIZAH* NOR MAY IT BE PERFORMED, etc. [R. JUDAH SAID, etc.]

But is this really so?⁴ Did not R. Ashi say, that even according to the view that if a Nasi foregoes his honor his renunciation is accepted, yet if a King foregoes his honor, it is not accepted; for it is written, Thou shalt not in any wise set him over thee⁵ intimating, that his authority⁶ should remain over you?⁷ — A precept is a different matter.

NOR MAY ANYONE MARRY [HIS WIDOW. R. JUDAH SAID ...] It has been taught: They [the Rabbis] said to R. Judah: He [David] married women of the house of the King who were permissible to him, namely, Merab and Michal.⁸

R. Jose was asked by his disciples: How could David marry two sisters while they were both living?⁹ He answered: He married Michal after the death of Merab. R. Joshua b. Korha said: His marriage to Merab was contracted in error,¹⁰ as it is said, Deliver me my wife Michal whom I betrothed unto me for a hundred foreskins of the Philistines.¹¹ How does this prove it? — R. Papa answered: Because he said, My wife Michal but not 'my wife Merab'. Now, what was the error in his marriage [with Merab]? [It was this:] It is written, And it shall be that the man who killeth him, the king will enrich him with great riches and will give him his daughter.¹² Now he [David] went and slew him, whereupon Saul said to him: I owe thee a debt, and if one betroths a woman by a debt,¹³ she is not betrothed.¹⁴ Accordingly he gave her to Adriel, as it is written, But it came to pass at the time when Merab, Saul's daughter should have been given to David, that she was given to Adriel the Meholathite to wife.¹⁵ Then Saul said to David, 'If you still wish me to give you Michal to wife, go and bring me [another] hundred foreskins of the Philistines.' He went and brought them to him. Then he said: 'You have now two claims on me, [the repayment of] a loan¹⁶ and a *perutah*.¹⁷ Now, Saul held that when a loan and a *perutah* are offered [as *kiddushin*], he [the would-be husband] thinks mainly of the loan;¹⁸ but in David's view, when there is a loan and a *perutah*, the mind is set on the *perutah*.¹⁹ Or if you like, I will say, all agree that where a loan and a *perutah* [are offered], the mind is set on the *perutah*. Saul, however, thought that [the hundred foreskins] had no value, while David held that they had value at least as food for dogs and cats. How does R. Jose²⁰ interpret the verse, Deliver me my wife Michal? — 21 He explains it by another

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view of his. For it has been taught: R. Jose used to interpret the following confused passage thus: It is written, But the king took the two sons of Rizpah the daughter of Ayah whom she bore unto Saul, Armoni and Mephibosheth, and the five sons of Michal, the daughter of Saul, whom she bore to Adriel the son of Barzillai, the Meholathite, etc.²² But was Michal really given to Adriel; was she not given to Palti the son of Layish, as it is written, Now Saul had given Michal, David's wife, to Palti the son of Layish? ...²³ But Scripture compares the marriage of Merab to Adriel to that of Michal to Palti, to teach that just as the marriage of Michal to Palti was unlawful.²⁴ so was that of Merab to Adriel.²⁵

Now as to R. Joshua b. Korha,²⁶ surely it is written, And the five sons of Michal the daughter of Saul whom she bore to Adriel. — R. Joshua [b. Korha] answers thee: Was it then Michal who bore them? Surely it was rather Merab who bore them! But Merab bore and Michal brought them up; therefore they were called by her name. This teaches thee that whoever brings up an orphan in his home, Scripture ascribes it to him as though he had begotten him.

(Mnemonic: *Hanina* — *he called,* *Johanán* — *and his wife,* *Eleazar* — *and Redemption,* *and Samuel among his Disciples.*)²⁷

R. Hanina says this is derived from the following: And the women her neighbors, gave it a name, saying, There is a son born to Naomi.²⁸ Was it then Naomi who bore him? Surely it was Ruth who bore him! But Ruth bore and Naomi brought him up; hence he was called after her [Naomi's] name.

R. Johanan says it is derived from the following: And his wife Ha-Jehudiah²⁹ bore Yered the father of Gedor [and Heber the father of Soco, and Jekuthiel the father of Zanoah]³⁰ and these are the sons of Bithia the daughter of Pharaoh, whom Mered took.³¹ Now, 'Mered' was Caleb; and why was he

called Mered?³² — Because he opposed the counsel of the other spies.³³ But was he [Moses]³⁴ indeed born of Bithia and not rather of Jochebed? — But Jochebed bore and Bithia reared him;³⁵ therefore he was called after her.

R. Eleazar says: It is inferred from the following: Thou hast with thine arm redeemed thy people, the sons of Jacob and Joseph, Selah.³⁶ Did then Joseph beget them; surely it was rather Jacob? — But Jacob begot and Joseph sustained them; therefore they are called by his name.

R. Samuel b. Nahmani said in R. Jonathan's name: He who teaches the son of his neighbor the Torah, Scripture ascribes it to him as if he had begotten him, as it says, Now, these are the generations of Aaron and Moses;³⁷ whilst further on it is written, These are the names of the sons of Aaron: thus teaching thee that Aaron begot and Moses taught them; hence they are called by his name.³⁸

Therefore thus saith the Lord unto the house of Jacob, who redeemed Abraham.³⁹ But where do we find that Jacob redeemed Abraham? — Rab Judah answered; It means that he redeemed him from the pains of rearing children;⁴⁰ hence the passage, Jacob shall not now be ashamed, neither shall his face now wax pale.⁴¹ He shall not now be ashamed — of his father, neither shall his face now become pale — because of his grandfather.

[The second husband of David's undivorced wife] is variously called Palti⁴² and Paltiel!⁴³ — R. Johanan said: His name was really Palti, but why was he called Paltiel? Because God saved him from transgression.⁴⁴ What did he do [to be delivered from sin]? He planted a sword between her [Michal] and himself, and said, Whoever [first] attempts this thing,⁴⁵ shall be pierced with this sword. But is it not stated: And her husband [Palti] went with her?⁴⁶ — This means that he was

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to her like a husband.⁴⁷ But is it not written, He went weeping? — This was for losing the good deed [of self-restraint]. Hence [he followed her] to Bahurim, implying that they both had remained like unmarried youths⁴⁸ and not tasted the pleasure of marital relations.

R. Johanan said: Joseph's strong [temptation]⁴⁹ was but a petty trial to Boaz;⁵⁰ and that of Boaz was small in comparison with that of Palti son of Layish. 'Joseph's strong temptation was but a petty trial to Boaz,' as it is written, And it came to pass at mid-night and the man was startled, 'wa—yillafeth'.⁵¹ What is the meaning of wa—yillafeth? — Rab said: His flesh became [as hard] as turnip heads.⁵²

1. Lit., 'they pressed their faces into the ground,' fearing to express an opinion.
2. Lit., 'You are masters of (hesitating) thoughts.' I.e., 'Are you in doubt on the point as to whether the law applies to the king or not?' Said sarcastically, of course.
3. [H] (lit., 'man of God'). Angel mentioned in Dan. VIII, 16 and IX, 21. Frequently cited in Talmud as God's messenger on various missions, particularly punishment.
4. Referring to R. Judah's view.
5. Deut. XVII, 15.
6. Lit., 'his fear'.
7. I.e., fear of him should always be before your eyes. This follows from the emphasis of 'set', expressed in the Heb. as usual, by the double form of the word. — The ceremony of *Halizah* is an undignified one.
8. The daughters of Saul, but not his widows whom he was not permitted by law to marry.
9. V. Lev. XVIII, 18, Thou shalt not take a woman to her sister.
10. And so was invalid.
11. II Sam. III, 14.
12. I Sam. XVII, 25, referring to the slaying of Goliath.
13. I.e., by remitting the amount to her or, if she is a minor, to her father.
14. For in returning a money loan, unlike a trust, the debtor is not obliged to return the actual coin lent, but its equivalent. Hence the woman receives actually nothing at the time of betrothal, by which it should be effected. V. Kidd. 6b; 47a.
15. I Sam. XVIII, 19.
16. The promise to enrich him which stands as a loan.
17. A small coin representing the estimated value of the hundred foreskins. A *perutah* is sufficient to serve as token of betrothal (*kiddushin*).
18. And consequently, as stated above, she would not be betrothed.
19. Hence the betrothal is valid.
20. Who holds that before his marriage to Michal, David was legally married to Merab.
21. Which seems to exclude Merab as his wife.
22. II Sam, XXI, 8.
23. I Sam. XXV, 44.
24. And so invalid, as she was already betrothed to David.
25. Hence R. Jose interprets the words, 'Michal my wife', not as excluding Merab as wife, but rather as showing that just as Michal was legally his wife, so was Merab. Hence the marriages of Michal and Merab to Palti b. Layish and Adriel respectively, were transgressions.
26. Who holds that Merab's marriage to Adriel was not lawful.
27. V. p. 21, n. 5.
28. Ruth IV, 17.
29. Bithia, the daughter of Pharaoh, who is referred to at the conclusion of the verse.
30. All these names are designations of Moses (v. Meg. 13a).
31. I Chron. IV, 18.
32. [H] 'to disobey', 'oppose' or 'rebel'.
33. Num. XIII, 30.
34. V. n. 4.
35. Ex. II, 10.
36. Ps. LXXVII, 16.
37. Num. III, 1.
38. Under the earliest system of education, children were taught at home by their fathers, until Joshua b. Gamala reorganized the system by setting up schools in every town (B.B. 21a). Although that system was completely in vogue in the days of R. Samuel b. Nahmani, his dictum here might indicate that some virtue was still ascribed to private teaching by the parent or his proxy. It is doubtful whether it would simply refer to an ordinary elementary school teacher.
39. Isa. XXIX, 22. The E.V. translates differently.
40. Abraham, who was actually promised multiplication, should have borne the burden of rearing the children, but it fell upon Jacob.
41. Ibid.
42. I Sam. XXV, 44.
43. II Sam. III, 15.
44. The word is composed of [H] — 'to escape' and [H] — 'God'. Bible onomatology has a large number of compound names which

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express distinct ideas. Many are compound with the name of God (El) preceding it, as El-Nathan, or succeeding it, as Amiel, or as in the instance in question. The chief reason for the later addition of 'El' to 'Palti' is taken to express, as it were, the ineffably holy name to which he dedicated himself.

45. I.e., forbidden indulgence.
46. II Sam. III, 16.
47. I.e., maintaining and loving her, but no more.
48. [H] pl. of [H] a youth.
49. V. Gen. XXXIX, 7-13.
50. V. Ruth III, 8-15. I.e., the strong temptation to which Joseph was exposed, and which called forth his greatest powers of resistance, was but as a small thing, for which the mere exercise of a little self-restraint would suffice, in comparison to the temptation withstood by Boaz.
51. [H] (E.V. 'and turned himself'), Ruth III, 8.
52. [H] ([H] = head; [H] = turnip).

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'And that of Boaz was small in comparison with that of Palti son of Layish.' as has been stated above.¹

R. Johanan said: What is meant by the verse, Many daughters have done valiantly, but thou excellest them all?² — 'Many daughters', refers to Joseph and Boaz; 'and thou excellest them all', to Palti son of Layish.³

R. Samuel b. Nahmani said in R. Jonathan's name: What is meant by the verse, Grace is deceitful, and beauty is vain, but a woman that feareth the Lord, she shall be praised?⁴ — 'Grace is deceitful' refers to [the trial of] Joseph; 'and beauty is vain', to Boaz; while 'and a woman that feareth the Lord, she shall be praised', to the case of Palti son of Layish. Another interpretation is: 'Grace is deceitful', refers to the generation of Moses;⁵ 'and beauty is vain' to that of Joshua; 'and she that feareth the Lord shall be praised', to that of Hezekiah.⁶ Others Say: 'Grace is deceitful', refers to the generations of Moses and Joshua; 'and beauty is vain', to the generation of Hezekiah; while 'she that feareth the Lord shall be praised'. refers to

the generation of R. Judah son of R. Ila'i, of whose time it was said that [though the poverty was so great that] six of his disciples had to cover themselves with one garment between them, yet they studied the Torah.⁷

MISHNAH. IF A DEATH OCCURS IN HIS [THE KING'S] FAMILY, HE MUST NOT GO OUT OF THE DOOR OF HIS PALACE. R. JUDAH SAID: IF HE WISHES TO FOLLOW THE BIER, HE MAY, EVEN AS WE FIND IN THE CASE OF DAVID, WHO FOLLOWED THE BIER OF ABNER, AS IT IS WRITTEN, AND KING DAVID FOLLOWED THE BIER.⁸ BUT THEY [THE RABBIS] ANSWERED: [THIS IS NO PROOF, FOR] THAT WAS BUT TO PACIFY THE PEOPLE.⁹ AND WHEN THE MOURNERS' MEAL¹⁰ [AFTER THE FUNERAL] IS GIVEN TO HIM, ALL THE PEOPLE RECLINE ON THE GROUND, AND HE SITS ON THE DARGESH.¹¹

GEMARA. Our Rabbis taught: Wherever it is customary for women to follow the bier, they may do so; to precede it, they may do so [likewise]. R. Judah said: Women must always precede the bier, for we find that David followed the coffin of Abner, as it is written, And King David followed the bier.¹² They [sc. the Rabbis] said to him: That was only to appease the people, and they were indeed appeased, for David went to and fro, from the men to the women and back from the women to the men, as it is written, So all the people and all Israel understood that day that it was not of the king to slay Abner.¹³

Raba expounded [in a lecture]: What is meant by the verse, And all the people came 'lehabroth' [to cause] David [to eat bread]?¹⁴ The original text was, 'lehakroth'¹⁵ but we read, 'lehabroth'. At first they intended to destroy him;¹⁶ but afterwards, [being appeased,] they gave him to eat [the comforters' meal].

