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Book IV

Folios 67a-92b



SANHEDRIN

**TRANSLATED INTO ENGLISH
WITH NOTES**

**CHAPTERS I - VI
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Sanhedrin 67a

That is merely a mnemonical sign.¹

MISHNAH. A MESITH IS A [SEDUCING] LAYMAN,² AND HE WHO SEDUCES AN INDIVIDUAL³ SAYING, 'THERE IS AN IDOL IN SUCH AND SUCH A PLACE; IT EATS THUS, IT DRINKS THUS, IT DOES SO MUCH GOOD AND SO MUCH HARM. FOR ALL WHOM THE TORAH CONDEMNS TO DEATH NO WITNESSES ARE HIDDEN TO ENTRAP THEM, EXCEPTING FOR THIS ONE. IF HE INCITED TWO [TO IDOLATRY], THEY THEMSELVES ARE WITNESSES AGAINST HIM, AND HE IS BROUGHT TO *BETH DIN* AND STONED. BUT IF HE ENTICED ONE, HE MUST REPLY, I HAVE FRIENDS WHO WISH TO DO SO LIKEWISE [COME AND PROPOSE IT TO THEM TOO].' BUT IF HE WAS CUNNING AND DECLINED TO SPEAK BEFORE THEM, WITNESSES ARE HIDDEN BEHIND A PARTITION, WHILST HE WHO WAS INCITED SAYS TO HIM, MAKE YOUR PROPOSAL TO ME NOW IN PRIVATE.

WHEN THE MESITH DOES SO, THE OTHER REPLIES, HOW SHALL WE FORSAKE OUR GOD IN HEAVEN TO GO AND SERVE WOOD AND STONES?' SHOULD HE RETRACT, IT IS WELL. BUT IF HE ANSWERS, 'IT IS OUR DUTY [TO WORSHIP IDOLS], AND IS SEEMLY FOR US, THEN THE WITNESSES STATIONED BEHIND THE PARTITION TAKE HIM TO *BETH DIN*, AND HAVE HIM STONED.

IF HE SAYS, 'I WILL WORSHIP IT', OR, 'I WILL GO AND WORSHIP', OR, 'LET US GO AND WORSHIP'; OR, 'I WILL SACRIFICE [TO IT]', 'I WILL GO AND SACRIFICE', 'LET US GO AND SACRIFICE'; 'I WILL BURN INCENSE, 'I WILL GO AND BURN INCENSE'. 'LET US GO AND BURN INCENSE'; 'I WILL MAKE LIBATIONS TO IT', 'I WILL GO AND MAKE LIBATIONS TO IT, LET US GO AND MAKE LIBATIONS, 'I WILL PROSTRATE

MYSELF BEFORE IT', 'I WILL GO AND PROSTRATE MYSELF'. 'LET US GO AND PROSTRATE OURSELVES'. (GUILT IS INCURRED).⁴

GEMARA. A MESITH IS A LAYMAN. Thus, only because he is a layman [is he stoned]; but if a prophet, he is strangled. WHO SEDUCES AN INDIVIDUAL: thus, only if he seduces an individual; but if a community, he is strangled. Hence, who is [the Tanna of] the Mishnah? — R. Simeon. For it has been taught: A prophet who entices [people to idolatry] is stoned; R. Simeon said: He is strangled.⁵ Then consider the second clause.⁶ A maddiah⁷ is one who says: 'Let us go and serve idols': whereon Rab Judah observed in Rab's name: This Mishnah teaches of those who lead astray a seduced city. Thus it agrees with the Rabbis [who maintain that these too are stoned, not strangled]. Hence, the first clause is taught according to R. Simeon; the second according to the Rabbis! — Rabina said: Both clauses are based on the Rabbis' ruling, but proceed from the universally admitted to the disputed.⁸ R. Papa said: When the Mishnah states A MESITH IS A HEDYOT,⁹ it is only in respect of hiding witnesses.¹⁰ For it has been taught: And for all others for whom the Torah decrees death, witnesses are not hidden, excepting for this one. How is it done? — A light is lit in an inner chamber, the witnesses are hidden in an outer one [which is in darkness], so that they can see and hear him,¹¹ but he cannot see them. Then the person he wished to seduce says to him, 'Tell me privately what thou hast proposed to me'; and he does so. Then he remonstrates; 'But how shall we forsake our God in Heaven, and serve idols'? If he retracts, it is well. But if he answers: 'It is our duty and seemly for us', the witnesses who were listening outside bring him to the *Beth din*, and have him stoned.¹²

MISHNAH. A MADDIAH IS ONE WHO SAYS, 'LET US GO AND SERVE IDOLS'. A SORCERER, IF HE ACTUALLY PERFORMS

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MAGIC, IS LIABLE [TO DEATH]. BUT NOT IF HE MERELY CREATES ILLUSIONS.¹³ R. AKIBA SAID IN R. JOSHUA'S NAME: OF TWO WHO GATHER CUCUMBERS [BY MAGIC] ONE MAY BE PUNISHED AND THE OTHER EXEMPT: HE WHO REALLY GATHERS THEM IS PUNISHED: WHILST HE WHO PRODUCES AN ILLUSION IS EXEMPT.

GEMARA. Rab Judah said in Rab's name: This Mishnah teaches of those who lead astray a seduced city.¹⁴

A SORCERER, IF HE ACTUALLY PERFORMS MAGIC, etc. Our Rabbis taught: [*Thou shalt not suffer*] a witch [*to live*]:¹⁵ this applies to both man and woman. If so, why is a [*female*] witch stated? — Because mostly women engage in witchcraft. How are they executed? — R. Jose the Galilean said: Here it is written, *Thou shalt not suffer a witch to live*; whilst elsewhere is written, *Thou shalt not suffer anything that breatheth to live*.¹⁶ Just as there, the sword is meant, so here is the sword meant too. R. Akiba said: It is here stated, *Thou shalt not suffer a witch to live*; whilst elsewhere it is said, [*There shall not a hand touch it, but he shall surely be stoned, or shot through;*] *whether it be beast or man, it shall not live*.¹⁷ Just as there, death by stoning is meant, so here too. R. Jose said to him, I have drawn an analogy between '*Thou shalt not suffer to live*' written in two verses, whilst you have made a comparison between '*Thou shalt not suffer to live*', and '*It shall not live*'. R. Akiba replied: I have drawn an analogy between two verses referring to Israelites, for whom the Writ hath decreed many modes of execution,¹⁸ whilst you have compared Israelites to heathens, in whose case only

1. I.e., in both the reference is to something done for the first time: there to coition; here to profanation. But the similarity ceases at this point.
2. Heb. hedyot. As opposed to a prophet.
3. Heb. hedyot. But not a whole community. On the Heb. term hedyot, v. p 456, nn. 2 and 3.
4. The seducer by using any one of those expressions incurs guilt and is executed; v.

Rashi (supra, 61a) who refers it to the seduced person.

5. V. *infra* 84a.
6. I.e., the next Mishnah, which is really part of this.
7. Who is stoned, as stated in the Mishnah on 53a, of which all the subsequent Mishnahs in this chapter are explanations.
8. Lit., 'nor only this, but that also).' When the Mishnah states, [HE] WHO SEDUCES AN INDIVIDUAL, it is not intended to exclude a multitude, but merely to commence with the universally agreed law. Then the next Mishnah adds that the same applies to the seduction of a multitude, though this is not admitted by all.
9. [H], [G] rendered in Mishnah, 'LAYMAN', also means ignorant, ignoble.
10. I.e., *hedyot* is not used in the sense of a layman as opposed to a prophet, but in the sense of ignoble; so dastardly in his action, that he is not shown the same consideration as other malefactors, but hidden witnesses are set to entrap him. There is no dispute between Rabina and R. Papa, both teaching that the two clauses agree with the Rabbis; but Rabina explains the phrase, 'HE WHO SEDUCES AN INDIVIDUAL', whilst R. Papa deals with 'A MESITH IS A HEDYOT'.
11. Otherwise, they could not testify.
12. In the uncensored editions of the Talmud there follows this important passage (supplied from D.S. on the authority of the Munich and Oxford Mss. and the older editions) 'And this they did to Ben Stada in Lydda ([H]), and they hung him on the eve of Passover. Ben Stada was Ben Padira. R. Hisda said: 'The husband was Stada, the paramour Pandira. But was nor the husband Pappos b. Judah? — His mother's name was Stada. But his mother was Miriam, a dresser of woman's hair? ([H] *megaddela neshayia*): — As they say in Pumbaditha, This woman has turned away ([H]) from her husband, (i.e., committed adultery).' T. Herford, in '*Christianity in the Talmud*', pp. 37 seqq, 344 seqq, identifies this Ben Stada with Jesus of Nazareth. As to the meaning of the name, he connects it with [G] 'seditious', and suggests (p. 345 n. 1) that it originally denoted 'that Egyptian' (Acts XXI 38, Josephus, Ant. XX, 8, 6) who claimed to be a

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prophet and led his followers to the Mount of Olives, where he was routed by the Procurator Felix, and that in later times he might have been confused with Jeshua ha-Notzri. This hypothesis, however, involves the disregard of the Talmudic data, for Pappos b. Judah lived a century after Jesus (Git. 90a), though the mother's name, Miriam (Mary), would raise no difficulty, as [H] *megaddela neshayia* may be the result of a confusion with Mary Magdalene (v. also Box, *The Virgin Birth of Jesus*, pp. 201f, for other possible meanings of Ben Stada and Ben Pandira) Derenbourg (Essai note 9, pp. 465-471) rightly denies the identity of Ben Stada with Jesus, and regards him simply as a false prophet executed during the second century at Lydda.

13. I.e., the illusion of doing something, whereas in fact he does nothing.
14. Cf. *supra* 53a.
15. Ex. XXII, 17.
16. Deut. XX, 17. This refers to the war of extermination against the seven races inhabiting Canaan before the Conquest by Joshua. They would naturally be killed by the sword.
17. Ex. XIX, 13. This refers to the taboo placed upon Mount Sinai before the Theophany.
18. And yet at Sinai stoning was chosen.