Rab Judah said in Rab's name: Why was Abner punished? — Because he should have protested to Saul¹⁷ but did not. R. Isaac,

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however, said: He did indeed do so, but was not heeded. Both derive their views from the same verse, viz., And the king lamented for Abner and said: Should Abner die as a churl dieth, thy hands were not bound nor thy feet put into fetters.¹⁸ The one who says that he did not protest, interprets it thus: Thy hands were not bound nor thy feet put into fetters, why then didst thou not protest? [Therefore,] As a man falleth before the children of iniquity so didst thou fall. The other who maintains that Abner did protest but was not listened to, [holds that] he [David] expressed his astonishment: Should he have died as a churl dieth? Seeing that thou didst indeed protest to Saul, Why, then, didst thou fall as a man falleth before the children of iniquity? But on the view that he did protest, why was he punished? — R. Nahman b. Isaac says: Because he delayed the accession of David's dynasty by two and a half years.¹⁹

AND WHEN THE MOURNERS MEAL IS GIVEN TO HIM, etc. What is a dargesh? — 'Ulla said: The bed of the domestic genius.²⁰ The Rabbis asked 'Ulla: How can it be that he should be made to sit on it now [as a mourner], when he had never sat on it before? Raba refuted their objection: What is the difficulty? Is this not similar to the eating and drinking, for hitherto we had not given him food and drink, while now, [after the funeral] we do!²¹ But if there is any objection, it is this: [It was taught] The dargesh need not be lowered²² but must be stood up.²³ Thus, should you maintain that the daresh is the bed of the domestic genius, why is there no need to lower it? Surely it has been taught: The mourner in lowering the beds shall lower not only his own couch but all the others he has in the house! — But what is the difficulty? Perhaps it [the dargesh] is in the same category as a bed [sideboard] designed for holding utensils of which, the Tanna taught, that if it is designed for holding utensils, it need not be lowered. If indeed, there is any objection, it is this: [It has been taught:] Rabban Simeon b. Gamaliel said: As for the dargesh, its loops

are undone, and it collapses of itself. Now if it be the bed of the domestic genius, has it any loops? — But when Rabin came [from Palestine]²⁴ he said: One of the Rabbis named R. Tahlifa. who frequented the leatherworkers' market, told me that dargesh was the name of a bed of skins.²⁵ R. Jeremiah said in R. Johanan's name: A dargesh

1. For the former withstood temptation but once, while the latter, night after night, for many years.
2. Prov. XXXI, 29.
3. I.e., to the moral victories gained by these men on account of the seductiveness of women.
4. Ibid. 30
5. I.e., they eschewed the pleasures of women in their eagerness to study the Torah, and so the other two mentioned immediately after.
6. In whose days the Law was studied even more assiduously than in the days of Moses and Joshua. V. *infra* 94b.
7. [On the poverty of scholars in the days of R. Judah b. Ila'i as a result of the Hadrianic persecutions, v. Buchler, A., The Jewish Community of Sepphoris, 67ff.]
8. II Sam. III, 31.
9. I.e., to dispel the suspicion that Abner had been killed by him
10. V. p. 92, n. 2.
11. Explained in the Gemara.
12. Ibid. From which it is inferred that the women preceded it, for it is improbable that the King would have walked in their midst.
13. II Sam. III, 37.
14. [H] *ibid.* 35.
15. [H] 'to dig or pierce'. Though not found so in our Bibles, it must have been in theirs. In fact, such a version was known to Saruk and R. Joseph. Kimhi (father of David) and such a form is sighted from a number of MSS, v. Kennicott; cf. marginal note of Berlin I. *infra* 103a.
16. Suspecting that he had a hand in Abner's death.
17. For putting the Priests of Nob to death. V. I Sam. XXII, 18.
18. II Sam. III, 33.
19. By his act of appointing Ish-Bosheth (Saul's only surviving son) as king of Israel. Ish-Bosheth, being feeble, owed his crown entirely to Abner. He reigned two years. (II Sam II.) Six months having elapsed after he was slain, David was generally recognized as king of Israel. There is a controversy with regard to

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the chronology of his reign. Rashi and Tosaf. both agree that the throne of Israel remained vacant for five years, but they differ as to the time the vacancy occurred. The former maintains it took place before the reign of Ish-Bosheth.

20. I.e., a small couch not used for rest, but placed in the home merely as an omen of good fortune.
21. I.e., it was not necessary for him to eat and drink the food of others, whilst now it is.
22. As is the rule with all other stools and beds in a house of mourning.
23. V. M.K. 27a.
24. V. p. 390, n. 1.
25. Its strapping consisted of leather instead of ropes. Not being supported by long legs, it stood very low, and therefore, on practical grounds, the first Tanna maintains that it must not be undone and lowered, as the leather will be spoiled through the damp earth; whilst Rabban Simeon b. Gamaliel holds that there is no fear of this.

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has the strap-work inside,¹ while an ordinary bed has the strap-work fixed over the frame.

An objection is raised: At what time do wooden utensils become susceptible to uncleanness?² A bed and a cradle when they are rubbed over with fish-skin.³ Now if the ordinary bed has the strap-work over the frame, what need is there to rub over with fish-skin, [seeing that it is covered with the straps]? — Hence, both [a bed and a dargesh have the strappings] inside. But while the straps of a bed go in and out through slits, those of a dargesh go in and out through loops.

R. Jacob said in R. Joshua b. Levi's name: The *halachah* follows Rabban Simeon b. Gamaliel.

R. Jacob b. Ammi said: In the case of a bed whose poles⁴ protrude [downward],⁵ it is sufficient to set it up [on one side only].⁶

MISHNAH. HE [THE KING] MAY LEAD FORTH [THE HOST] TO A VOLUNTARY WAR⁷ ON THE DECISION OF A COURT OF

SEVENTY-ONE. HE MAY FORCE A WAY THROUGH PRIVATE PROPERTY⁸ AND NONE MAY OPPOSE HIM. THERE IS NO LIMITATION TO THE KING'S WAY.⁹ THE PLUNDER TAKEN BY THE PEOPLE [IN WAR] MUST BE GIVEN TO HIM, AND HE RECEIVES THE FIRST CHOICE [WHEN IT IS DIVIDED].

GEMARA. But we have already once learnt it:¹⁰ A voluntary war may be declared only by the permission of a court of seventy-one? — As the Tanna deals with all matters pertaining to the king, he also states [the law] concerning the declaration of a voluntary war.

Rab Judah said in Samuel's name: All that is set out in the chapter [dealing with the actions] of a king,¹¹ he is permitted to do. Rab said: That chapter was intended only to inspire them with awe,¹² for it is written, Thou shalt in anywise set him king over thee;¹³ [i.e.,] his awe should be over thee.

[The same point of difference is found among the following] Tannaim; R. Jose said: All that is set out in the Chapter [relating to the king],¹⁴ the king is permitted to do. R. Judah said: That section was stated only to inspire them with awe,¹² for it is written, Thou shalt in anywise set him king over thee,¹³ [meaning], that his awe should be over thee. And thus R. Judah said: Three commandments were given to Israel when they entered the land: [i] to appoint a king,¹⁵ [ii] to cut off the seed of Amalek,¹⁶ and [iii] to build themselves the chosen house.¹⁷ While R. Nehorai¹⁸ said: This section¹⁹ was spoken only in anticipation of their future murmurings,²⁰ as it is written, And shalt say, I will set a king over me, etc.²¹

It has been taught: R. Eliezer²² said: The elders of the generation made a fit request, as it is written, Give us a king to judge us.²³ But the am ha-arez²⁴ acted unworthily, at it is written, That we also may be like all the

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nations and that our king may judge us and go before us.²⁵

It has been taught: R. Jose²⁶ said: Three commandments were given to Israel when they entered the land; [i] to appoint a king; [ii] to cut off the seed of Amalek; [iii] and to build themselves the chosen house [i.e. the Temple] and I do not know which of them has priority. But, when it is said: The hand upon the throne of the Lord, the Lord will have war with Amalek from generation to generation,²⁷ we must infer that they had first to set up a king, for 'throne' implies a king, as it is written, Then Solomon sat on the throne of the Lord as king.²⁸ Yet I still do not know which [of the other two] comes first, the building of the chosen Temple or the cutting off of the seed of Amalek. Hence, when it is written, And when He giveth you rest from all your enemies round about, etc., and then [Scripture proceeds], Then it shall come to pass that the place which the Lord your God shall choose,²⁹ it is to be inferred that the extermination of Amalek is first. And so it is written of David, And it came to pass when the king dwelt in his house, and the Lord had given him rest from his enemies round about, and the passage continues; that the king said unto Nathan the Prophet: See now, I dwell in a house of cedars, etc.³⁰

Resh Lakish said: At first, Solomon reigned over the higher beings,³¹ as it is written, Then Solomon sat on the throne of the Lord as king;³² afterwards, [having sinned,] he reigned [only] over the lower,³³ as it is written, For he had dominion over all the region on this side the river, from Tifsah even to Gaza.³⁴

Rab and Samuel [explain this verse in different ways]: One says, Tifsah was situated at one end of the world³⁵ and Gaza at the other. The other says: Tifsah and Gaza were beside each other,³⁶ and just as he reigned over these, so did he reign over the whole world. But eventually his reign was restricted to Israel, as it is written, I

Koheleth have been king over Israel, etc.³⁷ Later, his reign was confined to Jerusalem alone, even as it is written, The words of Koheleth, son of David, king in Jerusalem.³⁸ And still later he reigned only over his couch,³⁹ as it is written, Behold it is the litter of Solomon, three-score mighty men are about it, etc.⁴⁰ And finally, he reigned only over his staff as it is written, This was my portion from all my labour.⁴¹

Rab and Samuel [explain this differently]: One says: His staff [was all that was left him]; the other: His Gunda.⁴²

Did he regain his first power, or not? Rab and Samuel [differ]: One maintains that he did; the other, that he did not. The one who says that he did not, agrees with the view that Solomon was first a king and then a commoner;⁴³ the other, who says that he did, agrees with the view that he was first king, then commoner and finally king again.

HE MAY FORCE A WAY THROUGH PRIVATE PROPERTY, etc. Our Rabbis taught: Royal treasures⁴⁴ [must be given] to the king; but of all other spoil, half to the king and half to the people. Abaye said to R. Dimi or, according to others, to Rab Aha: We quite understand it is the natural thing to give royal treasures [wholly] to the king; but where do we learn that of all other spoil he is to receive half? — From the verse,

1. I.e., the straps are attached on the inside through slits in the frame.
2. An article cannot become unclean until it is completely finished for use.
3. To polish the surface. Kel. XVI, 1.
4. The [H] were two poles, fixed at the head and foot of the bedstead, in the centre probably of the width. To these a cross piece was attached, the whole forming a frame over which a curtain was slung.
5. I.e., below the level of the bedding, to the space underneath.
6. Because if actually lowered, it may appear to be standing in its usual position, since then the poles protrude upwards.
7. In contradistinction to the obligatory war, which was directed against the seven nations

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- that inhabited Canaan. Obligatory war includes also the campaign against Amalek or against an enemy attacking Israel. Voluntary war is waged merely with the object of extending territory. It might therefore be defined as a war of aggression, as opposed to a defensive war. V. Sot. 44b; Maim. Yad, Melakim 5, 1.
8. For strategical purposes. V. *ibid.* 5, 3. Rashi, however, explains: To make a path to his field and vineyards.
 9. From B.B. 99b and 100b it appears that this is connected with the preceding: HE MAY FORCE, etc. because THERE IS NO, etc. Further, whereas a public thoroughfare was to be 16 cubits in breadth, his road might be unlimited.
 10. *Supra* 2a.
 11. I Sam. VIII.
 12. By indicating the extent of his authority, but not implying that he is permitted to abuse his power.
 13. Deut. XVII, 15.
 14. I Sam. VIII.
 15. *Ibid.*
 16. *Ibid.* XXV, 19.
 17. *Ibid.* XII, 10. The three were to be in that order.
 18. [Ms. M. 'R. Nehemiah.']
 19. *Ibid.* XVII, 14.
 20. It was not a command to appoint a king, but a prophecy that Israel would demand one; then, a king having been appointed, he would be subject to the laws stated in the section.
 21. *Ibid.*
 22. [This is a continuation of the preceding passage in Tosef. Sanh. IV, where the reading is 'R. Eliezer b. Jose'. The words, 'It has been taught' are omitted by Rashal.]
 23. I Sam. VIII, 6.
 24. Lit., 'people of the land', 'rustics', Talmudic term for illiterate or vulgar people.
 25. I Sam. VIII, 20. Thus the main purpose of the elders was to ensure law and order, whereas the 'am ha-arets thought chiefly of warlike expeditions.
 26. V.l. 'R. Judah.'
 27. Ex. XVII, 16.
 28. I Chron. XXIX, 23.
 29. Deut. XII, 10.
 30. II Sam. VII, 1-2.
 31. I.e., his influence reached the highest spheres, the angels and the spirits.
 32. I Chron. XXIX, 23.
 33. I.e., his influence was on the wane.
 34. I Kings V, 4.
 35. [Tifsah would thus be identified (probably by Samuel, who was a Babylonian) with Thapsacus, the most important crossing-place

of the middle Euphrates, above the mouth of the Belek.]

36. [Tifsah would thus be identified (probably by Rab the Palestinian) with the town mentioned in II Kings XV, 16 near Mount Ephraim.]
37. Eccl. I, 12.
38. *Ibid.*
39. Household.
40. Cant. III, 7.
41. Eccl. II, 10.
42. a) A pitcher; b) an over-all, to protect clothes, c) a duster. V. Shab. 14b and 'Er. 21b, where it is related that Solomon instituted 'Erub (providing for the transportation of objects from one domain to another on the Sabbath day), and the washing of hands before touching holy food. Probably the 'staff' (measure-stick) and 'pitcher' allude to these.
43. Rashi in Git. 68b explains that his dominion was curtailed only as far as the higher beings (v. *supra*) were concerned.]
44. Taken in war.