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one death penalty is decreed.¹ Ben 'Azzai said:² It is here written, *Thou shalt not suffer a witch to live*, whilst [immediately after] it is said, *Whosoever lieth with a beast shall surely be put to death*.³ Now, this is placed in proximity, teaching that just as the latter is stoned, so is the former. Thereupon R. Judah said to him: Shall we, because of this proximity, exclude the former [from the easier death implied by an unspecified death sentence] changing it to stoning?⁴ But [reason this:] The *ob* and *yidde'oni* were included among other sorcerers.⁵ Why were they singled out?⁶ That other sorcerers may be assimilated to them, and to teach thee, just as the *ob* and *yidde'oni* are stoned, so are all other sorcerers stoned. But even according to R. Judah, are not *ob* and *yidde'oni* two statements teaching the same thing, and two

statements teaching the same thing cannot throw light upon anything else?⁷ — R. Zechariah answered: For this very reason R. Judah is generally said to maintain that even two statements singled out for the same purpose illumine the proposition as a whole.⁸

R. Johanan said: Why are they [sorcerers] called *Kashshafim*?⁹ — Because they lessen the power of the Divine agencies.¹⁰

There is none else besides Him.¹¹ R. Hanina said: Even by sorcery.¹² A woman once attempted to take earth from under R. Hanina's feet.¹³ He said to her, 'If you succeed in your attempts, go and practice it [sc. sorcery]: it is written, however, *There is none else beside him*'. But that is not so, for did not R. Johanan say: Why are they called *mekashshefim*?¹⁴ Because they lessen the power of the Divine agencies? — R. Hanina was in a different category, owing to his abundant merit.¹⁵

R. Abaye b. Nagri said in the name of R. Hiyya b. Abba: *Belatehem* refers to magic through the agency of demons, *belahatehem* to sorcery [without outside help].¹⁶ And thus it is also said, *And the flame* [Heb. *lahat*] *of the sword that turns of itself*.¹⁷

Abaye said: The sorcerer who insists on exact paraphernalia¹⁸ works through demons; he who does not works by pure enchantment.

Abaye said: The laws of sorcerers are like those of the Sabbath: certain actions are punished by stoning, some are exempt from punishment, yet forbidden, whilst others are entirely permitted. Thus: if one actually performs magic, he is stoned; if he merely creates an illusion, he is exempt, yet it is forbidden; whilst what is entirely permitted? — Such as was performed by R. Hanina and R. Oshaia, who spent every Sabbath eve in studying the Laws of Creation, by means of which they created a third-grown calf and ate it.¹⁹

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R. Ashi said: I saw Karna's father²⁰ blow his nose violently and streamers of silk issued from his nostrils.

*Then the magicians said unto Pharoah, This is the finger of God:*²¹ R. Eleazar, said: This proves that a magician cannot produce a creature less than a barley corn in size. R. Papa said: By God! he cannot produce even something as large as a camel; but these [larger than a barley corn] he can [magically] collect [and so produce the illusion that he has magically created them], the others he cannot.

Rab said to R. Hiyya: 'I myself saw an Arabian traveler take a sword and cut up a camel; then he rang a bell, at which the camel arose.' He replied, 'After that, was there any blood or dung? But that was merely an illusion.'

Ze'iri happened to go to Alexandria in Egypt and bought an ass. When he was about to water it, it dissolved, and there stood before him a landing board.²² The vendors then said to him; 'Were you not Ze'iri, we would not return you [your money]: does anyone buy anything here without first testing it by water?'²³

Jannai²⁴ came to an inn. He said to them, 'Give me a drink of water,' and they offered him *shattitha*.²⁵ Seeing the lips of the woman [who brought him this] moving,²⁶ he [covertly] spilled a little thereof, which turned to snakes. Then he said, 'As I have drunk of yours, now do you come and drink of mine.' So he gave her to drink, and she was turned into an ass. He then rode upon her into the market. But her friend came and broke the charm [changing her back into a human being], and so he was seen riding upon a woman in public.

*And the frog came up, and covered the land of Egypt.*²⁷ R. Eleazar said: It was one frog, which bred prolifically and filled the land. This is a matter disputed by Tannaim. R. Akiba said: There was one frog which filled the whole of Egypt [by breeding]. But R. Eleazar b. Azariah said to him, 'Akiba, What

hast thou to do with *Haggadah*?²⁸ Cease thy words and devote thyself to 'Leptosies' and 'Tents.'²⁹ One frog croaked for the others, and they came'.

R. AKIBA SAID, etc.

1. Viz., decapitation. Consequently, no true analogy is possible.
2. His full name was Simeon b. 'Azzai. There were four companions each named Simeon, so for short they were referred to by their patronym (Rashi in Ab. IV, 1).
3. Ex. XXII, 19.
4. R. Judah does not regard the proximity of two subjects, [H] as a method of exegesis.
5. I.e., in the verse, *Thou shalt not suffer a sorcerer to live*.
6. In Lev. XX, 27.
7. This is in accordance with the exegetical principle that if a general proposition is stated, and then one part thereof is singled out for special mention, the latter illumines the former; but not if two are singled out. For if they were intended to convey a teaching with respect to the proposition as a whole, only one should have been singled out, from which the second (together with the rest of the general statement) would be derived.
8. R. Judah does not agree with the limitation expressed above, and it is precisely from this verse that he deduces that even two statements may be singled out to convey a teaching for the whole; v. Kid. 35a.
9. [H]
10. I.e., making incantations of death against those for whom Heaven has decreed life (Rashi); and in general seeking to interfere with the course of events as decreed from above. The word is treated as an abbreviation, thus Keshafim, Kahash, Famalia, Ma'alah. (Lessens [the] Family on High).
11. Deut. IV, 35.
12. I.e., not even sorcerers have power to oppose His decree.
13. To perform magic against him.
14. [H] Hebrew form of *Kashshafim*.
15. Therefore God should certainly not permit any sorcerer to harm him.
16. In the references to Pharaoh's magicians, two words are employed to denote their art: *belatehem*, ([H]) e.g., Ex. VII, 22 (with their enchantments); and *belahatehem* ([H]) Ex. VII, 11.
17. Gen. III, 24, thus *lahat* is referred to an action taking place of itself; similarly, *belahatehem*

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connotes sorcery performed without extraneous aid.

18. Demanding particular properties for different kinds of magic.
19. V. p 446, nn. 9, 10. It thus all depends as to whose help is invoked in performing the miraculous.
20. He was a magician.
21. Ex. VIII, 19; this refers to the plague of lice, which they could not imitate.
22. The ass had been a product of sorcery, created out of a landing board. Things thus created reverted to their original form when brought into contact with water.
23. The scholars of the first century referred frequently to Egypt as the original home of magic arts (Blau, *Das aljudische Zauberwesen*, pp. 37-49). Sorcery was very rife in Alexandria, and was practiced by Jews too, who were more influenced by pagan ideas in this city than in any other place of their dispersion. Among the less intelligent, Jewish and pagan, witchcraft were freely indulged in (Schurer, *Geschichte*, 3rd ed., III, 294-304). It is not clear in this passage whether Ze'iri had bought the ass from a Jew or Gentile, but the fact that such particular respect was shown to him would seem to indicate that the vendor was a Jew.
24. Rashi observes that this is the reading, not R. Jannai; for a scholar would not practice witchcraft.
25. A drink prepared of flour and water. Cf. Lat. *ptisanarium*, a decoction of barley groats
26. By this he recognized her to be a witch, probably muttering a charm.
27. Ex. VIII, 6.
28. *Haggadah*, also *Aggadah*, from *Nagad*, to narrate, denotes the narrative, and homiletical portions of the Talmud.
29. [*Nega'im* and *Ohaloth*, two subjects in the Talmud and name of two tractates dealing respectively with uncleanness of a corpse and leprosy, subjects of extreme difficulty and thus suited to R. Akiba's keen dialectics.]

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But did R. Akiba learn this from R. Joshua? Surely it has been taught: When R. Eliezer fell sick, R. Akiba and his companions went to visit him. He was seated in his canopied four-poster, whilst they sat in his salon.¹ That day

was Sabbath eve, and his son Hyrcanus went in to him to remove his phylacteries.² But his father rebuked him, and he retreated crestfallen. 'It seems to me,' said he to them, 'that my father's mind is deranged'.³ But R. Akiba said to them, 'his mind is clear, but his mother's [sc. of Hyrcanus] is deranged':⁴ how can one neglect a prohibition which is punished by death, and turn his attention to something which is merely forbidden as a shebuth?⁵ The Sages, seeing that his mind was clear, entered his chamber and sat down at a distance of four cubits.⁶ 'Why have ye come?' said he to them. 'To study the Torah', they replied; 'And why did ye not come before now', he asked? They answered, 'We had no time'. He then said, 'I will be surprised if these die a natural death'. R. Akiba asked him, 'And what will my death be?' and he answered, 'Yours will be more cruel than theirs'. He then put his two arms over his heart, and bewailed them, saying, 'Woe to you, two arms of mine, that have been like two Scrolls of the Law that are wrapped up.⁷ Much Torah have I studied, and much have I taught.⁸ Much Torah have I learnt, yet have I but skimmed from the knowledge of my teachers as much as a dog lapping from the sea. Much Torah have I taught, yet my disciples have only drawn from me as much as a painting stick from its tube. Moreover, I have studied three hundred laws on the subject of a deep bright spot,⁹ yet no man has ever asked me about them. Moreover, I have studied three hundred, (or, as others state, three thousand laws) about the planting of cucumbers [by magic] and no man, excepting Akiba b. Joseph, ever questioned me thereon. For it once happened that he and I were walking together on a road, when he said to me, "My master, teach me about the planting of cucumbers". I made one statement, and the whole field [about us] was filled with cucumbers. Then he said, "Master, you have taught me how to plant them, now teach me how to pluck them up". I said something and all the cucumbers gathered in one place'. His visitors then asked him, 'What is the law of a

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ball, a shoemaker's last, an amulet, a leather bag containing pearls, and a small weight?'¹⁰ He replied, 'They can become unclean, and if unclean, they are restored to their uncleanness just as they are.'¹¹ Then they asked him, 'What of a shoe that is on the last?'¹² He replied, 'It is clean;' and in pronouncing this word his soul departed. Then R. Joshua arose and exclaimed, 'The vow is annulled, the vow is annulled!'¹³ On the conclusion of the Sabbath R. Akiba met his bier being carried from Caesarea to Lydda. [In his grief] he beat his flesh until the blood flowed down upon the earth — Then R. Akiba commenced his funeral address, the mourners being lined up about the coffin, and said: 'My father, my father, the chariot of Israel and the horsemen thereof;¹⁴ I have many coins, but no money changer to accept them.'¹⁵ Thus from this story we see that he learned this [sc. the producing of cucumbers by magic] from R. Eliezer? — He learned it from R. Eliezer, but did not grasp it, then he learned it from R. Joshua, who made it clear to him.

But how might R. Eliezer do so?¹⁶ Did we not learn, **IF HE ACTUALLY PERFORMS MAGIC, HE IS LIABLE?** — If it is only to teach, it is different. For it has been said, Thou shalt not learn to do after the abominations of these nations:¹⁷ thou mayest not learn in order to practice, but thou mayest learn in order to understand.¹⁸

1. [H] triclinium.
2. For the Sabbath was drawing near, when the phylacteries are not to be worn.
3. Since he would not let me remove his phylacteries.
4. (So BaH in his marginal glosses: printed texts read 'His mind and that of his mother's, etc.]
5. An occupation forbidden only by the Rabbis, not by the Bible, because it does not harmonize with the nature of the Sabbath. R. Eliezer had observed that his wife had not yet kindled the Sabbath lights, nor put away the Sabbath meal to keep it hot. Both of these, if done on the Sabbath, are punishable by stoning, whereas the wearing of phylacteries indoors are forbidden merely by a Rabbinical ordinance,

lest one forget himself and go out in the street with them, which is biblically forbidden. Therefore he rebuked his son and wife.

6. Because R. Eliezer had been placed under the ban; v. B.M. 59b.
7. So that they cannot be read. So had his knowledge been, none learning from it, because he had been under a ban.
8. Before the ban.
9. One of the forms of leprosy, Lev. XII, 2.
10. All these were made of leather, stuffed with hair or cotton-wool. No leathern utensil can become unclean unless it has a receptacle, i.e., a hollow in which something can be placed. Now, the Sages maintain that since the hollow in these is made in the first place in order to be filled up, it is not a receptacle, and hence cannot become unclean. But R. Eliezer held that as they do, in fact, contain a hollow, though now filled up, they can become unclean. There is another dispute, with respect to the first two, if their outer covering was torn. It is then admitted by all that they are liable to become unclean, but there is a conflict with respect to tebilah (i.e., immersion in a ritual bath to restore them to cleanliness. It is a general law that when anything is put into a ritual bath, no foreign matter may adhere to it, lest it prevent the water from getting to it. Now the Sages maintain that the stuffing is to be regarded as such, and hence must be removed before the immersion, which is otherwise ritually invalid. But R. Eliezer ruled that in this respect the stuffing is regarded as integrally part of themselves, and hence does not render the immersion invalid. Now that he was on his death-bed, thy asked him whether he still adhered to his ruling. The amulet was a charm, containing some mystic verses, worn about the neck to prevent or cure illness. A leather bag containing pearls (probably imitation, or of a very cheap kind) was worn by cattle for the same purpose. Small weights were enclosed in leather, to prevent from becoming worn.
11. I.e., the filling is not to be regarded as foreign matter, which must be removed. Thus he told them that he adhered to his views.
12. No utensil or garment could become unclean until it was quite ready for use. R. Eliezer and the Sages dispute with reference to a new shoe, ready for wear, but not yet removed from the last upon which it was made. The Rabbis maintained that it was a completely finished article, and hence liable to uncleanness: whilst R. Eliezer held that until removed from its last it was not regarded as completely finished.

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13. I.e., the ban is now lifted from him. This declaration was made on account of the funeral, for had it not been annulled, a stone would have been placed upon his coffin. v. 'Ed. V, 6.
14. II Kings II, 12.
15. I.e., I have many questions on Torah, but no one to answer them.
16. Cause cucumbers to grow by magic.
17. Deut. XVIII, 9. This introduces the prohibitions of necromancy and witchcraft.
18. R. Eliezer's action was likewise merely in order to teach.

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CHAPTER VIII

MISHNAH. 'A STUBBORN AND REBELLIOUS SON':¹ WHEN DOES HE BECOME LIABLE TO THE PENALTY OF A STUBBORN AND REBELLIOUS SON? FROM THE TIME THAT HE PRODUCES TWO HAIRS UNTIL HE GROWS A BEARD RIGHT ROUND (BY WHICH IS MEANT THE HAIR OF THE GENITALS, NOT THAT OF THE FACE, BUT THAT THE SAGES SPOKE IN POLITE TERMS), FOR IT IS WRITTEN, IF A MAN HAVE A STUBBORN AND REBELLIOUS SON:² 'A SON', BUT NOT A DAUGHTER; 'A SON', BUT NOT A FULL-GROWN MAN. WHILST A MINOR IS EXEMPT, SINCE HE DOES NOT COME WITHIN THE SCOPE OF THE COMMANDMENTS.³

GEMARA. Whence do we know that A MINOR IS EXEMPT? (Whence do we know? The Mishnah states the reason, viz that HE DOES NOT COME WITHIN THE SCOPE OF THE COMMANDMENTS. Moreover, where else do we find that Scripture prescribed a penalty [for a minor], that a verse should be necessary here to exempt him? — This is our question: Now, is then a 'STUBBORN AND REBELLIOUS SON' executed for his actual iniquity? Surely he is rather slain on account of his ultimate end;⁴ and that being so, even a minor should be executed? Moreover, [the interpretation,] 'a son', but not a man, implies a minor?) Rab Judah said in Rab's name: Scripture saith, If

a man have a son [that is stubborn and rebellious], implying, a son near to the strength of manhood.⁵

UNTIL HE GROWS A BEARD RIGHT ROUND, etc. R. Hiyya taught: Until he grows a beard round the corona. When R. Dimi came,⁶ he explained it thus: It means, until the hair surrounds the membrum, but not until it grows round the testicles.⁷

R. Hisda said: If a minor begot a son, the latter does not come within the category of a stubborn and rebellious son, for it is written, If a man have a son, but not if a son [i.e., one who has not reached manhood] have a son. But is not that verse needed for the deduction made by Rab Judah in Rab's name?⁸ — If so, the verse should read, If there be a son to a man: why state, If a man have a son? — To teach R. Hisda's dictum.⁹ Then let us say that the entire verse teaches this?¹⁰ — If so, Scripture should have said, 'If there be the son of a man who [sc. the son] is stubborn,' etc.: Why state, If a man have a son, etc.? Hence both are deduced.¹¹

Now, R. Hisda's statement conflicts with Rabbah's. For Rabbah said: A minor cannot beget children, for it is written, But if the man hath no kinsman [to recompense the trespass unto].¹² Now, is there any man in Israel that has no kinsman?¹³ Hence the Writ must refer to the robbery of a proselyte,¹⁴

1. This chapter continues the exposition of the Mishnah on 53a.
2. Deut. XXI, 18.
3. I.e., the stage of moral responsibility involved on reaching the age of 13 years and one day; v. Ab. V, 24.
4. V. *infra* 72a.
5. The interpretation is based on the fact that 'son' is stated (in the Heb.) in immediate proximity to 'man'__ [H].
6. V. p. 390, n. 1.
7. The other occurs much later. But once the former has taken place, he is a man, and no longer liable.
8. v. *supra*.

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9. For if the verse merely teaches that the son must be just before the age of manhood, son should have immediately preceded man. By reversing the order, the manhood of the father (when begetting the son) is emphasized: only if a man beget a son but not if a minor beget one, though he is already a man when his son transgresses.
10. Hence, how is Rab's dictum deduced?
11. For if the verse wished to intimate only the manhood of the father, 'son' should have been in the weak, construct form ([H]) so that the entire emphasis should be upon 'man'. By putting son in the absolute form ([H]) and in immediate proximity to 'man', the manhood of both is emphasized, as taught in the dicta of Rab and b. Hisda.
12. Num. V, 8.
13. Since all Israel are related, being the descendants of Abraham, Isaac, and Jacob.
14. Who died before it could he returned. A proselyte has no relationship whatever with his pre-conversion relations; v. p. 394. n. 1.

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and the Divine Law states, But if the man, etc.,¹ teaching that only in the case of a man must thou seek whether he has kinsmen or not, but not in the case of a minor, for it is obvious that he can have none.

Abaye objected. [It has been taught: And if any man lieth carnally with a woman that is a bondmaid].² 'A man': from this I know the law only with respect to a man: whence do I know it of one aged nine years and a day who is capable of intercourse? From the verse, And 'if a man'?³ — He replied: Such a minor can produce semen, but cannot beget therewith; for it is like the seed of cereals less than a third grown.⁴

The School of Hezekiah taught: But if a man came presumptuously [yazid] upon his neighbor to slay him with guile:⁵ a man can inflame [his genital] and emit semen, but not a minor.⁶ — R. Mordechai asked of R. Ashi: Whence do we know that mezid denotes heating? — From the verse, And Jacob sod [wa-yazed] pottage.⁷

But this is not so.⁸ For the School of Ishmael⁹ taught: If a man have a son:¹⁰ implying, a son but not a father.¹¹ Now, how is this possible? Shall we say that he impregnated [his wife] after producing two hairs, and begot before the hair was fully grown¹² — but can there be such a long interval [between these, as to allow for complete gestation]? Did not R. Kerespedai say: The extreme limits of a 'stubborn and rebellious' son are only three months?¹³ Hence he must have caused conception before producing two hairs, and begot the child before the hair was fully grown; [and in that case he is excluded from the operation of the law] thus proving that a minor can beget children! — No. In truth, this refers to one who impregnated [his wife] after the appearance of two hairs, and begot [the child] after his hair was fully grown. But as for the difficulty raised by R. Kerespedai's dictum, — when R. Dimi came, he said: In the West [i.e.. Palestine], they explain [the deduction of the School of Ishmael] thus; a son, but not one who is fit to be called a father.¹⁴

To revert to the above text: 'R. Kerespedai said in R. Shabbethai's name: The extreme limit of a "stubborn and rebellious son" is only three months'. But did we not learn, FROM THE TIME THAT HE PRODUCES TWO HAIRS UNTIL HE GROWS A BEARD RIGHT ROUND? — If he grew a beard, even if three months have elapsed, or if three months elapsed, even if he did not grow a beard [he is no longer liable].¹⁵

R. Jacob of Nehar Pekod¹⁶ sat before Rabina, and said thus in the name of R. Huna the son of R. Joshua: From the dictum of R. Kerespedai in R. Shabbethai's name one may deduce that if a woman bears at seven months, her pregnancy is not discernible at a third of its course; for if it is, why three months: two and a third are sufficient?¹⁷ He demurred: In truth, it may be that her pregnancy becomes manifest at a third of its course, but we must regard the majority.¹⁸ Now, this was repeated before R. Huna the

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son of R. Joshua, whereupon he remarked: But can we consider the majority [only, disregarding the majority entirely] in capital charges; did not the Torah say, Then the congregation shall judge ... and the congregation shall deliver the slayer?¹⁹ Yet you say, regard the majority! This was reported back to Rabina. He replied: Do we then not follow the majority in capital charges? But we learnt: If one witness testified that the crime was committed on the second day of the month, and one on the third, their testimony is valid; for one knew that the past month had been full, and the other did not.²⁰ But if you maintain that we do not follow the majority, should we not say that these witnesses testify exactly,²¹ and thus contradict each other? Hence it surely must be that we follow the majority who are wont to err with respect to the fullness of the month.

R. Jeremiah of Difti said: We also learnt the following: A maiden aged three years and a day may be acquired in marriage by coition, and if her deceased husband's brother cohabited with her, she becomes his. The penalty of adultery may be incurred through her; [if a *niddah*,] she defiles him who has connection with her, so that he in turn defiles that upon which he lies, as a garment which has lain upon [a person afflicted with gonorrhoea]. If she married a priest, she may eat of *terumah*; if any unfit person cohabits with her, he disqualifies her from the priesthood. If any of the forbidden degrees had intercourse with her, they are executed on her account, but she is exempt.²²

1. 'Man' is superfluous, as the verse could have read, But if he hath no kinsman ...
2. Lev. XIX, 20.
3. 'And' ([H]) indicates an extension of the law, and is here interpreted to include a minor aged nine years and a day.
4. Such cereals contain seed, which if sown, however, will not grow.
5. Ex XXI, 14.
6. Hif'il, [H] (*come presumptuously*), is here derived from [H], to seethe, Hif'il, *hezid*, to

cook, boil, the technical terms for the excitation producing semen. Rashi states that this interpretation is placed upon the word, for if mere wanton wickedness were referred to, Scripture should have written *Yarshia'* [H] from [H], a wicked man. Thus, by this exegesis, a minor is excluded from the scope of the law.