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*And anointed him [Solomon] unto the Lord to be prince, and Zadok to be priest.*¹ Thus, the prince is compared with Zadok: just as in the case of Zadok [High Priest], half belonged to him, and half to his brethren, so also in the case of the ruler. And whence do we know it of Zadok himself? — As it has been taught, for Rabbi said: *And it [the showbread] shall be for Aaron and his sons;*² this means, half belonged to Aaron and half to his sons.

MISHNAH. NEITHER SHALL HE MULTIPLY WIVES TO HIMSELF.³ — ONLY EIGHTEEN. R. JUDAH SAID: HE MAY HAVE MORE, PROVIDED THEY DO NOT TURN AWAY HIS HEART. R. SIMEON SAID: HE MUST NOT MARRY EVEN ONE WHO MAY TURN AWAY HIS HEART. WHY THEN IS IT WRITTEN, NEITHER SHALL HE MULTIPLY WIVES TO HIMSELF?⁴ — EVEN THOUGH THEY BE WOMEN LIKE ABIGAIL.⁵

GEMARA. Are we to assume that R. Judah interprets Biblical law on the basis of its reason,⁶ and R. Simeon does not?⁷ But we find the reverse; for it has been taught: A pledge must not be taken from a widow,

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whether poor or rich, as it is written, Thou shalt not take the widow's raiment to pledge;⁸ this is R. Judah's view. R. Simeon ruled: We may take a pledge of a rich widow but not of a poor one, for [in the latter case] thou art bound to return [the pledge] to her daily, and [thereby] cause her an evil name among her neighbors. Whereon we asked: What does he mean? [And the answer was:] Since thou hast taken a pledge of her, thou must return it to her [each evening]⁹ and so [by her frequent visits to thee] thou wouldst get her an evil name among her neighbors. Hence we see that R. Judah does not interpret the Biblical law according to its reason, while R. Simeon does!¹⁰ — Generally, indeed, R. Judah does not interpret Biblical law on the basis of its reason; here, however, it is different, for here he merely expounds the reason stated in the text. Thus: Why the command, he shall not multiply wives to himself? It is that his heart be not turned aside.¹¹

And R. Simeon? — He could answer you: Let us see: Generally we interpret the law according to the reason implied;¹² then Scripture should have read, He shall not multiply wives to himself, and nothing further, and I would then have known that the reason was that his heart turn not away. Why then state: That his heart turn not away? — To imply that he must not marry even a single one who may turn away his heart. Then how am I to explain, he shall not multiply?¹³ — [As meaning that he may not marry many] even though they be [women like Abigail.

Whence do we deduce the number eighteen? — From the verse, And unto David were sons born in Hebron; and his first-born was Ammon of Ahinoam the Jezreelitess; the second, Chileab of Abigail the wife of Nabal the Carmelite; the third Absalom the son of Maacah; and the fourth, Adonijah the son of Haggith; and the fifth, Shefatiah the son of Abital; and the sixth, Ithream of Eglah, David's wife. These were born to David in

Hebron.¹⁴ And of them the Prophet said: And if that were too little, then would I add unto thee the like of these, [Ka-hennah] and the like of these, [we-kahennah],¹⁵ each 'kahennah' implying six, which, with the original six, makes eighteen in all. Rabina objected: Why not assume that 'kahennah' implies twelve,¹⁶ and 'we-kahennah', twenty-four?¹⁷ It has indeed been taught likewise: 'He shall not multiply wives to himself beyond twenty-four.' And according to him who interprets the redundant 'waw',¹⁸ it ought to be forty-eight. And it has been taught even so: 'He shall not multiply wives to himself, more than forty-eight.' Then what is the reason of the Tanna of our Mishnah? — R. Kahana said: He parallels the second 'kahennah' with the first; thus, just as the first 'kahennah' indicates [an increase of] six, so does the second. But there was Michal too!¹⁹ — Rab said: Eglah is Michal. And why was she called Eglah? Because she was beloved by him, as an Eglah [calf] by its mother. And thus it is said, If ye had not plowed with my heifer, etc.²⁰ But did Michal have children? Is it not written, And Michal the daughter of Saul had no child unto the day of her death?²¹ — R. Hisda said: She had no child until the day of her death, but on the day of her death she did.²²

Let us see then: His children are enumerated [as born] in Hebron, whereas the incident with Michal²³ occurred in Jerusalem,²⁴ as it is written, Michal the daughter of Saul looked out at the window, and saw king David leaping and dancing before the Lord, and she despised him in her heart.²⁵ And Rab Judah, or according to others, R. Joseph, said: Michal received her due punishment?²⁶ — But we might argue thus: Prior to that incident she did have [children], but after it she did not.

[Now as to the number eighteen:] Is it not stated, And David took him concubines and wives out of Jerusalem?²⁷ — To make up the eighteen. What are 'wives', and what are 'concubines'? — Rab Judah said in Rab's

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name: Wives have '*kethubah*'²⁸ and '*kiddushin*';²⁹ concubines have neither.

Rab Judah also said in Rab's name: David had four hundred children, and all born of yefoth to'ar;³⁰ they had long locks³¹ and all drove³² in golden carriages. They used to march at the head of the troops and were men of power in the household of David.

Rab Judah further said in Rab's name: Tamar was a daughter of a yefath to'ar, as it is written, Now therefore I pray thee,³³ speak unto the King, for he will not withhold me from thee.³⁴ Now, should you imagine that she was the offspring of a legitimate marriage, how could his sister have been granted him [in marriage]? We must infer therefore, that she was the daughter of a yefath-to'ar.

And Amnon had a friend, whose name was Jonadab the son of Shimeah, David's brother, and Jonadab was a very subtle man, etc.³⁵ Rab Judah said in Rab's name: 'Subtle' to do evil. And he said unto him, Why, O son of the king, art thou thus becoming leaner ... And Jonadab said unto him, Lay thee down on thy bed and feign thyself sick ... and she dress the food in my sight ... And she took the pan and poured them [the cakes] out before him.³⁶ Rab Judah in the name of Rab said: She made for him some kind of pancakes.³⁷

Then Amnon hated her with exceeding great hatred, etc.³⁸ For what reason? — R. Isaac answered: A hair becoming entangled, mutilated him privily. If this happened of itself, what was her part in it? — But we might rather say that she entangled it and caused, mutilation. But is this so? Did not Raba expound: What is meant by the verse: And thy renown went forth among the nations for thy beauty.³⁹ It is that the daughters of Israel had neither under-arm nor pubic hair?⁴⁰ — It was otherwise with Tamar, for she was the daughter of a yefath to'ar.

And Tamar put ashes on her head and rent her garment of many colours.⁴¹ It was taught in the name of R. Joshua b. Korha. In that hour Tamar set up a great fence [about chastity]. They⁴² said: if this could happen to kings' daughters, how much more to the daughters of ordinary men; if this could happen to the chaste, how much more to the wanton?

Rab Judah said in Rab's name: On that occasion, they made a decree

1. I Chron. XXIX, 22.
2. Lev. XXIV, 9.
3. Deut. XVII, 17.
4. Ibid. From which it might be inferred that he may marry a lesser number even if they should corrupt him.
5. I.e., even of the most virtuous, only eighteen are permitted, and not a single one who misleads is permitted. Abigail was the wife of Nabal the Carmelite. (I Sam. XXV, 3.) She is regarded in the *Aggadah* as one of the most remarkable women in Jewish history. V. Meg 15a.
6. Lit., 'he searches out the reason of the verse'.
7. Therefore, notwithstanding the explicit statement that the king must not multiply wives, R. Judah permits it, where the feared consequences will not follow; whilst R. Simeon keeps to the letter of the law.
8. Deut. XXIV, 17.
9. Ibid. 13.
10. By differentiating between poor and rich widows.
11. Therefore in his opinion, Scripture itself restricts the law to these conditions.
12. [Ms M. omits, 'Generally ... implied.']
13. From which it is inferred that a small number is permissible.
14. II Sam. III, 2-5.
15. Ibid. XII, 8.
16. I.e., as many again, six and six.
17. He increases the number in geometrical progression, i.e., 6: 12: 24.
18. In '*we-kahennah*'. The prefix '*waw*' between two words or sentences at the beginning of a chapter, which does not necessarily express their relations to one another, is used for interpretation by some Sages. v. *infra* 51b.
19. Additional to the six wives enumerated.
20. Of Delilah, Judges XIV, 18.
21. II Sam. VI, 23.
22. I.e., she died in child-birth.

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23. As a consequence of which she was punished with childlessness.
24. That is, later.
25. II Sam. VI, 16.
26. Childlessness. [H], lit., 'debt matured for collection by seizure' (Jast.).
27. II Sam. V, 13. Hence it appears that he had many.
28. V. p. 34, n. 4.
29. Legal and legitimate marriage. V. [Glos.](#)
30. Captive woman taken as concubines by the king because of their beauty. V. Deut. XXI, 10-13.
31. [Lit., 'they grew a belorith' (etym. obscure), a heathen fashion of growing locks from the crown of the head, hanging down in plaits at the back; v. Krauss, TA. I, 645].
32. Lit., 'sat'.
33. Amnon.
34. II Sam. XIII, 13.
35. Ibid. 3.
36. Ibid. 4 *et seq.*
37. [G] frying-pan.
38. II Sam. XIII, 15.
39. Ezek. XVI, 14.
40. Before they sinned. (Rashi.)
41. II Sam. XIII, 19.
42. All the other women.

Sanhedrin 21b

against *yihud*¹ with [a married] or unmarried woman. But surely the prohibition of *yihud* with a married woman is a Biblical law! For R. Johanan said on the authority of R. Simeon b. Jehozadak: Where is [the prohibition of] *yihud* alluded to in the Biblical text? It is written: if thy brother, the son of thy mother entice thee.² Is it then only the son of a mother that can entice, and not the son of a father? But it is to teach that only a son may be alone with his mother; but no other man may be alone with women Biblically interdicted on account of incest!³ — Say rather that they enacted a decree against *yihud* with unmarried women.

And Adonijah the son of Haggith exalted himself, saying: 'I will be king.'⁴ Said Rab Judah in the name of Rab: This teaches us that he attempted to fit [the crown on his head] but it would not fit him.⁵

And he prepared him chariots and horses and fifty men to run before him.⁶ What is there remarkable in this?⁷ — Rab Judah said in Rab's name: They all had their spleen⁸ and also the flesh of the soles of their feet cut off.⁹

MISHNAH. HE SHALL NOT MULTIPLY HORSES UNTO HIMSELF¹⁰ — ONLY AS MANY AS SUFFICE FOR HIS CHARIOT. AND SILVER AND GOLD HE SHALL NOT GREATLY MULTIPLY UNTO HIMSELF¹¹ — ONLY AS MUCH AS IS REQUIRED FOR 'ASPANYA'.¹² AND HE SHALL WRITE IN HIS OWN NAME A SEFER TORAH.¹³ WHEN HE GOES FORTH TO WAR HE MUST TAKE IT WITH HIM; ON RETURNING, HE BRINGS IT BACK WITH HIM; WHEN HE SITS IN JUDGMENT IT SHALL BE WITH HIM, AND WHEN HE SITS DOWN TO EAT, BEFORE HIM, AS IT IS WRITTEN: AND IT SHALL BE WITH HIM AND HE SHALL READ THEREIN ALL THE DAYS OF HIS LIFE.¹⁴

GEMARA. Our Rabbis taught: He shall not multiply horses to himself [lo]:¹⁵ I might think, [this meant] not even such as are required for his horsemen and chariots. Scripture therefore states: 'lo' [to himself]: for himself¹⁶ he may not multiply, but he may multiply as many as are required for his chariots and horsemen. How then am I to interpret the word horses?¹⁷ — As [referring to] horses that stand idle.¹⁸ And whence do we know that even a single idle horse comes under such a prohibition? — Scripture states: that he should multiply sus [a horse].¹⁹ But if even a single idle horse involves [the prohibition,] He shall not multiply, why state horses [plural]? — To show us that with each single idle horse he transgresses anew the prohibitory command.

[Reverting to chariot horses:] Thus, it is only because Scripture wrote 'lo' [to him]: but otherwise, might we have thought that even those necessary for his chariots and horsemen are forbidden?²⁰ — It is necessary here to permit a large number.²¹

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AND SILVER AND GOLD HE SHALL NOT MULTIPLY UNTO HIMSELF, etc. Our Rabbis taught: And silver and gold he shall not multiply 'lo' [unto himself]:²² I might think [this meant] even for 'aspanya'. Therefore Scripture writes, 'lo'; only for himself [i.e., his own use] may he not multiply silver and gold, but he may do so for 'aspanya'. Thus, it is only because Scripture wrote 'lo': but otherwise, might we have thought that the prohibition extended even to money for 'aspanya'?²³ — [the word] is necessary here only to permit him a more generous provision.

Now that you say that 'lo' [to him] is for purpose of exegesis, how will you interpret, He shall not multiply wives 'lo' [to himself]?²⁴ — As excluding commoners.²⁵

Rab Judah raised a point of contradiction [in the following passages:] It is written, And Solomon had forty thousand stalls of horses for his chariots.²⁶ But elsewhere we read, And Solomon had four thousand stalls for horses and chariots.²⁷ How are these [to be reconciled]? Thus: If he had forty thousand stables, each of them must have contained four thousand horse-stalls; and if he had four thousand stables, each of them must have contained forty thousand stalls.