7. [H] Gen. XXV, 29.
8. Thus the text as reconstructed by Rashal. This is an objection to the view that a minor cannot beget children.
9. V. p. 387 n. 7. Similarly. the 'School of Ishmael' refers to his successors long after him; Weiss, Dor, 11. p. 93, 94 (where he implies that some teachings introduced by this caption did not really originate with him, or were such of which he would not have approved).
10. Deut. XXI, 18.
11. I.e. if the son is himself a father already, this law does not apply.
12. Since these are the limits between which the law operates.
13. Whilst the fetus needs at least six months to develop.
14. I.e., once his wife is impregnated he is already fit to be called a father. But it is unnecessary to exclude him when he is already a father, for by then this hair must be fully grown, and he is automatically excluded by the limitations expressed in the Mishnah.
15. I.e., whichever period is shorter.
16. [A town in the vicinity of Nehardea; v. Obermeyer, Die Landschaft Babylonien, 270ff.]
17. For the fetus being then discernible, the son is fit to be called a father, and is no longer liable, as stated above. v. Yeb. 35a.
18. Whose pregnancy lasts nine months, the fetus thus not being discernible before three months, when the son becomes fit to be called a father and no longer liable to the law of a rebellious son.
19. Num. XXXV, 25f; this is taken to mean, that in doubt, the accused be given the benefit.
20. V. *supra* 40a.
21. Jewish months are of either twenty-nine or thirty days duration. As the sanctification of the new month depended on the direct testimony of witnesses, each new month being proclaimed by the Sanhedrin. it well might happen that a witness had not known that the preceding month had consisted of thirty days, and hence thought that the day of the crime was the third, instead of the second, of the new month.

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22. I.e. that since there is a minority that does not err in respect of the length of the month, why not assume that each knows the length of the preceding month?

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But why so: may she not prove¹ to be barren, her husband not having married her on such a condition?² Hence it must be that we take into account only the majority, and the majority of women are not constitutionally barren! No. The penalty incurred on her account is a sacrifice, [but not death]. But it is explicitly stated, 'They are executed on her account?' — That refers to incest by her father. But the statement is, If any of the forbidden degrees had intercourse with her?³ — Hence this [Mishnah] refers to a husband who explicitly accepted her under all conditions.

Our Rabbis taught: If a woman sported lewdly with her young son [a minor], and he committed the first stage of cohabitation with her, — Beth Shammai say, he thereby renders her unfit to the priesthood.⁴ — Beth Hillel declare her fit. R. Hiyya the son of Rabbah b. Nahmani said in R. Hisda's name; others state, R. Hisda said in Ze'iri's name: All agree that the connection of a boy aged nine years and a day is a real connection; whilst that of one less than eight years is not:⁵ their dispute refers only to one who is eight years old, Beth Shammai maintaining, We must base our ruling on the earlier generations, but⁶ Beth Hillel hold that we do not.

Now, whence do we know that in the earlier generations [a boy of eight years] could beget children? Shall we say since it is written: [i] [And David sent and inquired after the woman, And one said:] Is not this Bath Sheba, the daughter of Eliam, the wife of Uriah the Hittite?⁷ And it is written, [ii] Eliam, the son of Ahitophel the Gilonite;⁸ and it is written, [iii] And he sent by the hand of Nathan the prophet; and he called his name Jedidiah [afterwards Solomon] because of the Lord;²

and it is written, [iv] And it came to pass, after two full years [after Solomon's birth], that Absalom had sheepshearers;¹⁰ and it is written, [v] So Absalom fled and went to Geshur and was there three years;¹¹ and it is written [vi] So Absalom dwelt two full years in Jerusalem, and saw not the king's face;¹² and it is written, [vii] And it came to pass after forty years, that Absalom said unto the king, I pray thee, let me go and pay my vow, which I have vowed unto the Lord in Hebron; and it is written,¹³ [viii] And when Ahitophel saw that his counsel was not followed, he saddled his ass, and arose, and got him home to his house, to his city and put his household in order, and hanged himself;¹⁴ and it is written, [ix] Bloody and deceitful men shall not live out half their days.¹⁵ And it has been taught: Doeg lived but thirty-four years, and Ahitophel thirty-three. Hence deduct seven years, Solomon's age when [Ahitophel] committed suicide,¹⁶ which leaves [Ahitophel] twenty-six years old at his birth. Now deduct two years for the three pregnancies, leaving each eight years old when he begot a child.¹⁷ But why so? Perhaps both [Ahitophel and Eliam] were nine years old [at conception], Bath Sheba being only six years when she conceived, because a woman has more [generative] vitality; the proof being that she bore a child before Solomon?¹⁸ — But it is deduced from the following: Now these are the generations of Terah: Terah begat Abram, Nahor and Haran.¹⁹ Now Abraham must have been [at least] one year older than Nahor, and Nahor one year older than Haran;²⁰ hence Abraham was two years older than Haran. And it is written, And Abram and Nahor took them wives: the name of Abram's wife was Sarai,' and the name of Nahor's wife Milcah, the daughter of Horan, the father of Milcah, and the father of Iscah.²¹ Whereon R. Isaac observed: Iscah was Sarai, and why was she called Iscah? Because she foresaw [the future] by holy inspiration;²² hence it is written, In all that Sarah hath said unto thee, hearken unto her voice.²³ Another reason is, that all gazed at her beauty. It is also written.

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Then Abraham fell upon his face, and laughed and said in his heart, shall a child be born unto him that is on hundred years old? and shall Sarah, that is ninety years old bear?²⁴ Hence, Abraham was ten years older than Sarah, and two years older than her father [Haran]. Therefore, Sarah must have been born when Haran was eight years old. But why so: perhaps Abram was the youngest of the brethren, the Writ giving them in order of wisdom? In proof of this contention, it is written, And Noah was five hundred years old, and Noah begat Shem, Ham and Japheth; hence [if the order is according to age], Shem was at least a year older than Ham, and Ham a year older than Japheth, so that Shem was two years older than Japheth. Now, it is written, And Noah was six hundred years old when the flood of water was upon the earth,²⁵ and it is written, These are the generations of Shem. Shem was a hundred years old, and begat Arphaxad two years after the flood.²⁶ But was he a hundred years old? He must have been a hundred and two years old?²⁷ Hence thou must say that they are enumerated in order of wisdom [not age];²⁸ then here too [in the case of Terah's sons], they are stated in order of wisdom.

R. Kahana said: I repeated this discussion before R. Zebid of Nahardea. Thereupon he said to me: You deduce [that the order is according to wisdom] from these verses, but we deduce it from the following: Unto Shem also, the father of all the children of Eber, the brother of Japheth the elder, even unto him were children born;²⁹ this means that he was the eldest of the brothers.

Then [the difficulty remains,] whence do we know it?³⁰ — From this; [i] And Bezaleel the son of Uri, the son of Hur, of the tribe of Judah;³¹ and it is written, [ii] And when Azubah [Caleb's wife] was dead, Caleb took unto him Ephrath, which bore him Hur.³² Now, how old was Bezaleel when he made the Tabernacle? Thirteen years, for it is written, [iii] And all the wise men, that wrought all the work of the Sanctuary, came every man from

his work which they made.³³ And it has been taught: [iv] In the first year after the Exodus, Moses made the Tabernacle; in the second, he erected it and sent out the spies. And it is written, [v] [And Caleb ... said ...] Forty years old was I when Moses the servant of the Lord sent me from Kadesh-barnea to spy out the land,³⁴ ... and now lo, I am this day fourscore and five years old.³⁵ Now, how old was he when sent as a spy? Forty. Deduct fourteen, Bezaleel's age at the time,³⁶ this leaves twenty-six [as Caleb's age at Bezaleel's birth]. Now, deduct two years for the three pregnancies; hence each must have begotten at the age of eight.³⁷

A SON', BUT NOT A DAUGHTER. It has been taught: R. Simeon said, Logically, a daughter should come within the scope of a 'stubborn and rebellious child',

1. V. *supra* 55b.
2. In which case the marriage is null.
3. This includes the violation of the marriage bond.
4. I.e., she becomes a harlot, whom a priest may not marry (Lev. XXI, 7).
5. So that if he was nine years and a day or more, Beth Hillel agree that she is invalidated from the priesthood; whilst if he was less than eight, Beth Shammai agree that she is not.
6. When a boy of that age could cause conception.
7. II Sam. XI, 3.
8. Ibid. XXIII, 34.
9. Ibid. XII, 25.
10. Ibid. XIII, 23.
11. Ibid. 38.
12. Ibid. XIV, 28.
13. Ibid. XV, 7.
14. Ibid. XVII, 23.
15. Ps. LV, 24. This is quoted in support of the next statement that Ahitopel did not reach thirty-five, half the normal span.
16. This is arrived at by comparing verses iv, v and vi: Absalom slew Amnon two years after Solomon's birth (iv); he was exiled for three years (v); he then lived two years in Jerusalem before his rebellion (vi), in consequence of which Ahitophel hanged himself soon after (viii). Hence, Solomon was seven years old at the time.

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17. For Ahitopel begat Eliam (ii), Eliam begat Bath Sheba (i), and Bath Sheba begat Jedidiah, i.e., Solomon (iii). Now even allowing only seven months for each pregnancy, these three must have taken nearly two years (Rashi tries to prove that it would take exactly two years, by allowing an additional month in each case for pre-conception menstruation and purification; but this is difficult, and it is preferable to assume with Tosaf. that the two years are approximate). Thus twenty four years are left for the three generations, giving eight years for each: Ahitopel must have been eight years at the conception of Eliam; Eliam eight years at the conception of Bath Sheba; Bath Sheba eight years at the conception of Solomon.
18. So that in any ease we are bound to assume a lower age for her conception.
19. Gen. XI, 27.
20. On the assumption that they are stated according to seniority.
21. Ibid. 29.
22. [H] is derived from the Aramaic root [H] to gaze, to look.]
23. Ibid XXI, 12.
24. Ibid. XVII, 17.
25. Ibid. VII, 6.
26. Ibid. XI, 10.
27. Since Noah was five hundred years old when Shem was born, and six hundred when the flood commenced, Shem must have been a hundred then. Consequently, two years later he was a hundred and two years old.
28. So that Shem as the youngest, not the eldest.
29. Ibid. X, 21.
30. That in the earlier generations, a boy of eight could beget child.
31. Ex. XXXVIII, 22.
32. Chron. II, 19.
33. Ex. XXXVI, 4; In the Heb. 'every man' is expressed by ish ish, the doubling of the word emphasizing that he had just reached manhood.
34. Josh. XIV, 7.
35. Ibid. 10.
36. Deduced from iii and iv.
37. i shows that Caleb was Bezaleel's great-grandfather, and iii and iv show that he was twenty-six at Bezaleel's birth, within which three generations were born.