R. Isaac raised the following point of contradiction: It is written, Silver was nothing accounted for in the days of Solomon,²⁸ and further, And the king made silver to be in Jerusalem [as plentiful] as stones.²⁹ [Hence it had some value?] But these verses present no difficulty; the former refers to the period before he married Pharaoh's daughter; the latter, to the period after he married her.³⁰

R. Isaac said: When Solomon married Pharaoh's daughter, Gabriel³¹ descended and stuck a reed in the sea, which gathered a sand-bank around it, on which was built the great city of Rome.³²

R. Isaac also said: Why were the reasons of [some] Biblical laws not revealed? — Because in two verses reasons were revealed, and they caused the greatest in the world [Solomon] to stumble. Thus it is written: He shall not multiply wives to himself,³³ whereon Solomon said, 'I will multiply wives yet not let my heart be perverted.' Yet we read, When Solomon was old, his wives turned away his heart.³⁴ Again it is written: He shall not multiply to himself horses;³⁵ concerning which Solomon said, 'I will multiply them, but will not cause [Israel] to return [to Egypt].' Yet we read: And a chariot came up and went out of Egypt for six [hundred *shekels* of silver].³⁶

AND HE SHALL WRITE IN HIS OWN NAME A SEFER TORAH. A Tanna taught: And he must not take credit³⁷ for one belonging to his ancestors.

Rabbah said: Even if one's parents have left him a Sefer Torah, yet it is proper that he should write one of his own, as it is written: Now therefore write ye this song³⁸ for you.³⁹

Abaye raised an objection: 'He [the king] shall write a Sefer Torah for himself, for he should not seek credit⁴⁰ for one [written] by others:' [Surely, this implies] only a king [is thus enjoined], but not a commoner? — No, it is necessary here to teach the need for two Scrolls of the Law [for the King], even as it has been taught: And he shall write him the repetition⁴¹ of this law,⁴² [i.e.,] he shall write for himself two copies, one which goes in and out with him and the other to be placed in his treasure-house. The former which is to go in and out with him, [he shall write in the form of an amulet⁴³ and fasten it to his arm, as it is written, I have set God always before me, surely He is at my right hand, I shall not be moved.]⁴⁴ He may not, while wearing it, enter the bath house, or the closet, as it is written: And it shall be with him and he shall read therein⁴⁵ — in places appropriate for reading it.

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Mar Zutra or, as some say, Mar 'Ukba said: Originally the Torah was given to Israel in Hebrew characters and in the sacred [Hebrew] language; later, in the times of Ezra,⁴⁶ the Torah was given in Ashshurith script⁴⁷ and Aramaic language. [Finally], they selected for Israel⁴⁸ the Ashshurith script and Hebrew language, leaving the Hebrew characters and Aramaic language for the hedyototh. Who are meant by the 'hedyototh'? — R. Hisda answers: The Cutheans.⁴⁹ And what is meant by Hebrew characters? — R. Hisda said: The *libuna'ah* script.⁵⁰

It has been taught: R. Jose said: Had Moses not preceded him, Ezra would have been worthy of receiving the Torah for Israel. Of Moses it is written, And Moses went up unto God,⁵¹ and of Ezra it is written, He, Ezra, went up from Babylon.⁵² As the going up of the former refers to the [receiving of the] Law, so does the going up of the latter. Concerning Moses, it is stated: And the Lord commanded me at that time to teach you statutes and judgments,⁵³ and concerning Ezra, it is stated: For Ezra had prepared his heart to expound the law of the Lord [his God] to do it and to teach Israel statutes and judgments.⁵⁴ And even though the Torah was not given through him, its writing was changed through him, as it is written:

1. Private meetings of the sexes.
2. Deut. XIII, 7.
3. Incest includes adultery. Hence the prohibition of *yihud* with married women originates in the Bible.
4. I Kings I, 5.
5. An *Aggadah* quoted by Rashi runs as follows: A golden rod passed through the hollow of the crown, from one end to the other, which fitted into a cleft or indenture in the skull — a mark peculiar to some in the house of David. Only he whom the crown fitted was deemed worthy to be king.
6. Ibid.
7. Surely, fifty men for a prince is no exception.
8. The spleen causes a feeling of heaviness (Rashi). [The old belief that the removal of the spleen facilitates fast running is also

- recorded by Plinius, v. Preuss, *Biblischtalmudische Medizin*, p. 249.]
9. So that they might be fleet of foot and impervious to briars and thorns.
 10. Deut. XVII, 16.
 11. Ibid. 17.
 12. The Aruch and the TJ render it 'Afsanya' from [G], soldiers' pay, v. p. 95, n. 1.
 13. Book of the law.
 14. Deut. XVII, 19.
 15. [H] Ibid, 16.
 16. I.e., for his own private use.
 17. Ibid. Which are generally harnessed to chariots, so implying a restriction of them even for that purpose, otherwise it should have read his horses.
 18. And which bring only personal grandeur.
 19. Deut. XVII, 16.
 20. Surely not — a king without these would be a nonentity.
 21. I.e., he may have many for that purpose.
 22. Deut. XVII, 17.
 23. Which latter surely is essential
 24. Ibid.
 25. Who are not so restricted in wives.
 26. I Kings V, 6.
 27. II Chron. IX, 25.
 28. I Kings X, 21.
 29. Ibid. XXVII, 3.
 30. In punishment for which the prosperity of the country waned; hence silver assumed some value.
 31. V. p. 99, n. 6.
 32. By this, his moral weakness, he laid the foundations of a hostile world symbolized by the Talmud as Rome, which overthrew Israel.
 33. 'That his heart turn not away', Deut. XVII, 17.
 34. I Kings XI, 4.
 35. So as not to cause the people to return to Egypt, the great horse market. Deut. XVII, 17.
 36. I Kings X, 29. Israelites went to and fro, trading with Egypt.
 37. Lit., 'adorn himself with'.
 38. The Book of the Law which includes the Song (Deut. XXXII): Maim. Yad, Sefer Torah VII, 2. In *Aggadah* we meet frequent references to 'Song' as the symbol of the Torah. Cf. Hul. 133a.
 39. Deut. XXXI, 19.
 40. Lit., 'adorn himself with'.
 41. [H] (E.V. 'copy').
 42. Deut. XVII, 18.
 43. In minuscule (Rashi).
 44. Ps. XVI, 8. Rashal deletes the whole of the bracketed passage.
 45. Deut. XVII, 19.
 46. Neh. VIII, 1ff.

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47. Assyrian; modern Hebrew square writing.
48. [R. Han. reads, 'Israel chose for themselves'.]
49. 'The Samaritans', so called because they were brought by Sargon, king of Assyria, from Cuthea, to take the place of the exiled Israelites. (V. II Kings XVII, 24 ff.). The reason for the change from Hebrew to Assyrian characters, was to build a greater barrier between the Samaritans and the Jews. V. Weiss, Dor, v. I, 59.
50. Rashi: Large characters as employed in amulets. R. Tam, in Tosaf. s. v. [H] recognizes in '*libuna'ah*' an adjective from the name of some locality (Lebanon, or Libya). Another opinion is that *libuna'ah* is derived from '*lebenah*', brick; hence writing found on clay-tablets. V. J.E. I, p. 445.
51. Ex. XIX, 3.
52. Ezra VII, 6.
53. Deut. IV, 14.
54. Ezra VII, 10.

Sanhedrin 22a

And the writing of the letter was written in the Aramaic character and interpreted into the Aramaic [tongue].¹ And again it is written, And they could not read the writing nor make known to the king the interpretation thereof.² Further, it is written: And he shall write the copy [Mishneh] of this law,³ — in writing which was destined to be changed.⁴ Why is it called Ashshurith? — Because it came with them from Assyria.⁵

It has been taught: Rabbi said: The Torah was originally given to Israel in this [Ashshurith] writing. When they sinned, it was changed into Ro'az.⁶ But when they repented,⁷ the [Assyrian characters] were re-introduced, as it is written: Turn ye to the stronghold, ye prisoners of hope; even to-day do I declare that I will bring back the Mishneh unto thee.⁸ Why [then] was it named Ashshurith?⁹ — Because its script was upright [me'ushshar].

R. Simeon b. Eliezer said on the authority of R. Eliezer b. Parta, who spoke on the authority of R. Eleazar of Modin: This writing [of the law] was never changed, for it is written: The 'waws' [hooks] of the pillars.¹⁰

As the word 'pillars' had not changed, neither had the word 'wawim' [hooks].¹¹ Again it is written, And unto the Jews, according to their writing and language;¹² as their language had not changed, neither had their writing. Then how shall I interpret the words, and he shall write for himself Mishneh [a copy] of this law?¹³ — As indicating the need of two written Torahs; the one to go in and out with him; the other to be deposited by him in his treasure-house. The one that is to go in and out with him, he is to write in the form of an amulet and attach to his arm, as it is written, I have set God always before me.¹⁴ But how does the other [who maintains that the writing was changed]¹⁵ interpret, I have set [etc.]? — He employs it as R. Hanah b. Bizna, who said in the name of R. Simeon the Pious: He who prays should regard himself [i.e., behave] as if the *Shechinah* were before him, as it is written, I have set God always before me.¹⁶

But what can the phrase, they could not read the writing, mean [on the view of R. Simeon, who asserts that this writing was not changed]? — Rab said: The passage was written in Gematria:¹⁷ Y-T-T. Y-T-T. 'A-D-K. P-U-G-H-M-T.¹⁸ How did he interpret it to them? — As M-N-A. M-N-A. T-K-L. U-F-R-S-Y-N.¹⁹ — 'Mene', God has numbered thy kingdom and brought it to an end. 'Tekel', thou art weighed in the balances and art found wanting. 'Peres', thy kingdom is divided and given to the Medes and Persians.

Samuel said: [It was written thus:] M-M-T-U-S. N-N-K-F-Y. 'A-'A-L-R-N.²⁰ R. Johanan said: [It was written:] A-N-M. A-N-M. L-K-T-N-Y-S-R-F-U;²¹ while R. Ashi says: It was written: N-M-A. N-M-A. K-T-L. F-U-R-S-Y-N.²²

MISHNAH. NO ONE MAY RIDE ON HIS [THE KING'S] HORSE, OR SIT ON HIS THRONE, OR MAKE USE OF HIS SCEPTRE, NO ONE MAY SEE HIM WHEN HIS HAIR IS BEING CUT, OR WHEN HE IS NAKED, OR WHEN IN HIS BATH, FOR IT IS WRITTEN: THOU

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**SHALT SURELY SET OVER THEE A KING²³
— THAT HIS AWE MAY BE OVER THEE.**

GEMARA. R. Jacob said in R. Johanan's name: Abishag was permitted to Solomon [in marriage]²⁴ but not to Adonijah.²⁵ She was permitted to Solomon, for he was a king, and a king may make use of the king's sceptre;²⁶ but she was forbidden to Adonijah, for he was a commoner.

What are the facts regarding Abishag? — It is written: King David was old, stricken in years, etc. His servants said unto him, Let there be sought, etc. Further it is written, They sought for him a fair damsel, etc.; and it is written, And the damsel [Abishag] was very fair, and she became a companion to the king and ministered unto him.²⁷ She said to him, 'Let us marry,' but he [David] said: 'Thou art forbidden to me.'²⁸ 'When courage fails the thief, he becomes virtuous,'²⁹ she gibed. Then he said to them [his servants], 'Call me Bath-Sheba'. And we read: And Bath-Sheba went to the king into the chamber.³⁰ Rab Judah said in Rab's name: On that occasion Bath-Sheba dried herself thirteen times.³¹

R. Shaman b. Abba said: Come and see with what great reluctance is divorce granted; King David was permitted yihud [with Abishag], yet not divorce [of one of his wives].³²

R. Eliezer³³ said: For him who divorces the first wife, the very altar sheds tears, as it is written: And this further ye do, ye cover the altar of the Lord with tears, with weeping and with sighing, in so much that he regardeth not the offering any more, neither receiveth it with good will at your hand.³⁴ Further it is written: Yet ye say, Wherefore? Because the Lord hath been witness between thee and the wife of thy youth, against whom thou hast dealt treacherously, though she is thy companion and the wife of thy covenant.³⁵

R. Johanan or, as some say, R. Eleazar said: The death of a man's wife may only be ascribed to his failure to pay his debts,³⁶ as it is said: If thou hast not wherewith to pay, why should he take away the bed from under thee?³⁷ R. Johanan also said: He whose first wife has died, [is grieved as much] as if the destruction of the Temple had taken place in his days, as it is written: Son of man, behold I take away from thee the desire of thine eyes with a stroke; yet thou shalt not make lamentation nor weep; neither shall thy tears run down.³⁸ Again it is written, And I spoke unto the people in the morning, and at even my wife died. And further it is written, Behold I will profane my Sanctuary, the pride of your power, the desire of your eyes.³⁹

R. Alexandri said: The world is darkened for him whose wife has died in his days [i.e., predeceased him], as it is written, The light shall be dark because of his tent⁴⁰ and his lamp over him shall be put out.⁴¹ R. Jose b. Hanina said: His steps grow short,⁴² as it is said: The steps of his strength shall be straightened.⁴³ R. Abbahu said: His wits collapse, as it is written, And his own counsel shall cast him down.⁴⁴

Rabbah b. Bar Hannah said in R. Johanan's name: To effect a union between man and woman is as difficult as the dividing of the Red Sea,⁴⁵ as it is written: God maketh the solitary dwell in houses; He bringeth out the prisoners unto prosperity.⁴⁶ But is it really so? Did not Rab Judah say in Rab's name: Forty days before the embryo is formed, a heavenly voice goes forth and says: The daughter of so and so for so and so?⁴⁷ — There is no difficulty: this applies to the first marriage; the earlier statement, to the second.

R. Samuel b. Nahman said: All things can be replaced, except the wife of one's youth, as it is written, And a wife of [one's] youth, can she be rejected?⁴⁸

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Rab Judah taught his son R. Isaac: Only with one's first wife does one find pleasure,⁴⁹ as it is said: Let thy fountain be blessed and have joy of the wife of

1. Ezra IV, 7.
2. Dan. V, 8; i.e., none except Daniel could read it, which shows that the Assyrian characters were not popularized until the days of Ezra.
3. Deut. XVII, 18.
4. The root [H] of the word [H] means 'to repeat' and also 'to change', indicating that the writing was destined to be changed. V. also Zeb. 62b.
5. [Assyria stands here for Babylon, cf. Jer. II, 18: Ezra VI, 22]
6. [H], akin to [H] 'to break, or dash into pieces' (cf. Isa. XLII, 3), hence, 'broken', 'rugged' — the form of the Samaritan script. [The variant [H] receives support from the word *deession* given by Epiphanius in a passage reporting the tradition about the change of the script and which he translates *insculptum*, applicable to the ancient chiseled type, as distinguished from the flowing cursive of the Hebrew characters (Montgomery, *The Samaritans*, p. 281 ff.); v. Krauss, *op. cit.* III, 138 ff.]
7. In the days of Ezra.
8. Zech. IX, 12. Again, a play on 'shannah' 'to change', 'to restore', 'to double or bring back', the Mishneh, the earlier writing which was due to suffer change as above.
9. Since on the view of Rabbi, they did not bring it from Assyria.
10. Ex. XXVII, 10.
11. *Waw* in Heb. means 'hook', and is also the sixth letter of the alphabet which resembles a hook, and according to the argument here, the very fact that the letter *waw* meant a hook in the days of Moses, shows that it must have borne that shape then as now, and is therefore unchanged.
12. Esth. VIII, 9.
13. Mishneh here =, 'a double.' V. n. 3.
14. Ps. XVI, 8. V. *supra* p. 118, n. 12.
15. By deduction from the word *Mishneh*, according to which the king had only one *Sefer Torah*, since there is now nothing to indicate two, and this was probably placed in his treasure house. V. 'Anaf-Yosef' on En Jacob a.l.
16. [The problem of the origin of the Hebrew Alphabet, as well as the question how and when the change of the script was effected, remains unsolved, despite the many attempts by distinguished scholars, mediaeval and modern. For the literature on the subject, v.

Bergstrasser. G., *Hebraische Grammatik*, p. 29 ff., to which may be added Grunberg, S., *Die ursprüngliche Schrift des Pentateuchs* (cf. Munk, M., *Ezra Ha Sofer*, p. 69 ff.); and Goldschmidt, V., *Unser Alphabet*, both of which are in support of the view of Rabbi.]

17. Either (a) a cryptograph which gives, instead of the intended word, its numerical value, or (b) a cipher produced by the permutation of letters, as in this case (Levias, c., J. E., v. 589.) The etymology of Gematria is obscure. Generally derived from [G], 'notarius', v. *loc. cit.*
18. [H]
19. By interchanging the letters of the alphabet on the *at bash* [H] principle, the first with the last; the second with the one before the last, etc. The Hebrew then reads: [H] *Mene, Mene, Tekel, Upharsin.*
20. [The original words here were written vertically, not horizontally, thus:]

[H] [H] [H] [H] [H]

[H] [H] [H] [H] [H]

[H] [H] [H] [H] [H]

21. [H], the left-right direction being used instead of the right-left. [These systems of permutation were not artificial creations, but were well known methods of writing in secret code. V. Gandz, S., *Proceedings of the American Academy for Jewish Research*, IV, 89.]
22. [H] i.e., Daniel shifted the second letter of each word to the beginning.
23. Deut. XVII, 15.
24. Had he so wished.
25. Solomon's elder brother who wished to secure Abishag for his wife, as an inheritance from his father, as a public confirmation of his claim to the throne, in accordance with the archaic law of succession, [cf. II Sam. XII, 8 and Herodotus III, 68].
26. I.e., all that belonged to the King, including his harem.
27. I Kings I, 1-5 ff.
28. Since he had already the allotted number of eighteen wives.
29. So taunting him with impotence.
30. I Kings I, 15.
31. I.e., they had intercourse.
32. Which would have rendered Abishag permissible to him for marriage.
33. [Ms. M.: R. Eleazar (b. Pedath), v. Git. 90b.]
34. Mal. II, 13.

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35. Mal. II, 14.
36. The principle of 'measure for measure' (cf. Sotah 8b) is taken to be applicable here; as the man has deprived another of his possession, he is punished by the loss of his dearest possession.
37. Prov. XXII, 27.
38. Ezek. XXIV, 16-18.
39. Likening the death of one's wife, whom the Rabbis regarded as the principal factor in guarding the sanctity of the home, to the destruction of the Sanctuary.
40. [H] (E.V. 'in his tent'), used metaphorically for wife. Hence, The light shall be dark because of the loss of his wife.' V. Deut. V, 30. M. K. 7b.
41. Job XVIII, 6.
42. His bodily strength diminishes.
43. Ibid. 7.
44. Ibid.
45. For the passage of the Israelites.
46. Ps. LXVIII, 7. This is derived from the juxtaposition of the two parts of the verse, thus comparing the difficulty of making the solitary unite and dwell in houses as man and wife to that of delivering the Israelites from Egypt, i.e., of bringing out the prisoners from bondage unto prosperity. Current texts continue: 'Read not [H] but [H] (as when He bringeth out). Again, read not [H] but [H] (with wailing and song).' I.e., just as the deliverance of Israel brought forth wailing from Egypt and rejoicing from the Israelites, so is it when there is no mutual satisfaction in married life (cf. Midrash Tanhuma 'Thisa 5). This passage is, however, missing in most editions and Ms. M; v. D.S. a.l.
47. I.e., since marriage is predestined, what is the difficulty in mating man and woman?
48. Isa. LIV, 6.
49. Lit., 'quickenning of spirit'.

Sanhedrin 22b

thy youth.¹ 'Of what kind of woman do you speak?' he asked him. — 'Of such as your mother', was the reply. But is this true? Had not Rab Judah taught his son R. Isaac, the verse: And I find more bitter than death the woman whose heart is snares and nets,² and he [the son] asked him: 'What kind of woman?' He answered. 'Such as your mother'? — True, she was a quick-tempered woman but nevertheless easily appeased with a word.

R. Samuel b. Unya said in the name of Rab: A woman [before marriage] is a shapeless lump,³ and concludes a covenant only with him who transforms her [into] a [useful] vessel, as it is written: For thy maker is thy husband; the Lord of Hosts is his name.⁴

A Tanna taught: The death of a man is felt by none but his wife; and that of a woman, but her husband. Regarding the former, it is said: And Elimelech, Naomi's⁵ husband, died.⁶ And regarding the latter it is written: And as for me, when I came from Padan, Rachel died unto me.⁷

NOR MAY ONE SEE HIM, etc. Our Rabbis taught: The king has his hair trimmed every day; the High Priest, every eve of the Sabbath, and a common Priest, once in thirty days.

'The king has his hair trimmed every day.' as it is written, Thine eyes shall see the king in his beauty.⁸ 'The High Priest, every eve of the Sabbath.' R. Samuel b. Nahman said in R. Johanan's name: This is because of the [weekly] renewal of the priestly watches.⁹

'The common Priest, once in thirty days,' because it is written: Neither shall they shave their heads nor suffer their locks [pera'] to grow: they shall only poll their heads.¹⁰ Identity of law is deduced from [the use of] pera' here and in the section on the Nazirite; here it is written, They shall not let their locks [pera'] grow; while there it is stated, He shall let the locks [pera'] of the hair of his head grow long;¹¹ Just as there, [a] thirty days' [growth is meant], so here too.¹² And we also learnt:¹³ The period for unspecified neziruth¹⁴ is thirty days. Whence do we deduce this in the other passage? — R. Mathna said: Scripture states, He shall be [yihyeh] holy;¹⁵ the gematria¹⁶ of yihyeh being thirty.¹⁷

R. Papa said to Abaye: But perhaps [it means] that they shall not [let their hair] grow so long — [i.e. for a full month]?¹⁸ —

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He answered: Were it written, 'They shall not let [their hair] grow to become 'pera''; it would have meant what you suggest. But since the text reads, And their locks [pera'] they shall not let grow, it implies that they may let it become 'pera' but thereafter must not let it grow longer. If so [that the prohibition is based on that verse], it should [hold good] even nowadays, [when there is no Temple]! — This [restriction] is analogous to [that of] wine: just as wine was forbidden [them] only when they entered [the Temple],¹⁹ but permitted at any other time, so is the growing of hair forbidden only when there is entry [into the Temple] and permitted at all other times. But is wine permitted them when there is no entering into the Temple? Has it not been taught: Rabbi said: In my opinion, Priests should by right be at all times forbidden to drink wine,²⁰ but what can I do, seeing that 'their calamity [the destruction of the Temple] has been to their advantage in the matter?²¹ Whereon Abaye said: In agreement with whom do priests drink wine nowadays? In agreement with Rabbi. It may therefore be inferred that the Rabbis forbid it!²² — In that case, the reason is this: the Temple might speedily be rebuilt and when a priest suitable for its service is required, he might not be found. Then here too [i.e., regarding the restriction of hair-growth] may not the same thing happen? — In the latter case, it is possible to trim the hair and [immediately] enter. But there too [sc. wine drinking], one can slumber a while [i.e., sleep it off] and then enter? For R. Aha said: A mil's walk or a little sleep counteracts [the effects of] wine. But surely it was stated of this: R. Nahman said in R. Abbahu's name: This applies only to one who has drunk not more than a *rebi'ith*;²³ but if he has drunk more, the walk will only cause more fatigue, and the sleep more drunkenness!

R. Ashi said: Since those drunk with wine defile the service [if they officiate], the Rabbis enacted that precautionary measure;²⁴ but seeing that those with long

hair do not defile the service, they made no decree against them.

An objection is raised: The following [priests] are liable to death: those who let their hair grow and those who are drunk with wine.²⁵ Now, as for those drunk with wine, it is correct, because it is written, Drink no wine nor strong drink, thou nor thy sons with thee, that ye die not.²⁶ But whence do we know it of those with long hair? — Because the former is assimilated to the latter, for it is written, Neither shall they shave their heads nor suffer their locks to grow long, which is followed by, Neither shall they drink wine, etc. Hence, just as drunkenness [during the service] is punishable by death, so is the growth of long hair. And it also follows, just as drunkenness defiles the Temple service, so does the growing of long hair!²⁷ This is a difficulty.²⁸

Rabina said to R. Ashi: Before Ezekiel came, and told us this [that those who let their hair grow and officiate thus are punishable by death], who stated it?²⁹ — But according to your view,³⁰ what of R. Hisda's statement, [viz.,] This law³¹ was not learnt from the teaching of Moses our teacher, until Ezekiel came and taught, No alien, uncircumcised in heart and uncircumcised in flesh shall enter into my Sanctuary to serve me.³² But before Ezekiel came, who stated it? Consequently, it must have been a tradition, and then Ezekiel came and found a support for it in Scripture [i.e., the Pentateuch]. Similarly, here too, [in the question of hair-growth] it was a traditional teaching, and Ezekiel merely upheld it in the passage quoted [further, the *Halachah*, as handed down, states only that they are liable to death, but not that they defile the Temple-service].³³

What is the meaning of, They shall only poll their heads? — A Tanna taught: Hair cut in the Julian style.³⁴ What was that? — Rab Judah said in Samuel's name: A unique manner of hairdressing. Yet what was it like?

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R. Ashi said: The ends of one row [of hair] lay alongside the roots of the next.

Rabbi was asked: In what fashion was the hair of the High Priest cut? — He answered: Go and observe the haircut of Ben Eleasa.³⁵ It has been taught: Not for nothing did Ben Eleasa expend money so lavishly upon his hairdressing, but to display the High-Priestly fashion.

1. Prov. V, 18.
2. Eccl. VII, 26.
3. I.e., of undetermined character.
4. Isa. LIV, 5. As God formed the character of Israel so does a husband that of the wife.
5. Showing that the loss was chiefly hers.
6. Ruth I, 3.
7. Gen. XLVIII, 7.
8. Isa. XXXIII, 17.
9. In charge of the Temple Service.
10. Ezek. XLIV, 20.
11. Num. VI, 5.
12. I.e., they were not to let their hair grow untrimmed for thirty days.
13. In support of the statement cited. Cf. *Nazir* 5a.
14. V. [Glos.](#)
15. *Ibid.*
16. V. *supra* p. 121, n. 4.
17. The numerical value of [H] is 10 + 5 + 10 + 5 = 30.
18. Thus Tosaf. s. v. [H]. The text has [H], according to which R. Papa asks: Perhaps it means that they should not let their hair grow long at all? Rashal, following the interpretation of Tosaf. deletes [H]. Epstein, B. (Torah Temimah on Num. VI, 5) makes the ingenious suggestion that the word [H] comprises the two words [H] (the full thirty days).
19. Ezek. XLIV, 21: Neither shall any priest drink wine when they enter into the inner court.
20. As a precautionary measure against drunkenness lest the Temple be suddenly rebuilt and the Priests called upon to enter upon its service, [cf. *Yad Ramah*].
21. The fact that the Temple is destroyed makes their speedy re-instatement remote.
22. Even in the post-Temple age. Should not *pera'* then also be forbidden, for no priest can know when he should be on duty and when not?
23. A liquid measure, a quarter of a *log* (the contents of six eggs).

24. That even at this day Priests may not drink lest the Temple be suddenly rebuilt and their services needed.
25. Tosef. Ker. I.
26. Lev. X, 9.
27. Hence, on this premise, it should be forbidden even to-day?
28. Cf. Ta'an. 17b and v. p. 128, n. 1.
29. For, if there was no source, the offence could not be punishable thus.
30. That a previous source was required.
31. That an uncircumcised priest is incompetent to serve in the Temple.
32. Ezek. XLIV, 9.
33. S. Luria deletes the bracketed passage. [This is indeed the reply given in Ta'an 17b to the question which is here left unanswered *supra* 127, v. n. 5.]
34. [The reference is not clear, v. Krauss, *op. cit.* I, 644]
35. Rabbi's son-in-law.