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since many frequent her in sin,¹ but that it is a divine decree: 'a son', but not a daughter.

MISHNAH. WHEN DOES HE BECOME LIABLE? — WHEN HE EATS A TARTEMAR² OF MEAT AND DRINKS HALF A LOG³ OF ITALIAN WINE.⁴ R. JOSE SAID: A MINA⁵ OF FLESH AND A LOG OF WINE. IF HE ATE IT IN A COMPANY [CELEBRATING] A RELIGIOUS ACT, OR GATHERED FOR THE PURPOSE OF INTERCALATING THE MONTH;⁶ IF HE ATE THE SECOND TITHE⁷ IN JERUSALEM;⁸ IF HE ATE THE NEBELOTH⁹ OR TEREFOTH,¹⁰ ABOMINABLE AND CREEPING THINGS,¹¹ OR *TEBEL*,¹² OR THE FIRST TITHE FROM WHICH *TERUMAH* HAD NOT BEEN SEPARATED,¹³ OR UNREDEEMED SECOND TITHE,¹⁴ OR UNREDEEMED SACRED FOOD;¹⁵ IF HIS EATING INVOLVED A RELIGIOUS ACT OR A TRANSGRESSION;¹⁶ IF HE ATE ANY FOOD BUT MEAT OR DRANK ANY DRINK BUT WINE, HE DOES NOT BECOME A 'STUBBORN AND REBELLIOUS SON THEREBY, UNLESS HE EATS MEAT AND DRINKS WINE, FOR IT IS WRITTEN, [THIS OUR SON IS STUBBORN AND REBELLIOUS, HE WILL NOT OBEY OUR VOICE;] HE IS A GLUTTON [ZOLEL] AND A DRUNKARD [WE-SOBE].¹⁷

AND THOUGH THERE IS NO ABSOLUTE PROOF, THERE IS A SUGGESTION FOR THIS, AS IT IS WRITTEN, BE NOT AMONG WINEBIBBERS [BE-SOBE]; AMONG GLUTTONOUS EATERS OF FLESH [BE-ZOLELE].¹⁸

GEMARA. R. Zera said: I do not know what is this tartemar; but since R. Jose doubled the measure of wine, he must have doubled that of meat too; hence the tartemar is half a mina.

R. Hanan b. Moladah said in R. Huna's name: He is not liable unless he buys meat and wine cheaply and consumes them,¹⁹ for it is written. He is a Zolel.²⁰ R. Hanan b. Moladah also said in R. Huna's name: He is not liable unless he eats raw meat and drinks undiluted wine.²¹ But that is not so, for did not Rabbah and R. Joseph both say: If he ate raw meat or drank undiluted wine, he does not become a

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'stubborn and rebellious son'? — Rabina answered, by 'undiluted wine' insufficiently diluted wine is meant, and raw meat means only partially cooked, like charred meat eaten by thieves.²² Rabbah and R. Joseph both said: If he eats pickled meat or drinks 'wine from the vat', [i. e., new wine before it has matured], he does not become a stubborn and rebellious son'.²³

We learnt elsewhere: On the eve of the ninth of Ab²⁴ one must not partake of two courses, neither eat meat nor drink wine.²⁵ And a Tanna taught: But he may eat pickled meat and drink new wine.²⁶ Now, what length of time must elapse before it is regarded as pickled meat [as opposed to fresh meat]? — R. Hanina b. Kahana said: As long as the flesh of the peace offering may be eaten.²⁷ And how long is it called new wine? — As long as it is in its first stage of fermentation; and it has been taught: wine in the first stage of fermentation does not come within the prohibition against uncovered liquid;²⁸ and how long is this first stage? — Three days. Now, what is the law here? — There [the prohibition of eating meat on the eve on the month of Ab] is on account of joy: as long as it is as the flesh of a peace offering, it yields the joy of meat eating. Here, however, it is on account of its seductiveness, and when a short period has passed, it no longer attracts, whilst wine is unattractive until it is forty days old.²⁹

R. Hanan said: The only purpose for which wine was created was to comfort mourners and requite the wicked,³⁰ for it is written, Give strong drink unto him that is ready to perish [i.e., the wicked], and wine unto those that be of heavy hearts.³¹ R. Isaac said: what is meant by, Look not thou upon the wine when it is red?³² — Look not upon the wine, which reddens the faces of the wicked in this world and makes them pale [with shame] in the next. Raba said: Look not thou upon the wine ki yith'addam: look not upon it, for it leads to bloodshed [dam].³³

R. Kahana raised a difficulty; The Bible writes *tirash* [for wine], but the word is read *tirosh*.³⁴ — If one has merit, he becomes a leader, if not, he becomes impoverished. Raba raised a difficulty: The Bible writes, [and wine] *yeshammah* [the heart of man], but it is read *yesammah*.³⁵ — If one has merit, it gladdens him; if not, it saddens him.³⁶ And thus Raba said: wine and spices have made me wise.

R. Amram the son of R. Simeon b. Abba said in R. Hanina's name: What is meant by, Who hath woe? who hath sorrow? who hath contentions? who hath babbling? who hath wounds without cause? who hath redness of eyes? They that tarry long at the wine; they that go to seek mixed wine?³⁷ — When R. Dimi came,³⁸ he said: In the West it is said, In these verses, the second may be interpreted as explanatory of the first, or vice versa.³⁹

'Ubar the Galilean gave the following exposition: The letter *waw* [and]⁴⁰ occurs thirteen times in the passage dealing with wine: And Noah began to be an husbandman, and he planted a vineyard: And he drank of the wine and was drunken; and he was uncovered within his tent. And Ham the father of Canaan, saw the nakedness of his father, and told his two brethren without. And Shem and Japheth took a garment, and laid it upon their shoulders, and went backward and covered the nakedness of their father, and their faces were backward, and they saw not their father's nakedness. And Noah awoke from his wine, and knew what his younger son had done unto him.⁴¹ [With respect to the last verse] Rab and Samuel [differ,] one maintaining that he castrated him, whilst the other says that he sexually abused him. He who maintains that he castrated him, [reasons thus;] Since he cursed him by his fourth son,⁴² he must have injured him with respect to a fourth son.⁴³ But he who says that he sexually abused him, draws an analogy between 'and he saw' written twice. Here it is written, And Ham the father of

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Canaan saw the nakedness of his father; whilst elsewhere it is written, And when Shechem the son of Hamor saw her [he took her and lay with her and defiled her].⁴⁴ Now, on the view that he emasculated him, it is right that he cursed him by his fourth son; but on the view that he abused him, why did he curse his fourth son; he should have cursed him himself? — Both indignities were perpetrated.⁴⁵

And Noah began to be a husbandman, and he planted a vineyard, — R. Hisda said in R. 'Ukba's name, and others state, Mar 'Ukba said in R. Zakkai's name: The Holy One, blessed be He, said unto Noah: 'Noah, shouldst thou not have taken a warning from Adam, whose transgression was caused by wine?' This agrees with the view that the [forbidden] tree from which Adam ate was a vine. For it has been taught: R. Meir said: That [forbidden] tree from which Adam ate was a vine,

1. I.e., in her 'ultimate end' she may become a harlot, and cause many to err. V. *infra* 72a, cf. *supra* 65b.
2. [G], a weight; v. note 11.
3. A liquid measure equal to the contents (or space occupied by) six eggs.
4. Italian wine was particularly choice (and strong) and drinking such a quantity thereof, might lead him to drunkenness and its consequent vices. But this measure of any other (inferior) wine would be neither so potent nor seductive.
5. The mina, sometimes called the Italian mina, was he equivalent of 1 1/2 Roman pounds. The Roman pound contained 288 scruples, the mina 300 scruples = 12 1/2 ounces. According to the Gemara below, the tartemar was half a mina. The word really means a third, and probably indicated 1/3 Alexandrian mina, which contained 150 *denarii*, whilst the Hebrew mina (*maneh*) was only 100 *denarii*. Cf. Zuckermann: Ueber Talmudische Gewichte und Munzen, p. 8.
6. A religious feast was eaten on such occasions.
7. One tithe of the crops was to be eaten by its owners in Jerusalem; this was called the second tithe (the first being the tithe given to the Levites. cf. Deut. XIV, 26).

8. I.e., if he stole money of the second tithe and purchased meat and wine, which he ate in Jerusalem.
9. *Nebelah*, pl. *nebeloth*, is the technical term for an animal that came to its death by any but the prescribed method of slaughter.
10. *Terefah*, plural *terefoth*, denotes an animal which having been ritually slaughtered, is found to have been suffering from certain diseases, which render it unfit for food.
11. Which are forbidden, v. Lev. XX, 15, and XI, 10ff, 41ff.
12. *Tebel*, the crops before the *terumoth* (v. [Glos.](#)) and tithes had been separated.
13. The Levite, to whom the first tithe was given, had to separate a tithe thereof, called the *terumah* of the tithe, for the priest.
14. If one lived at a distance from Jerusalem, he redeemed the second tithe by setting aside its value, plus a fifth, to be expended in Jerusalem. The second tithe then lost its sanctity and might be eaten anywhere.
15. Food dedicated to sanctuary which had to be redeemed, Lev. XXVII, 19.
16. V. *infra* 70b.
17. [H] Deut. XXI, 20. Gluttony applies to meat, and drunkenness to wine.
18. [H], Prov. XXIII, 20.
19. For if he has to pay a high price, he may find it difficult to procure them, and is therefore not likely to be led into the evil ways for fear of which he is punished — a striking example of the influence of economies on morals.
20. [H] glutton; by a play on words, this is connected with [H] cheap. This does not really prove the point, but is merely adduced as a support.
21. This is discussed below.
22. Thieves, always fleeing, have no time for properly cooked meat, so they place it hastily on a very hot fire, with the result that it is partly burnt and partly raw. Eating such meat and drinking strong drink is a sign of a voraciousness and drunkenness which justifies fear for his future.
23. V. p. 476. n. 2.
24. The great fast held in memory of the destruction of the Temple.
25. Ta'an. 26b.
26. Ibid. 30a.
27. I.e., two days, which includes that of slaughter. Even if meat was salted for preserving immediately after slaughter, it has the taste of fresh meat for the first two days.
28. For whilst it thus bubbles, it repels snakes. The prohibition of drinking liquid left overnight uncovered was through the fear that a snake

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might have drunk thereof and in so doing injected some of its poison into it.