Sanhedrin 23a

CHAPTER III

MISHNAH. CIVIL ACTIONS [ARE TO BE TRIED] BY THREE. EACH [LITIGANT] CHOOSES ONE, AND THE TWO JOINTLY CHOOSE A THIRD: SO HOLDS R. MEIR. BUT THE SAGES RULE: THE TWO JUDGES NOMINATE THE THIRD. EACH PARTY MAY OBJECT TO THE JUDGE CHOSEN BY THE OTHER, SO HOLDS R. MEIR. BUT THE SAGES SAY: WHEN IS THIS SO? ONLY IF THE OBJECTOR ADDUCES PROOF THAT THEY ARE EITHER KINSMEN OR [OTHERWISE] INELIGIBLE; BUT IF FIT OR RECOGNISED BY THE *BETH DIN* AS MUMHIN,¹ THEY CANNOT BE DISQUALIFIED.

EACH PARTY MAY REJECT THE WITNESSES PRODUCED BY THE OTHER:² SO HOLDS R. MEIR. BUT THE SAGES SAY, WHEN IS THIS SO? ONLY WHEN PROOF IS BROUGHT THAT THEY ARE EITHER KINSMEN OR [OTHERWISE] INELIGIBLE; BUT IF THEY ARE [LEGALLY] ELIGIBLE, NO ONE CAN DISQUALIFY THEM.

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GEMARA. Why should each of the parties choose one [Beth din]:³ do not three [judges] suffice? — The Mishnah is meant thus: If each party chose a different *Beth din*, [so that one is not mutually accepted], they must jointly choose a third.⁴ Can then the debtor too reject [the *Beth din* chosen by the creditor]? Did not R. Eleazar say:⁵ This refers only to the creditor; but the debtor can be compelled to appear for trial in his [the creditor's] town? — It is as R. Johanan said [below]: we learnt this only in reference to Syrian lawcourts;⁶ and so here too; but not Mumhin.⁷ R. Papa said: It may even refer to Mumhin, e.g., the courts of R. Huna and R. Hisda,⁸ for he [the debtor] can say: Am I giving you any trouble?⁹

We learnt: **THE SAGES RULE: THE TWO JUDGES NOMINATE THE THIRD.** Now, should you think it means as we have said, viz., Beth din;¹⁰ can a *Beth din*, after being rejected, go and choose them another?¹¹ Again, how interpret, **EACH PARTY CHOOSES ONE?**¹² — But it means thus: Each [litigant] having chosen a judge, these two [litigants] jointly select a third. Why should they do so? — They said in 'the West'¹³ in the name of R. Zera: Since each selects a judge, and together they [the litigants] select the third, a true judgment will be rendered.¹⁴

BUT THE SAGES RULE, etc. Shall we say that they¹⁵ differ in regard to the law cited by Rab Judah in the name of Rab? For Rab Judah said in the name of Rab: Witnesses may not sign a deed unless they are aware who is to sign with them:¹⁶ R. Meir thus disagreeing with the dictum of Rab Judah given in the name of Rab,¹⁷ while the Rabbis accept it?¹⁸ — No, all agree with Rab Judah's statement in Rab's name and none dispute that the [third judge] must have the consent of his colleagues; they only differ as to whether the consent of the litigants is necessary. R. Meir maintains that the consent of the litigants is also required, while

the Rabbis hold, only that of the judges is required, but not that of the litigants.

The [above] text [states]: Rab Judah said in Rab's name: Witnesses may not sign a deed, etc. It has been taught likewise: The fair minded¹⁹ of the people in Jerusalem used to act thus: They would not sign a deed without knowing who would sign with them; they would not sit in judgment unless they knew who was to sit with them; and they would not sit at table without knowing their fellow diners.

EACH PARTY MAY OBJECT TO THE JUDGE CHOSEN BY THE OTHER.

Has then anyone the right to reject judges? — R. Johanan said: This refers to the Syrian courts.²⁰ But [you say that] Mumhin cannot be rejected? Surely since the last clause states, **BUT THE SAGES SAY: WHEN IS THIS SO? ONLY IF THE OBJECTOR ADDUCES PROOF THAT THEY ARE EITHER KINSMEN OR [OTHERWISE] INELIGIBLE; BUT IF FIT OR RECOGNISED BY THE BETH DIN AS MUMHIN, THEY CANNOT BE DISQUALIFIED:** does it not follow that R. Meir refers even to Mumhin! — It is meant thus: But if they are fit, they rank as Mumhin appointed by the *Beth din*, and so cannot be disqualified.

Come and hear: 'The Rabbis said to R. Meir: It does not rest with him to reject a judge who is a Mumheh for the public?'²¹ — Say [thus]: It does not rest with him to reject a judge whom the public has accepted as a Mumheh. It has been taught likewise: One may²² go on rejecting judges until he undertakes [that the action shall be tried] before a *Beth din* of Mumhin:²³ this is the view of R. Meir.²⁴

But witnesses [when not disqualified] are as Mumhin;²⁵ yet R. Meir said: **EACH PARTY MAY REJECT THE WITNESSES PRODUCED BY THE OTHER!** — Surely it

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has been stated regarding this: Resh Lakish said: Imagine a holy mouth [sc. R. Meir] uttering such a thing!²⁶ Read [therefore] 'THE WITNESS', [singular].²⁷ But for what purpose is a single witness [competent]? Shall we say, for the actual payment of money?²⁸ then his testimony is Biblically invalid! If for [the administration of] an oath, then his evidence is [legally] as trustworthy as that of two!²⁹ — In fact, he refers to the payment of money, but it [sc. R. Meir's ruling] arises only where both parties have voluntarily accepted his testimony as equivalent to that of two witnesses. Then what does he thereby teach: that he may retract? But we have already learnt this once:³⁰ If one says, I accept my father or thy father as trustworthy,³¹ or I have confidence in three herdsmen,³² R. Meir says, He may [subsequently] retract; but the Sages rule, He cannot.

1. V. Glos.
2. The Gemara discusses the conditions of such disqualification.
3. Which consists of three judges. By 'ONE' in the Mishnah, the text understands a court, according to which interpretation nine judges are necessary. So Rashi. This, however, is a very strained interpretation, particularly in view of the opening statement of the Mishnah: CIVIL ACTIONS ARE TO BE TRIED BY THREE. Tosaf. therefore states that the question is based on the assumption that the meaning of the Mishnah is this: Each litigant chooses a complete *Beth din*; and then the two courts jointly nominate a third court, and it is the third court that tries the case. Hence the question: Why such a clumsy proceeding: cannot the two litigants jointly select one court which shall try the action?
4. But it is not meant that the procedure must be so from the very outset.
5. *Infra* 31b in regard to a dispute as to place of trial.
6. [Tribunals set up by the Romans and in charge of Jewish judges whose decisions were based on precedent and common sense rather than Biblical or Rabbinic Law, cf. Buchler, *Sepphoris*, 21 ff.]
7. These cannot be disqualified by the debtor.
8. [R. Huna's court was at Sura, and R. Hisda had his school, according to Sherira, at Matha Mehasia on the outskirts of Sura.]
9. For, while it is just that the debtor shall not have the power of putting the creditor to great trouble in choice of locale, seeing that the debtor is under an obligation to the creditor, this objection does not hold good when the two courts are so close to each other.
10. I.e., each litigant chooses a *Beth din*.
11. Surely not!
12. Which implies that the actual procedure must be so from the beginning.
13. R. Jeremiah, *supra* 17b.
14. For both parties have confidence in the court.
15. R. Meir and the Sages.
16. I.e., who is the other witness. The reason is that the other witness may prove to be unfit, in which case both signatures are null, and the eligible signatory is thus put to shame.
17. I.e., he does not require the witnesses to know beforehand who will join them; and in the same way, it is unnecessary for the two judges to know beforehand whether the third will be a fit and proper person; therefore the third is selected by the litigants.
18. V. previous note; the reasoning is reversed.
19. [H], [(a) 'the cautious' (Buchler); (b) 'the pious' (Muller); (c) 'the nobility' (Klein, S. [H] I, 72 ff.)]
20. v. *supra* p. 130, n. 2.
21. From this it may be inferred that in R. Meir's opinion even Mumhin may be rejected.
22. But not a competent body, in which case R. Meir may agree with the Rabbis.
23. This translation follows an emended text. V. marginal gloss in curr. edd.
24. Hence it is evident that even R. Meir agrees that Mumhin cannot be rejected.
25. All are expert to attest what they have witnessed.
26. Surely it is absurd to suggest that a litigant having produced witnesses in his favor, his opponent can simply reject them.
27. I.e., each can reject only a single witness produced by the other: a single witness, of course, is not on a par with an expert *Beth din*.
28. I.e., the debtor is to be ordered to pay on his evidence.
29. If the plaintiff has one witness in his support, his testimony is so far admissible as to subject the defendant to an oath; and the defendant cannot reject his testimony, just as he could not reject the testimony of two witnesses.
30. Viz., in the next Mishnah.
31. To act as judges in a dispute, though normally relations of the litigants were ineligible. That the reference is to judges follows from the fact that three herdsmen are mentioned.
32. In those days holding the lowest rank in society.

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Sanhedrin 23b

And thereon R. Dimi the son of R. Nahman the son of R. Joseph observed: This means, e.g., that he accepted him as one [of the three judges]¹ — Both are necessary. Had he stated only the law regarding the 'fathers' it might have been assumed that only there do the Rabbis² rule that he cannot retract, because 'my father' and 'thy father' are fit [to act as judges] in other cases; but where one witness is accepted as two, one might have thought that the Rabbis agreed with R. Meir, since he is unfit in general.³ Whilst had the law been stated in this instance, I might have thought that only here does R. Meir rule thus; but in the other case, he agrees with the Rabbis.⁴ Hence both are necessary. But since the first clause mentions, 'JUDGE' [singular], whilst the second reads, 'WITNESSES' [plural], it follows that it is to be taught literally?⁵ — Said R. Eleazar: This is a case where he [the litigant] together with another come forward to disqualify them.⁶ But is he empowered to do this, seeing that he is an interested party?⁷ — R. Aha the son of R. Ika said: [Yes;] e.g., where he makes public the ground of his objection. What objection is meant? Shall we say, an objection based on a charge of robbery? But does that rest with him, seeing that he is an interested party? Hence it must be an objection on the grounds of family unfitness.⁸ Now, R. Meir contends that they [sc. the litigant and his supporter] testify against the man's family,⁹ whilst he is automatically disqualified; and the Rabbis hold that after all said and done, he is an interested party.

When R. Dimi came [from Palestine]¹⁰ he said in R. Johanan's name: The controversy arises only where [the plaintiff said that he could produce] two pairs of witnesses. Now, R. Meir holds that the litigant is obliged to verify [his statements regarding his second set of witnesses];¹¹ while the Rabbis say that he is not so obliged.¹² But if only one pair of

witnesses [are offered], all agree that they cannot be disqualified.

R. Ammi and R. Assi said in R. Dimi's presence: What if there is only one pair [of witnesses]? [You ask, what if] there is only one set? Have you not just said, 'but if only one pair of witnesses [are offered] all agree that they cannot be disqualified'? But the question is, what if the second pair is found to consist of kinsfolk or to be [otherwise] ineligible?¹³ — He answered them: The first witnesses have already testified.¹⁴

Others say that R. Ashi gave the above answer.

Shall we say that their [sc. R. Meir and the Rabbis'] dispute is the same as that of Rabbi and R. Simeon b. Gamaliel? For it has been taught: If one comes to be judged on the strength of a deed and *hazakah*;¹⁵ Rabbi said: The case must be determined by a deed.¹⁶ Rabban Simeon b. Gamaliel ruled: It is determined by *hazakah* [alone]. But we raised this question thereon: By *hazakah* [only], and not by deed?¹⁷ But rather say thus: Even by *hazakah* [alone]. And it is an established fact that their dispute is whether the defendant is obliged to verify [his statement]!¹⁸ — No, according to the view of Rabban Simeon b. Gamaliel, none [i.e. neither R. Meir nor the Rabbis] differ here;¹⁹ they only differ on the basis of Rabbi's opinion. Thus, R. Meir agrees with Rabbi. But the Rabbis can tell thee: Rabbi gives this ruling there only in the case of *hazakah*, which is valid proof²⁰ only in virtue of there having been a deed.²¹ But here, since the legal standing of one pair is independent of the other, even Rabbi agrees that the claimant need not verify [his statements in full].