29. Since his sin lies not in that he actually eats and drinks, but because he is thereby drawn into evil ways, he is liable only for eating and drinking such food as can have a strong attraction for him. Meat more than a day, and wine less than forty days old, lack that attraction.
30. The wicked are thereby rewarded for the little good they do in this world (Rashi).
31. Prov. XXXI, 6.
32. Ibid. XXIII, 31.
33. [H] translated 'when it is red,' is taken as reflexive of [H] 'blood'.
34. [H], may mean 'thou shalt become impoverished': [H], 'thou shalt become a leader', a contraction of [H]. Thus the written word and the actual reading are contradictory.
35. [H] means 'maketh glad'; [H] a play on the word [H] ([H]) maketh desolate.
36. I.e., in moderation it is good; in excess, it wastes one's life.
37. Prov. XXIII. 29f.
38. V. p. 390, n. 1.
39. The second as explanatory of the first: who have all these evils? — Those who tarry long, etc., the second being the cause, the first the effect. Vice versa: for whom is it fitting to tarry long over wine? — For the wicked only (i.e. those who have the woes, and contentions of a life of wickedness).
40. V. following note.
41. Gen. IX, 20-24. In this passage, the conversive *waw* occurs thirteen times, in each case followed by the yod of the imperfect. The combination *waw* yod, ([H]) means 'woe' in Heb. Thirteen woes: so great are the sorrows caused by drunkenness.
42. The sons of Ham were Cush and Mizraim, and Phut and Canaan. Gen. X, 7. Noah cursed Canaan, his fourth son. Ibid. IX, 25ff
43. I.e., by emasculating him, he deprived Noah of the possibility of a fourth son.
44. Ibid. XXXIV, 2.
45. He both castrated and abused his father.

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for nothing else but wine brings woe to man. R. Judah said: It was the wheat plant,¹ for an infant cannot say 'father' and 'mother' until it has tasted of wheat.² R. Nehemiah said: It was the fig tree, for whereby they transgressed, they were taught to make

amends, as it is written, And they sewed fig leaves together.³

The words of King Lemuel, the burden wherewith his mother admonished him.⁴ R. Johanan said in the name of R. Simeon b. Yohai: This teaches that his mother thrust him against a post⁵ and said to him, What my son? and what, the son of my womb? and what, the son of my vows? 'What my son?' All know that thy father was a God-fearing man, and therefore they will say that thou inheritest [thy sinfulness] from thy mother.⁶ 'And what, the son of my womb?' All the women of thy father's harem, as soon as they conceived, no longer saw the king, but I forced myself in, so that my child might be vigorous and fair-skinned.⁷ 'And what, the son of my vows?' All the women of thy father's household made vows [praying] that they might bear a son fit for the throne, but I vowed praying that I might bear a son zealous and filled with the knowledge of the Torah and fit for prophecy. It is not for Kings, O Lemuel, it is not for kings to drink wine, nor for princes [to say,] Where is strong drink?⁸ She spoke thus to him: What hast thou to do with kings who drink wine and say, 'What need have we of God?'⁹ R. Isaac said: whence do we know that Solomon repented and confessed to his mother [the justice of her rebukes]? — From the verse, Surely, 'I am more brutish than man, and' have not the understanding of a man.¹⁰ I am more brutish than a man [ish].¹¹ — that is, than Noah, of whom it is written, And Noah began to be an husbandman [ish];¹¹ 'and have not the understanding of a man' [adam]¹² — of Adam.¹³

IF HE ATE IT IN A COMPANY [CELEBRATING] A RELIGIOUS ACT. R. Abbahu said: He is not liable unless he eats in a company consisting entirely of good-for-nothings. But did we not learn, IF HE ATE IT IN A COMPANY [CELEBRATING] A RELIGIOUS ACT ... HE DOES NOT BECOME A REBELLIOUS SON

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THEREBY. Hence, it is only because they were celebrating a religious act, but otherwise, [he becomes a rebellious son] even if they are not all wastrels? — The Mishnah teaches that even if they were all wastrels, yet if they were celebrating a precept, he is not punished.¹⁴

OR GATHERED FOR THE PURPOSE OF INTERCALATING THE MONTH. Shall we say that they ate¹⁵ meat and wine [on such occasions]? But it has been taught: They ascended¹⁶ for it with a meal consisting only of wheat bread and beans. — The Mishnah teaches thus; Though they normally ascended only with wheat bread and beans, whilst he brought up meat and wine and ate, Yet since they were engaged in a religious act, he would not be led astray.

Our Rabbis taught; Not less than ten ascend for the purpose of proclaiming the month a full one,¹⁷ nor do they ascend for it except with a meal consisting of wheat bread and beans; they ascend only on the evening following the intercalated day, and at night, not by day.¹⁸ But has it not been taught: They may not ascend for it by night, but only by day? — It is even as R. Hiyya b. Abba said to his sons: 'Go up there early, and come out early, so that the people may learn of your celebration.'¹⁹

IF HE ATE THE SECOND TITHE IN JERUSALEM. For since he eats it in the normal way [i.e. in Jerusalem], he is not drawn [to wickedness].

IF HE ATE NEBELOTH OR TEREFOTH, ABOMINABLE OR CREEPING THINGS. Raba said: If he eats the flesh of fowl, he does not become a 'stubborn and rebellious son'. But did we not learn: **IF HE ATE NEBELOTH OR TEREFOTH, ABOMINABLE OR CREEPING THINGS²⁰ ... HE DOES NOT BECOME A 'STUBBORN AND REBELLIOUS SON' THEREBY.** [This implies;] but if he ate [the

flesh of] clean [fowl], he does? — The Mishnah refers only to the completion [of the necessary amount].²¹

IF HIS EATING INVOLVED A RELIGIOUS ACT OR A TRANSGRESSION. By a **RELIGIOUS ACT** is meant the meal for comforting mourners;²² A **TRANSGRESSION** means eating on a public fast day.²³ And what is the reason?²⁴ — The Bible saith, he will not obey our voice:²⁵ this excludes disobedience of God's voice.²⁶

IF HE ATE ANY FOOD BUT MEAT, OR DRANK ANY DRINK BUT WINE, etc. IF HE ATE ANY FOOD BUT MEAT; this includes even pressed figs from Keilah.²⁷ OR DRANK ANY DRINK BUT WINE: this includes even [liquid] honey and milk. For it has been taught: If one ate pressed figs from Keilah and drank honey or milk and then entered the Sanctuary,

1. In which case, [H], (tree) in the Heb. must be understood as a generic noun for plant life. There is also a legend that in the distant future the wheat shall grow as tall as a palm tree; in the Garden of Eden story it is therefore called a tree on account of its future state.
2. Thus, wheat is the first thing to induce knowledge.
3. Gen. III, 7.
4. Prov. XXXI, 1.
5. To have him flagellated for his over-indulgence in worldly pleasures (Rashi).
6. I.e., why should you thus be called my son?
7. And now he was employing his very strength and beauty in evil courses.
8. Ibid. 3.
9. By a play on words [H] meaning 'not' is connected with 'to God', Lemuel read as lemo-el, ([H]), 'to God', the Heb. letters being the same, differing only in the vowels
10. Ibid. XXX, 2.
11. [H]
12. [H]
13. Both of whom were ensnared by wine, yet have I drunk more than they.
14. For in that case, the company will not cause him to err, seeing that they are thus engaged. But on the other hand, even if not engaged in celebrating a precept, if there is a single decent man amongst them, he may exercise a salutary

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influence, which may restrain this transgressor from a headlong course of evil.

15. Lit. 'brought up'.
16. V. next note.
17. I.e., of thirty days. This was not for the purpose of a formal declaration, but of making known the decision of the Sanhedrin to the people. In order to give it publicity, all this was done in an upper chamber, hence the use of the verb 'ascended' — when exposed to the public view.
18. This seems superfluous. Tosaf. explains that it might otherwise be thought that 'they ascend only on the evening following the additional day' merely emphasizes that it must not be on the evening preceding, but that evening itself is not particularly taught.
19. Lit., 'hear you.' I.e., they were not to wait until it was quite dark, as by then the streets are deserted, therefore they were to go up whilst it was yet day. But the essential ceremony took place at night. They were also to leave the chamber early in the morning: by so doing it became evident that they spent the night in the upper chamber and their purpose in going up also became evident. But if they tarried, it might be thought that they had gone up only in the morning and had some other purpose in view.
20. Denoting also unclean fowls; v. Lev. XI, 13 ff.
21. I.e., if he ate less than a tartemar of permitted flesh, and completed it by eating nebeloth, etc. he is not punished. But if the whole tartemar was the flesh of clean fowl he would also be exempt.
22. Though this was only a Rabbinical enactment. For the earlier clause of the Mishnah IF HE ATE IN A COMPANY (CELEBRATING) A RELIGIOUS ACT might be interpreted as referring to a Biblical precept, e.g. the eating of the Passover sacrifice.
23. Proclaimed by Rabbis. Though this too is only a Rabbinical ordinance.
24. That the eating of forbidden food does not render one a rebellious son.
25. Deut. XXI, 20.
26. Lit., 'the Voice of Makom, the Place = Omnipresent [V. S. R. Hirsch, Jeshurun VII, pp. 225ff.]
27. A town in the lowland district of Judea. These pressed figs were intoxicating, nevertheless, they do not render him a rebellious son.

HE DOES NOT BECOME A 'STUBBORN AND REBELLIOUS SON,' UNLESS HE EATS MEAT AND DRINKS WINE. Our Rabbis taught: If he ate any food but meat, and drank any drink but wine, he does not become a stubborn and rebellious son' — unless he eats meat and drinks wine, for it is written. He is a glutton and a drunkard; and though there is no absolute proof, there is a suggestion for this, as it is written, Be not among the winebibbers, among gluttonous eaters of flesh.² And it is also said, For the drunkard and glutton shall come to poverty; and drowsiness shall clothe a man with rags.³ R. Zera said: whoever sleeps in the *Beth Hamidrash*,⁴ his knowledge shall be reduced to tatters,⁵ for it is written, and drowsiness shall clothe a man with rags.

MISHNAH. IF HE STOLE OF HIS FATHER'S AND ATE IT IN HIS FATHER'S DOMAIN, OR OF STRANGERS AND ATE IT IN THE DOMAIN OF THE STRANGERS, OR OF STRANGERS AND ATE IN HIS FATHER'S DOMAIN, HE DOES NOT BECOME A 'STUBBORN AND REBELLIOUS SON,' — UNTIL HE STEALS OF HIS FATHER'S AND EATS IN THE DOMAIN OF STRANGERS. R. JOSE, SON OF R. JUDAH SAID: UNTIL HE STEALS OF HIS FATHER'S AND MOTHER'S.

GEMARA. IF HE STOLE OF HIS FATHER'S AND ATE IT IN HIS FATHER'S DOMAIN: though this is easily within his reach, he is afraid;⁶ OR OF STRANGERS AND ATE IT IN THE DOMAIN OF STRANGERS: though he is not afraid, yet it is not easily within his reach; how much more so IF HE STOLE OF STRANGERS AND ATE IN HIS FATHER'S DOMAIN, this not being easily attainable, and he, in addition, is afraid. UNTIL HE STEALS OF HIS FATHER'S AND EATS IT IN THE DOMAIN OF STRANGERS, which is easily within his reach and does not cause him fear.

R. JOSE, SON OF R. JUDAH SAID: UNTIL HE STEALS OF HIS FATHER'S AND

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he is punished.¹

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MOTHER'S. But how can his mother possess aught, seeing that whatever a woman acquires belongs to her husband? — R. Jose. son of R. Hanina answered: It means that he steals from a meal prepared for his father and mother. But did not R. Hanan b. Molad say in R. Huna's name: He is not liable unless he buys meat and wine cheaply and consumes them? — But say thus: from the money set aside for a meal for his father and mother.⁷ An alternative answer is this: a stranger had given her something and said to her, 'I stipulate that your husband shall have no rights therein.'