When Rabin came [from Palestine]²² he said in R. Johanan's name: The first clause [of the Mishnah]

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1. And since one of the three judges is ineligible by Biblical law, he may retract; so here, since one witness cannot impose payment by Biblical law, although he was accepted as trustworthy, he may retract. Consequently we were already informed of this. It may be asked, Why is R. Dimi's observation mentioned at all: does not the difficulty arise in any case? But without this dictum, it might be said that the litigant can retract in this case because there are two irregularities: (a) one only was permitted to try the suit; (b) even he was Biblically ineligible. But if there is only one irregularity, as in the case under discussion, where a single witness was accepted as the equivalent of two, it might be thought that the litigants cannot retract. Therefore R. Dimi's interpretation is adduced, to show that here too there was only one fault, that one of the judges was a relative (Tosaf.).
2. The Sages.
3. To count as two.
4. By the preceding argument inverted.
5. Which overthrows Resh Lakish's interpretation, hence the original difficulty remains.
6. And two have authority to reject; but actually the reference is to two witnesses.
7. Hence, only one witness is left, and one has no power to overthrow the evidence of two.
8. E.g., that he was the descendant of an unliberated slave whose testimony is inadmissible.
9. And in this matter, the litigant is not an interested party.
10. V. p. 393, n. 1.
11. Therefore, the defendant is not regarded as an interested party when he testifies to the family unfitness of one of the first pair, since the plaintiff is bound to adduce the second set in any case, who are themselves sufficient. Should the plaintiff be unable to adduce a second set, he is the cause of his own loss.
12. Consequently, notwithstanding his first assertion, he can insist on basing his claims on the first pair of witnesses only, and so the defendant becomes an interested party in seeking to disqualify one of these witnesses. — Tosaf. and one interpretation of Rashi. Rashi, however, reverses the reading and gives another explanation.
13. Can we say, since the second pair has thus been rendered ineligible, the defendant is retrospectively discovered to have been an interested party in his testimony disqualifying the first pair, since the second is no longer available, and therefore his evidence in respect to the first is now inadmissible? Or, on the other hand, it may be argued that when the defendant gave his evidence he was a disinterested party, and consequently it still holds good.
14. I.e., the testimony of the defendant in respect to the first, having been accepted, stands good.
15. A claim based on undisturbed possession during a legally fixed period — three years. This means, if one's ownership of land is challenged, and he asserts that he can prove it both by a deed of sale, which he has in his possession, and also by *hazakah*.
16. And if he failed to produce it, *hazakah* would not determine ownership. Though *hazakah* is usually accepted as proof, it is not accepted here, since the defendant asserted that he had the deed of conveyance in his possession.
17. Surely it cannot be maintained that if a deed of sale is produced, three years of undisturbed possession must also be proved!
18. Thus: Rabbi maintains that the whole statement must be verified, and therefore the deed is necessary; whilst R. S. b. G. holds that it need not be verified, just as though he had never made it, and therefore *hazakah* alone is sufficient (v. B.B. 169b-170a). Rabbi will accordingly agree with R. Meir, and R. S. b. G. with the Rabbis.
19. For it is obviously impossible to reconcile R. Meir with R. S. b. G.
20. Lit., 'which comes'.
21. Three years undisturbed possession proves ownership only when the defendant pleads that he bought the land, was given a deed, but lost it. Therefore, since the defendant asserted in the first place that he could produce the deed, evidence of undisturbed possession is not enough.
22. V. p. 390, n. 1.

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refers to invalid witnesses, but competent judges: hence, since¹ the witnesses are invalidated, the judges too are disqualified.² While the latter clause deals with invalid judges and competent witnesses; therefore, since the judges are disqualified, the witnesses too are rejected. Raba objected: As for arguing² that since the witnesses are [undisputably] disqualified, so are the judges too: that is correct, seeing that another bench of judges is available [to try the case]. But [can one argue], since the judges are

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disqualified, so are the witnesses too, seeing that no other witnesses may be available? — This holds good only when another set of witnesses is available. Then what if no other set of witnesses is available; [will you say that] here too [viz., according to Rabin] the witnesses cannot be disqualified? But his view is then identical with that of R. Dimi!³ — They differ in respect to *Miggo*;⁴ one master [Rabin] accepts the reasoning of *Miggo*; while the other [R. Dimi] rejects it.⁵

The above text reads: 'Resh Lakish said: "Imagine a holy mouth [sc. R. Meir] uttering such a thing!" Read therefore [in the Mishnah], "The witness" [singular].' Surely this is not so! For 'Ulla said: One who saw Resh Lakish in the Beth-Hamidrash [engaged in debate] would think that he was uprooting mountains and grinding them against each other!⁶ — Rabina said: But did not he who saw R. Meir in the Beth-Hamidrash feel that he was uprooting yet greater mountains and grinding them against each other?⁷ — He means this:⁸ Come and see how they [the Palestinians] esteem one another!⁹ Another instance; Rabbi sat and said: It is forbidden to store away the cold [water].¹⁰ But R. Ishmael son of R. Jose remarked in his presence; My father permitted it. Then the Zaken¹¹ has already decided the matter,¹² replied Rabbi. [Thereupon] R. Papa said: Come and see how much they respected each other, for were R. Jose alive, he would have sat submissively before Rabbi, for as we have seen, R. Ishmael son of R. Jose, who was a worthy successor of his forefathers,¹³ sat submissively before him,¹⁴ yet he [Rabbi] said of him, 'The Zaken has already decided.'

R. Oshaia said: What is the meaning of the verse, And I took unto me the two staves; the one I called No'am [graciousness] and the other I called 'hoblim'¹⁵ [binders]?¹⁶ — 'No'am' refers to the scholars of Palestine, who treat each other graciously [man'imim] when engaged in halachic debates; 'hoblim', to the scholars of Babylon, who injure each

other's feelings [mehablim] when discussing halachah.¹⁷

[It is written]: Then said he, These are the two anointed ones, etc.¹⁸ [This is preceded by:] And two olive trees by it.¹⁹ R. Isaac said: 'yizhar' designates the scholars of Palestine, who are affable to each other when engaged in halachic debates, like olive oil [which is soothing]; [whilst] and two olive trees stand by it, symbolize the scholars of Babylon, who are as bitter to each other in halachic discussions as olive trees.²⁰

Then lifted I up mine eyes and saw, and behold there came forth two women and the wind was in their wings; for they had wings like the wings of a stork. And they lifted up the measure between the earth and the heaven. Then said I to the angel that spoke with me, 'Whither do these bear the measure?' And he said unto me, 'To build her a house in the land of Shinar.'²¹ R. Johanan said on the authority of R. Simeon b. Johai: These [the 'two women'] symbolize hypocrisy and arrogance, which made their home²² in Babylon. But was Babylon really the home of haughtiness; did not the master say, Ten kabs²³ of arrogance came down into the world, of which Elam²⁴ took nine and the rest of the world one? — Yes, originally it descended to Babylon, but it travelled to Elam. This can also be inferred from the phrase, to build her²⁵ a house in the land of Shinar. This proves it.

But a Master said that the symptom of pride is poverty, and did not poverty descend upon Babylon? — By 'poverty',²⁶ the dearth of learning²⁷ is meant, for it is written, We have a little sister and she has no breasts;²⁸ whereon R. Johanan observed: This is a symbol of Elam, which was privileged to study, but not to teach.²⁹

What does [the name] Babel connote?³⁰ — R. Johanan answered: [That the study of] Scripture, Mishnah and Talmud was intermingled [therein].³¹

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He hath made me to dwell in dark places like those that have been long dead.³² This, said R. Jeremiah, refers to the Babylonian Talmud.³³

MISHNAH. IF ONE [OF THE CONTENDING PARTIES] SAYS TO THE OTHER: I ACCEPT MY FATHER OR THY FATHER AS TRUSTWORTHY,³⁴ OR, I HAVE CONFIDENCE IN THREE COWHERDS,³⁵ R. MEIR SAYS, HE MAY [SUBSEQUENTLY] RETRACT; BUT THE SAGES RULE, HE CANNOT. IF A MAN WAS UNDER THE OBLIGATION OF AN OATH TO HIS NEIGHBOUR, AND THE LATTER SAID TO HIM 'VOW TO ME BY THE LIFE OF THY HEAD,'³⁶ R. MEIR HOLDS, HE MAY RETRACT; BUT THE SAGES MAINTAIN, HE CANNOT.³⁷

GEMARA. R. Dimi the son of R. Nahman the son of R. Joseph said: [The Mishnah refers to a case] e.g., where he [the litigant] accepted him [sc. one of those mentioned] as one [of the three judges required].³⁸

Rab Judah said in Samuel's name: The controversy [of R. Meir and the Rabbis³⁹ over a case] is only [where the plaintiff says]: 'My claim against thee be remitted' [if the judges so decide]; but [if the defendant says], 'I will pay thy claim' [should it be so decided], all [even the Rabbis] agree that he may retract.⁴⁰ R. Johanan said: They differ over the latter case.

The scholars propounded [the following problem]: [Does R. Johanan mean that] they differ only over the latter case, but that in the former, all [even R. Meir] agree that he cannot retract; or does he hold that they differ with respect to both cases? — Come and hear! For Raba said: They differ [only] in respect of, 'I will pay thee;' but in the case of, 'It be remitted to thee,' all [even R. Meir] agree that he cannot retract. Now, if you say [that R. Johanan maintains], Their difference is only in the case of, 'I will pay thee'; but in the case of, 'It be remitted to thee,' all agree

that he cannot retract, it is correct: then Raba's opinion coincides with that of R. Johanan. But should you say, their dispute applies to both, with whom does Raba agree?⁴¹ — Raba [on the latter hypotheses] states an independent view.⁴²

R. Aha b. Tahlifa objected to Raba's view: **IF ONE WAS UNDER THE OBLIGATION OF AN OATH TO HIS NEIGHBOUR, AND THE LATTER SAID TO HIM, 'VOW TO ME BY THE LIFE OF THY HEAD;' R. MEIR HOLDS HE MAY RETRACT; BUT THE SAGES MAINTAIN, HE CANNOT.**

1. [H], *Miggo*. A Talmudical rule by which an action is declared valid because part of it is indisputably legitimate. In this case, the rule is accepted by R. Meir but not by the Rabbis.
2. I.e., the litigant proved his opponent's witnesses invalid, but was unable to do so likewise in the case of the proposed judges. Yet in virtue of the first, he can object to his opponent's choice of judges too.
3. Who said above that where there is only one set of witnesses available, all agree that they cannot be rejected.
4. V. p. 135, n. 7.
5. The dispute is whether this reasoning is acceptable in general, though in the actual case under discussion there may possibly be no difference. Thus, Rabin holds that *miggo* is generally accepted, and here too, whilst R. Dimi rejects this reasoning here and elsewhere; therefore, it is only because R. Meir maintains that a litigant must substantiate his whole statement that his opponent is able to disqualify his witnesses, as explained above, and this is irrespective of whether the judges have been proved incompetent or not.
6. So ingenious a mind did he have. How then could he be so modest as to refer to R. Meir as 'a holy mouth', thus implying that the latter's learning and skill was far above his own? — 'Mountain' is used figuratively for the problems overcome by dialectical ingenuity.
7. Hence, notwithstanding Resh Lakish's dialectic skill, R. Meir was his superior.
8. This is an answer to Rabina's observation. In fact, the previous remark was not an objection, but a comment.
9. Able as he was, Resh Lakish did appreciate R. Meir, as the above quotation shows.
10. In cool sand, to preserve its coolness for the Sabbath, though the measure in general is

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directed against the storing of food in such a way that it grows warmer. Cf. Shab. 51a.

11. R. Jose; Zaken, lit., 'elder' = scholar, sage.
12. I.e., the law must remain as he has ruled.
13. I.e., he took his father's place.
14. As a disciple.
15. Also 'injuries'.
16. Zech. XI, 7
17. Discussions were carried on far more energetically in the Babylonian academies than in the Palestinian, and in fact, there is considerably more controversy in the Babylonian than in the Jerusalem Talmud.
18. Lit., 'The sons of 'yizhar' (clear oil).' Ibid. IV, 14.
19. Ibid. 3.
20. The wood of which is bitter to the taste.
21. Zech. V, 9-11.
22. Lit., 'descended into'.
23. A measure.
24. The country named after the eldest son of Shem. (Gen. X, 22.) It lay along Shushan and the river Ulai. Cf. Dan. VIII, 2, and had Babylonia on the West.
25. Only one of the vices, thus proving that the other did not settle there permanently.
26. As a symptom of pride.
27. Lit., 'the Torah'.
28. Cant. VIII, 8.
29. I.e., its learning had remained stagnant. [On the all-pervading ignorance of the Law among the Jews of Elam (Hozea, Khuzistan), v. Pes. 50b-51a.]
30. [H]; Babylonia. Based on the popular etymology of the word from [H] 'to mix', 'confound', cf. Gen. XI, 9.
31. This may either mean that all three were studied; or preferably, as explained by R. Tam a.l., that the Babylonian Talmud itself is a compound of all three.
32. Lam. III, 6.
33. Which is profound and dark to the unversed. Cf. Hag. 10a. The word 'Talmud' refers to both the mode of study and the actual content of that study, and either or both may be referred to here.
34. A father is disqualified to act as judge: v. *infra* 27b.
35. Considered to be the lowest class in society.
36. Such is not the formula of a judicial oath, which is sworn in the name of God. Here both the swearing, i.e., 'I swear', and the Divine name are absent.
37. And demand a proper oath.
38. Though there are two others eligible, R. Meir still holds that he may retract (Rashi). Tosaf. explains more plausibly: Only then do the Sages rule that he cannot retract. If, however, he had accepted one of these as the equivalent

of a complete court, even the Sages admit that he can subsequently retract. V. *supra* p. 132, n. 11.

39. The Sages.
40. Less authority is required to rule that one retains what is already in his possession, since possession itself affords a presumption of ownership, than to transfer money from one to another. Hence, only in the former case do the Rabbis rule that an undertaking to abide by the decision of an unqualified judge is binding, but not in the latter.
41. For it coincides neither with that of Samuel nor with that of R. Johanan.
42. I.e., he is not bound to agree either with Samuel or R. Johanan. Hence the question remains unanswered.

Sanhedrin 24b

Now surely, this refers to those who swear and do not pay,¹ and hence is analogous to, 'It be remitted thee'?² — No; this refers to those who swear and receive their claim,³ so that it is analogous to 'I will pay thee'.

But if so, has this not already been taught in the first clause [of the Mishnah]?⁴ — It [the Mishnah] teaches the case where he [sc. the defendant] makes the irregular procedure depend on the judgment of others,⁵ and also where he makes it depend on his [sc. the plaintiff's] action. And both are necessary. For had it taught only the case where he [the defendant] makes it depend on the judgment of others, [we might have assumed that] in this case alone does R. Meir hold that he can retract since he might not definitely have decided to abide by their decision, but [inwardly] argued, 'Who can say that they will give judgment in the other's favor?' Whereas, if he makes it depend on his [sc. the plaintiff's] action, I might think that he [R. Meir] agrees with the Rabbis [that he cannot retract].⁶ Again, had he [the Tanna] stated the latter case alone, we might have assumed, only there do the Rabbis rule thus; but in the former case, we might think⁷ that they agree with R. Meir. Hence both are necessary.

Resh Lakish said: The dispute [between R. Meir and the Rabbis] is [over a case where

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the litigant retracts] before the rendering of the legal decision:⁸ but once the decision has been given, all [even R. Meir] agree that he cannot retract. While R. Johanan said: They differ [where one retracts] after the decision is rendered.

The scholars propounded [the following problem:] [Does this mean that] the dispute is [only where the litigant retracts] after the promulgation of the decision; but before, all [even the Rabbis] agree that he can retract; or do they differ in both instances? — Come and hear! For Raba said: If one accepted a kinsman or a man [otherwise] ineligible [as judge or witness], he may retract before the promulgation of the decision; but not after. Now, if you understand [R. Johanan to mean] that the dispute refers only to the time after the decision; but that prior thereto, all agree that he may retract, it is correct: then Raba's statement agrees with R. Johanan's, and is based on the view of the Rabbis. But should you say, The controversy holds good in both cases, who is Raba's authority?² Hence it surely follows that the dispute arises only after the decision has been given. This proves it.

R. Nahman son of R. Hisda¹⁰ sent a question to R. Nahman b. Jacob: Will our Master please inform us, Is the dispute before or after the verdict, and with whom does the *halachah* rest? — He sent back word: The dispute arises after the promulgation of the decision, and the *halachah* agrees with the Sages. R. Ashi said: This was the question he sent: — Do they differ in the case of 'I will pay thee,' or in respect to 'It be remitted to thee', and with whom does the *halachah* rest? To which he replied: The dispute refers to, 'I will pay thee;' and the *halachah* rests with the Sages. Thus they taught in Sura. But in Pumbeditha they taught as follows: R. Hanina b. Shelamiah said: A message was sent from the school of Rab¹¹ to Samuel, saying: Will our Master please inform us, [If one of the parties pledged himself] by *Kinyan*¹² [not to retract], what [if he seeks to

retract] before the promulgation of the decision? — He returned word, saying: After *Kinyan*, nothing [can be done to repudiate the transaction].

MISHNAH. AND THESE ARE INELIGIBLE [TO BE WITNESSES OR JUDGES]: A GAMBLER WITH DICE,¹³ A USURER, A PIGEON-TRAINER,¹⁴ AND TRADERS [IN THE PRODUCE] OF THE SABBATICAL YEAR.¹⁵ R. SIMEON SAID: AT FIRST THEY CALLED THEM 'GATHERERS OF [THE PRODUCE OF] THE SABBATICAL YEAR.' BUT WHEN THE OPPRESSORS¹⁶ GREW IN NUMBER, THEY CHANGED THEIR NAME TO TRADERS IN THE SABBATICAL PRODUCE.¹⁷ R. JUDAH SAID: WHEN IS THIS SO? — IF THEY HAVE NO OTHER OCCUPATION BUT THIS. BUT IF THEY HAVE OTHER MEANS OF LIVELIHOOD, THEY ARE ELIGIBLE.

GEMARA. What [wrong] does the dice player do? — Rammi b. Hama said: [He is disqualified] because it [sc. gambling] is an *Asmakta*,¹⁸ and *Asmakta* is not legally binding.¹⁹

R. Shesheth said: Such cases do not come under the category of *Asmakta*;²⁰ but the reason is that they [sc. dice players] are not concerned with the general welfare.²¹ Wherein do they differ? — If he [the gambler] acquired another trade.²² We learnt:²³ R. JUDAH SAID: WHEN IS THIS SO? — IF THEY HAVE NO OTHER OCCUPATION BUT THIS. BUT IF THEY HAVE OTHER MEANS OF LIVELIHOOD, THEY ARE ELIGIBLE. This proves that the ruling of the Mishnah is for the sake of the welfare, of humanity, which refutes Rami b. Hama.²⁴ And should you answer, The Rabbis dispute R. Judah's opinion:²⁵ did not R. Joshua b. Levi say, Wherever R. Judah observes,

1. I.e., who meet the claim against them simply by an oath, since Biblical oaths were imposed on the defendant. Cf Shebu. 44b.
2. I.e., the plaintiff agrees to abandon his claim as the result of an irregular procedure,

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whether in the choice of judges or in the form of the oath. This shows that they differ also in respect of 'It be remitted to thee'.

3. E.g., where a laborer claims his wages when due, or where the defendant is legally incapable of taking an oath, e.g., if he is known to have committed perjury on a previous occasion. Cf. *ibid.*
4. According to the explanation thereof by Raba.
5. By accepting the judgment of people ineligible as judges.
6. For he must have felt certain that the plaintiff would take up his challenge.
7. By inverting the preceding argument.
8. V. p. 24.
9. In this case, it would only be R. Meir, in the opinion of Resh Lakish, who rules thus. But Raba could not abandon the majority ruling of the Rabbis and follow R. Meir. Nor can it be answered that Raba had an independent view of the circumstances in which they differ, as above, since his statement is not made regarding the Mishnah.
10. Or R. Isaac, according to another version.
11. Be Rab. For another possible meaning, v. p. 89.
12. *Kinyan*, lit., 'acquisition', is a formal act whereby one definitely pledges himself. V. [Glos.](#)
13. Heb. [G], Gr. [G] dice-playing, a popular game of antiquity. The term was applied by the Rabbis indiscriminately to any form of gambling. Cf. *Shab.* 149b.
14. Lit., 'pigeon flyers'. The exact meaning of 'pigeon-flyer' is discussed in the Gemara. The disqualification of these is based upon Ex. XXIII, 1: Put not thine hand with the wicked to be an unrighteous witness. In this case, though they cannot be considered actual robbers, since they do not appropriate their gain by violence, the Rabbis nevertheless held such gain a form of robbery.
15. The Sages interpret Lev. XXV, 6: The Sabbath of the land shall be for food to you, to mean, 'for food' and not for 'commerce'. Cf. *Bek.* 12b. The transgressors of this enactment, because they showed so passionate a greed for gain, were not regarded as trustworthy to judge or testify.
16. Government officials who spared no means of extorting heavy taxation from the people. As a result, even the Sabbatical year produce had to be given in payment.
17. The meaning of this is discussed in the Gemara.
18. [H] 'speculation', from [H], 'to rely,' 'to support', is a term in civil law denoting a contract wherein each party promises to pay, on fulfillment of a certain condition which he expects will not be fulfilled. It is not binding according to some teachers, because the obligation has not been assumed with serious intent, since each hopes that his promise will be nullified by the non-realization of the condition. Gambling, as in this case, is an excellent example, for in it, A promises B to forfeit a certain object or amount on the realization of a condition which he hopes and expects will not occur.
19. I.e., does not create an actual obligation. Hence, the receiver is regarded as having taken illegal possession, and so is akin to a robber.
20. His definition of *Asmakta* is illustrated in B.B. 168a: If, for instance, A paid a fraction of his debt on a note to B, and told him to deposit the note with C, adding that if he did not pay the note by a certain date, C should return the note to B who would then collect the amount in full; and if on the due date A did not pay, R. Judah says that B may collect only the amount which was not paid, and not its full value, because A's promise is not valid, seeing that at the time he made it, he assumed that failure to pay would not occur. But in the case under consideration, where it is a game of chance, the odds in either case are equal, and A's intent to pay must be taken seriously. Consequently, the gain cannot be considered as a form of robbery.
21. I.e., they do not contribute to the stability of civilized society.
22. When, according to R. Shesheth, he should not be disqualified.
23. [So Ms. M. introducing a refutation of Rami b. Hama. Cur. edd. read, 'and we learnt'.]
24. Since he holds that the reason for their disqualification is *Asmakta*, irrespective of whether they have another trade or not.
25. In which case his argument agrees with that of the Rabbis, representing the anonymous opinion cited first in the Mishnah.

Sanhedrin 25a

'When is this so,'¹ or 'In what case,'² he merely aims at explaining the words of the Sages? [Whilst] R. Johanan said: 'When, etc.' is explanatory, but 'In what case' indicates disagreement. Thus all agree that 'When, etc. indicates explanation.³ — Do you oppose one amora⁴ to another?⁵ One Master [Rami b. Hama] holds that they [the Rabbis and R. Judah] differ; the other [R. Joshua b. Levi]

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holds that they do not.⁶ But do they really not differ? Has it not been taught:⁷ Whether he has another occupation or not, he is disqualified?⁸ — That is the view of R. Judah, stated on the authority of R. Tarfon. For it has been taught: R. Judah said on the authority of R. Tarfon: In truth, neither of them is a *nazir*, because a vow of neziruth⁹ must be free from doubt.¹⁰

A LENDER ON INTEREST ... Raba said: A borrower on interest is unfit to act as witness. But have we not learnt: **A LENDER [malweh] ON INTEREST [is disqualified]?** — [It means] a loan [milweh]¹¹ on interest [disqualifies the parties to the transaction].

Two witnesses testified against Bar Binithus. One said, 'He lent money on interest in my presence.' The other said, 'He lent me money on interest.' [In consequence,] Raba disqualified Bar Binithus [from acting as witness, etc.]. But did not Raba himself rule: A borrower on interest is unfit to act as witness? Consequently he¹² is a transgressor, and the Torah said: Do not accept the wicked as witness?¹³ — Raba¹⁴ here acted in accordance with another principle of his. For Raba said: Every man is a relative in respect to himself, and no man can incriminate himself.¹⁵

A certain slaughterer was found to have passed a terefah¹⁶ [as fit for food], so R. Nahman disqualified¹⁷ and dismissed him. Thereupon he went and let his hair and nails grow.¹⁸ Then R. Nahman thought of reinstating him, but Raba said to him: Perhaps he is only pretending [repentance]. What then is his remedy? — The course suggested by R. Iddi b. Abin, who said: He who is suspected of passing terefoth cannot be rehabilitated unless he leaves for a place where he is unknown and finds an opportunity of returning a lost article of considerable value, or of condemning as terefah meat of considerable value, belonging to himself.¹⁹

AND PIGEON TRAINERS: What are PIGEON TRAINERS? — Here²⁰ it has been interpreted, [of one who says to another], 'If your pigeon passes mine [you win].'²¹ R. Hama b. Oshaia said: It means an Ara.²² On what ground does he who interprets [the phrase to mean] 'pigeon-racer' disagree with him who interprets it as Ara? — His answer is that the conduct of an Ara [is regarded as robbery] merely from the standpoint of neighbourliness.²³ And he who interprets it as 'Ara', why does he not accept this view [sc. 'if thy pigeon, etc.]? — His answer is, in that case it is identical with a dice player. And the former?²⁴ — He [the Tanna of the Mishnah] deals with a case where he relies on his own capabilities. [i.e., dice-playing] and a case where he relies on the capabilities of his pigeon. And both are necessary. For had he dealt only with the case where a man relies upon himself, [I might have supposed that] only there was his promise without serious intent, since he thinks,

1. [H]
2. [H]
3. So that R. Judah does not differ from the Rabbis. Hence they too hold that the reason for disqualification is not '*Asmakta*', but for 'the sake of the welfare of humanity'.
4. Lit., 'man'.
5. R. Joshua b. Levi and Rami b. Hama, who have equal authority.
6. And that R. Judah's statement is merely explanatory.
7. 'Er. 82a.
8. And presumably this is the view of the Rabbis, thus proving that they do differ from R. Judah.
9. For *nazir* and *neziruth*, v. [Glos.](#)
10. Lit., 'applies only to distinct utterance.' This refers to the following: A and B were sitting by the road-side, and a man passed them. Whereupon A said to B: If the man who has passed is a *Nazir*, as I maintain he is, then I too will take the vow of neziruth; and B said that he for his part would take the vow if he were not. R. Tarfon ruled that the vow is not binding even upon him whose view was subsequently found to be correct, for the vow was based on a doubtful matter, whereas neziruth requires a distinct and explicit pledge. (V. *Nazir* 34a). R. Judah himself may thus, notwithstanding his statement in the

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Mishnah, which is only explanatory of the view of the Rabbis, concur in R. Tarfon's view. With respect to the actual reasoning of the Talmud, Rashi states: This proves that in R. Tarfon's opinion, an undertaking dependent on an unknown circumstance is not binding, and therefore the same applies to gambling, each gambler undertaking to pay his opponents without knowing the latter's strength, and therefore the gambler is akin to a robber, as explained on p. 143, n. 2, whether gambling, is his sole occupation or not.

11. [H] may be read either [H] (lender) or [H] (loan).
12. The witness who testified that he had borrowed money from Bar Binithus on interest.
13. Ex. XXIII 1: this is not an exact quotation, but the general implication of the text. How, then, could the evidence of the latter be accepted?
14. Its accepting the witness's evidence against Bar Binithus.
15. Cf. *supra* 9b. Consequently, his evidence is valid only with regard to the accused but not with regard to himself.
16. V. [Glos.](#)
17. From acting as slaughterer. According to another version he excommunicated him. Cf. Alfasi a.l.; Kesef Mishneh on Maim. Yad, Talmud Torah, VI, 14.
18. As a sign of penitence.
19. So exhibiting his staunch observance of the law, even in the face of loss.
20. In Babylon.
21. A pigeon-racer.
22. Or Ada, a fowler, one who puts up decoy-birds to attract other birds from another's dove-cote. [Ara is connected by Ginzberg, L., with the Assyrian aru, denoting by 'gin', 'snare'; v. Krauss, S., Sanhedrin-Makkot, p. 124.]
23. Lit., 'ways of peace', but not its law, since birds may, and often do change their homes of their own will. According to strict law, these birds are considered as semi-wild, and therefore ownerless. Yet it is robbery on account of 'the ways of peace'.
24. How does he answer this objection?