MISHNAH. IF HIS FATHER DESIRES [TO HAVE HIM PUNISHED], BUT NOT HIS MOTHER; OR THE REVERSE, HE IS NOT TREATED AS A 'STUBBORN A REBELLIOUS SON', UNLESS THEY BOTH DESIRE IT. R. JUDAH SAID: IF HIS MOTHER IS NOT FIT FOR HIS FATHER, HE DOES NOT BECOME A 'STUBBORN AND REBELLIOUS SON'.

GEMARA. What is meant by 'NOT FIT'? Shall we say that she is forbidden to him under penalty of extinction or capital punishment at the hand of *Beth din*?⁸ but after all, his father is his father, and his mother is his mother? — But he means not physically like his father. It has been taught likewise: R. Judah said: If his mother is not like his father in voice, appearance and stature, he does not become a rebellious son. Why so? — The Writ saith, he will not obey our voice,² and since they must be alike in voice, they must be also in appearance and stature. With whom does the following Baraitha agree: There never has been a 'stubborn and rebellious son',¹⁰ and never will be. Why then was the law written? That you may study it and receive reward. — This agrees with R. Judah.¹¹ Alternatively, you may say it will agree with R. Simeon. For it has been taught: R. Simeon said: Because one eats a tartemar of meat and drinks half a *log* of Italian wine, shall his father and mother have him stoned? But it never happened and

never will happen. Why then was this law written? — That you may study it and receive reward. R. Jonathan said: 'I saw him¹² and sat on his grave'.

With whom does the following agree? Viz., It has been taught: 'There never was a condemned city, and never will be.' — It agrees with R. Eliezer. For it has been taught, R. Eliezer said: No city containing even a single *mezuzah*¹³ can be condemned. Why so? Because the Bible saith [in reference thereto], And thou shalt gather all the spoil of it in the midst of the street thereof and shalt burn [them].¹⁴ But if it contains a single *mezuzah*, this is impossible, because it is written, [And ye shall destroy the names of them — i.e., the idols — ...] Ye shall not do so unto the Lord your God.¹⁵ R. Jonathan said: I saw it, [a condemned city] and sat upon its ruins.

With whom does the following agree: There never was a leprous house [to need destruction], and never will be?¹⁶ Then why was its law written? — That you may study it and receive reward. With whom does it agree? — With R. Eliezer son of R. Simeon. For we learnt: R. Eliezer son of R. Simeon said: A house never becomes unclean unless a plague spot appears, the size of two beans, on two stones in two walls, and at the angle of the walls; It must be two beans in length, and one in breadth. Why so? Because the Bible refers to the walls [of the house]¹⁷ and also to the wall:¹⁸ where is one wall as two? At its angle.¹⁹

It has been taught: R. Eliezer son of R. Zadok said: There was a place within a Sabbath's walk²⁰ of Gaza, which was called the leprous ruins. R. Simeon of Kefar Acco²¹ said: I once went to Galilee and saw a place, which was marked off, and was told that leprous stones were thrown there!

MISHNAH. IF ONE OF THEM [HIS FATHER OR HIS MOTHER] HAD A HAND OR FINGERS CUT OFF, OR WAS LAME, DUMB, BLIND OR DEAF, HE DOES NOT BECOME A 'STUBBORN

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AND REBELLIOUS SON', BECAUSE IT IS WRITTEN, 'THEN SHALL HIS FATHER AND HIS MOTHER LAY HOLD ON HIM', — THIS EXCLUDES THOSE WITH HANDS OR FINGERS CUT OFF; 'AND BRING HIM OUT', EXCLUDING LAME PARENTS; 'AND THEY SHALL SAY', EXCLUDING THE DUMB; 'THIS OUR SON', EXCLUDING THE BLIND;²² 'HE WILL NOT OBEY OUR VOICE, EXCLUDING THE DEAF.²³ HE IS ADMONISHED IN THE PRESENCE OF THREE AND FLAGELLATED. IF HE TRANSGRESSES AGAIN AFTER THIS, HE IS TRIED BY A COURT OF TWENTY THREE, AND CANNOT BE SENTENCED TO STONING UNLESS THE FIRST THREE ARE PRESENT, BECAUSE IT IS WRITTEN, 'THIS OUR SON', IMPLYING, 'THIS ONE WHO WAS WHIPPED IN YOUR PRESENCE'.

GEMARA. This proves that the Bible must be taken literally as it is written!²⁴ — [No; for] here it is different,

1. This refers to a priest, who was forbidden to enter the Sanctuary after indulging in strong drink (Lev. X, 9).
2. Prov. XXIII, 20.
3. Ibid. 21.
4. V. [Glos.](#)
5. I.e., he shall forget most of it, retaining only scraps — perhaps R. Zera found an inclination among his disciples to dose off whilst he was teaching.
6. To do this often, and hence will not be led into evil ways.
7. [In which money the mother has an exclusive share, as alimentation is part of the husband's obligations to the wife.]
8. E.g., if his mother was his father's sister or daughter.
9. Deut. XXI, 20. Since 'voice' is in the singular, they must both have a similar voice, so that they sound as one,
10. In the Biblical sense, to be executed.
11. Since it is obviously impossible that his father and mother should be so exactly alike.
12. A rebellious son who was executed at his parents' demand.
13. [H] an encased strip of parchment, on which is written the first two sections of the *Shema*' (v. [Glos.](#)). This is fixed to the doorpost.
14. Deut. XIII, 17.
15. Ibid. XII, 4.
16. V. Lev. XIV, 34 *et seq.*

17. Lev. XIV, 37.
18. Ibid. 37.
19. Such a combination of circumstances must be so rare as to amount to an impossibility.
20. 2000 cubits out of town.
21. [Caphare Accho in lower Galilee, v. Hildesheimer, *Beitrage*, p. 81.]
22. 'This our son' implies that they see him.
23. For when they order him, and he replies, they cannot say for certain that he declined to obey them when ordered, even if they subsequently see that their order was disregarded.
24. V. *supra* 45b.

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since the entire verse is superfluous.¹

HE IS ADMONISHED IN THE PRESENCE OF THREE. Why so? Are not two sufficient? — Abaye answered: The Mishnah means this: He is admonished in the presence of two,² and ordered lashes by a court of three.³

Where are lashes stated for a stubborn and rebellious son? — As in R. Abbahu's exegesis. For R. Abbahu said: we draw an analogy between and they shall chastise him, written twice;⁴ and [the meaning of] and they shall chastise him is deduced from [the fact that] *ben*⁵ [occurs in this passage], and then a further analogy is drawn between the word *ben* written here and in And it shall be if the wicked man be worthy⁶ to be beaten.⁷

IF HE TRANSGRESSES AGAIN AFTER THIS, HE IS TRIED BY A COURT OF TWENTY THREE, etc. But is not this verse [sc. This our son] needed to teach, 'This', excluding blind parents?⁸ — if so, the Bible should have written, 'He is² our son'. Why state, This our son?¹⁰ [Hence] deduce there from both.

MISHNAH. IF HE [THE REBELLIOUS SON] FLED BEFORE HIS TRIAL WAS COMPLETED, AND THEN HIS NETHER HAIR GREW ROUND,¹¹ HE IS FREE. BUT IF HE FLED AFTER HIS TRIAL WAS COMPLETED, AND

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THEN HIS NETHER HAIR GREW ROUND, HE REMAINS LIABLE.

GEMARA. R. Hanina said: A Noachide who blasphemed the Divine Name and then became a proselyte, escapes punishment, since the judicial procedure and death are [thereby] changed.¹² Shall we say that [the Mishnah] supports him? IF HE FLED BEFORE HIS TRIAL WAS COMPLETED AND THEN HIS NETHER HAIR GREW ROUND, HE IS FREE. Why so? Surely because since he has changed [in age] he has [also] changed [in liability]!¹³ — No, here [in the Mishnah] it is different, for should he transgress now, he is not liable at all.¹⁴

Come and hear: BUT IF HE FLED AFTER HIS TRIAL WAS COMPLETED, AND THEN HIS NETHER HAIR GREW ROUND, HE REMAINS LIABLE.¹⁵ — You speak of one who is actually sentenced! But once sentenced, he is [already] as dead.¹⁶

Come and hear: A Noachide who slew his neighbor [likewise a gentile] or violated his wife, and then became converted, is exempt. But if he did this to an Israelite, he is punished. But why so? Should we not say: Since he is changed [in respect of judicial procedure] he is changed [in respect of liability too]? — The change must be in respect of both the judicial procedure and the death penalty: but this Noachide's status has altered only in respect of the former, but not of the latter. Granted that this is true of a murderer: before [conversion] his penalty was decapitation, and it is so now too. But [the violation of] a married woman was punishable before [conversion] by decapitation, but now by strangulation? — [This refers to] the violation of a betrothed maiden, for which stoning is decreed in both cases. But 'if he did this to an Israelite' is parallel to 'or violated his neighbor's wife!'¹⁷ — The lesser [punishment] is included in the greater.¹⁸ Now this agrees with the view of the Rabbis that decapitation is severer [than stoning]; but on

the view of R. Simeon that stoning is the greater punishment, what can you say? — R. Simeon concurs with the Tanna of the School of Manasseh, who says that wherever death is decreed for the Noachide, it is by strangulation. Now, this is true of adultery, the penalty for which both before and after [conversion] is strangulation.¹⁹ But murder was punishable before by strangulation; now by decapitation! — The lesser is included in the greater.²⁰

Shall we say that the following supports him? [For it was taught:] If she [sc. a betrothed maiden] sinned [by committing adultery], and then attained puberty [becoming a bogereth], she is strangled.²¹ Now, why not stoned?²² Surely, because since she is changed [physiologically], she is likewise changed [in respect of punishment];²³ how much more so in this case,²⁴ where a complete change has taken place? — [This does not support him,] for R. Johanan said to the tanna:²⁵ Read, she is stoned.

MISHNAH. A 'STUBBORN AND REBELLIOUS SON' IS TRIED ON ACCOUNT OF HIS ULTIMATE DESTINY: LET HIM DIE INNOCENT AND LET HIM NOT DIE GUILTY. FOR THE DEATH OF THE WICKED BENEFITS THEMSELVES AND THE WORLD;²⁶ OF THE RIGHTEOUS, INJURES THEMSELVES AND THE WORLD. WINE AND SLEEP OF THE WICKED BENEFIT THEMSELVES AND THE WORLD;²⁷ OF THE RIGHTEOUS, INJURE THEMSELVES AND THE WORLD.²⁸ THE SCATTERING OF THE WICKED BENEFITS THEMSELVES AND THE WORLD;²⁹ OF THE RIGHTEOUS, INJURES THEMSELVES AND THE WORLD. THE ASSEMBLING OF THE WICKED INJURES THEMSELVES AND THE WORLD; OF THE RIGHTEOUS, BENEFITS THEMSELVES AND THE WORLD. THE TRANQUILLITY OF THE WICKED INJURES THEMSELVES AND THE WORLD;³⁰ OF THE RIGHTEOUS, BENEFITS THEMSELVES AND THE WORLD.

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1. For the Bible could have written, 'And ye shall bring him out unto the gate of that city, and stone him.' Hence, the rest must have been inserted as limiting clauses. But if a verse is not superfluous in itself, it may be that it need not be literally interpreted.
2. So that they may be witnesses thereof since he cannot be executed on his parents' testimony alone.
3. As all who are sentenced to lashes; v. *supra* 2a.
4. R. Abbahu said this in reference to the slanderer of a woman's honor: whence do we know that he is punished by lashes? Because the Bible writes, And they (the elders) shall chastise him. Deut. XXII, 18. By analogy with And they shall chastise him, said with reference to a rebellious son (ibid. XXI, 18), we learn that the same treatment is meted out to both.
5. [H] 'son'.
6. i c Heb. bin — the letters do not differ from ben, the meaning is the same.
7. Deut. XXV, 2. There, flagellation is explicitly prescribed. By analogy, the same applies to a rebellious son, and by a further analogy, to the slanderer.
8. V. Mishnah.
9. That would imply, 'he who was lashed in your presence.'
10. Which implies that they actually point to him (Rashi). [Yad Ramah reverses the interpretation].
11. So that he is beyond the age limit; v. *supra* 68b.
12. A Noachide is tried by one judge, and on the testimony of one witness only, and is executed even if no formal admonition preceded his offence; a Jew is tried by a court of twenty three, on the testimony of at least two, and only after formal admonition. Moreover, a gentile is decapitated, whereas a Jew is stoned.
13. Hence, the same principle holds good here.
14. But in the case under discussion, blasphemy after conversion is also punishable, though the procedure differs.
15. In spite of his changed status. This refutes R. Hanina's dictum.
16. Therefore his altered status does not free him.
17. 'His neighbor's wife' must refer to a nesu'ah, since the sacredness of betrothal alone is not recognized by heathens. Consequently, 'if he did this to an Israelite must also refer to a nesu'ah.
18. I.e., this does refer to a nesu'ah, whose violation before conversion is punished by decapitation; after conversion, by stoning. But the latter being more lenient than the former, it is regarded as included therein; hence his death has not changed. But in

blasphemy, the change is from decapitation to stoning. Which is the reverse.

19. According to the last answer.
20. Decapitation being more lenient than strangulation.
21. V. Keth. 45a.
22. In accordance with the penalty of a na'arah.
23. Though here it does not exempt her entirely, since strangulation, to which a bogereth is liable, is included in stoning, the punishment of a na'arah.
24. Of blasphemy.
25. [R. Shila, who recited the Baraita, Keth. 45a.]
26. It benefits them, in that they sin no more.
27. For whilst drinking and sleeping they can do no evil.
28. Because their time can be better spent, with greater advantage to themselves and to others.
29. Being scattered, they cannot take counsel together for evil.
30. As it gives them the opportunity of devising evil.

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GEMARA. It has been taught: R. Jose the Galilean said: Did the Torah decree that the rebellious son shall be brought before *Beth din* and stoned merely because he ate a tartemar of meat and drank a *log* of Italian wine? But the Torah foresaw his ultimate destiny. For at the end, after dissipating his father's wealth, he would [still] seek to satisfy his accustomed [gluttonous] wants but being unable to do so, go forth at the cross roads and rob.¹ Therefore the Torah said, 'Let him die while yet innocent, and let him, not die guilty.' For the death of the wicked benefits themselves and the world; of the righteous, injures themselves and the world. Sleep and wine of the wicked benefit themselves and the world; of the righteous, injure themselves and the world. The tranquility of the wicked injures themselves and the world; of the righteous, benefits themselves and the world. The scattering of the wicked benefits themselves and the world; of the righteous, injures themselves and the world.

MISHNAH. [THE THIEF] WHO BURROWS HIS WAY IN² IS JUDGED ON ACCOUNT OF ITS

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PROBABLE OUTCOME. IF HE BROKE THROUGH AND BROKE A JUG, SHOULD THERE BE 'BLOOD-GUILTINESS FOR HIM,³ HE MUST PAY [FOR THE JUG], BUT IF THERE IS NO 'BLOOD-GUILTINESS FOR HIM,⁴ HE IS NOT LIABLE.⁵

GEMARA. Raba said: what is the reason for the law of breaking in? Because it is certain that no man is inactive where his property is concerned; therefore this one [the thief] must have reasoned, 'If I go there, he [the owner] will oppose me and prevent me; but if he does I will kill him.' Hence the Torah decreed, 'If he come to slay thee, forestall by slaying him'.

Rab said: If one broke into a house, and stole some utensils and departed, he is free [from making restitution] — Why? Because he has purchased them with his blood.⁶ Raba⁷ said: It would logically appear that Rab's dictum holds good only if he broke the utensils, so that they are not in existence; but not if he merely took them [and they are still intact]. But in truth,⁸ Rab's dictum applies even if he merely took them. For [even] where there is 'blood-guiltiness for him', if the utensils are injured, he is liable. This proves that they stand under his [the thief's] ownership; so here too, they are under the thief's ownership.⁹ But it is not so.¹⁰ The Divine Law placed it under the thief's control only in respect of injury;¹¹ but as to ownership, it remains the property of the first owner,¹² just as in the case of a borrower.¹³

We learnt: IF HE BROKE THROUGH AND BROKE A JUG, SHOULD THERE BE BLOOD-GUILTINESS FOR HIM', HE MUST PAY [FOR THE JUG]; BUT IF THERE IS 'NO BLOOD-GUILTINESS FOR HIM', HE IS NOT LIABLE. Thus, it is only because he broke it that he is exempt when there is no blood-guiltiness for him, but if he only took it, he is not exempt?¹⁴ — The same law [of exemption] applies even if he merely took it, and the reason it states, 'AND BROKE A JUG' is to show that if there is

blood-guiltiness for him, he is liable even if he broke it. But is this not obvious, since he damaged it? — We are thereby informed that [he is liable] even if he broke it unintentionally. What does this teach us? That a man is always regarded as forewarned?¹⁵ But we have already learnt this: A man is always regarded as forewarned, whether [he did damage] unwittingly or wittingly accidentally or deliberately. This is a difficulty!¹⁶

R. Bibi b. Abaye objected: [We learnt:] If one steals a purse on the Sabbath, he is bound to make restitution, since the liability for theft arose before the desecration of the Sabbath. But if he drags it out of the house, he is exempt, since they are simultaneous!¹⁷ — [No]. This ruling holds good only, if he threw it into the river.¹⁸

Raba was robbed of some rams through a thief breaking in. Subsequently they [the thieves] returned them, but he refused to accept them, saying, 'Since Rab has thus ruled,¹⁹ [I abide by his decision]'.

Our Rabbis taught: [If a thief be found breaking up, and be smitten that he die], there shall no blood be shed for him, if the sun be risen upon him.²⁰ Now, did the sun rise upon him only? But [this is the meaning: 'If it is as clear to thee as the sun that his intentions are not peaceable, slay him; if not, do not slay him.' Another [Baraita] taught: If the sun be risen upon him, there shall be blood shed for him. Now, did the sun rise upon him alone? But if it is as clear to thee as the sun that his intentions are peaceable, do not slay him; otherwise, slay him. These two unnamed [Baraitas] contradict each other.²¹ — This is no difficulty:

1. Evil habits, even if not actually sinful, very rapidly lead to sin. 'For precept draws precept in its train, and transgression, transgression; for the recompense of a precept is a precept, and the recompense of a transgression, a transgression' (Aboth IV. 2).

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2. V. Ex. XXII, 1. He may be killed by the occupier of the house with impunity.
3. I.e., if his death is punishable.
4. I.e., if he may be killed with impunity.
5. V. *infra*. Not in every circumstance was the house owner allowed to kill him.
6. Since he risked his life, which the owner could have taken with impunity.
7. The Rashal reads 'Rabbah'.
8. Lit., 'Oh God!' — an oath.
9. The reasoning is as follows: when something is stolen, it loses its first ownership, and passes into that of the thief, who is therefore liable for having removed it from its owner's control as for an ordinary debt. Consequently, he is liable even if it is broken. For if it theoretically remained in its first ownership, the thief would not be liable for any injury to it. Hence in this case, since the thief, by his act of breaking in, became liable to death, restoration cannot be demanded even if it is intact, for liability to monetary restoration is cancelled in the face of the greater liability to death.
10. Raba (or Rabbah), having proved that Rab's dictum holds good even if the utensils are intact, now demolishes the theory upon which it is based.
11. As explained in note 1.
12. And if intact, the thief cannot retain the stolen article and offer the value instead.
13. If one borrows (not hires) an article, and it is damaged in his possession, he must make it good, though it really remains the property of the first owner, who can claim the return of it intact, if available. So here too.
14. This contradicts Rab's ruling.
15. I.e., lack of intention, or an accident, does not free him from his full liabilities.
16. Nevertheless, it does not altogether refute Rab's ruling, since the Mishnah can be interpreted as holding good even if he took it, though as shown above, such interpretation is not very plausible (Rashi).
17. Lit., 'The prohibition of stealing and the prohibition involving stoning came together'. By 'stealing' is meant that he took it in his hand, thereby lifting it up from its place. Lifting up is a method of formal acquisition, and as soon as he does this with felonious intent he has stolen it, and hence is liable for theft. But the Sabbath is not violated until he takes it into the street, the violation consisting of the carrying of the purse from a private domain (the house) into a public domain (the street). But if he drags it along the floor of the house, not lifting it up, the act of theft is committed only when it leaves the house; simultaneously with this, the Sabbath is

desecrated. Since he is liable to stoning for the latter, he is exempt on account of the former, it being a principle that if a person simultaneously commits two wrongs, the greater only is punished. Hence we see that though the purse is still in existence, he is not bound to return it. This refutes Rab's ruling.

18. I.e., destroyed it. But if it is intact, he is bound to return it.
19. Lit., 'Since the matter came out from the mouth of Rab'.
20. Ex. XXII, 1ff. The clauses are thus coupled in this Baraitha, the Massoretic punctuation being disregarded.
21. The first implying that in doubt thou mayest not slay him; the second, that in doubt thou mayest.

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the first [Baraitha] refers to a father [robbing] his son, the second to a son [robbing] his father.¹

Rab said: 'Any man that broke into my house, I would kill, excepting R. Hanina b. Shila.' Why? Shall we say because he is righteous [and therefore certain not to kill me]? Surely he has broken in!² — But because I am assured that he would have pity upon me, like a father for his son.

Our Rabbis taught: [If the sun be risen upon him,] there shall be blood [damim] shed for him: both on a week day, and on the Sabbath. [If the thief be found breaking up, ...] there shall no blood [damim] be shed for him:³ neither on week days, nor on the Sabbath. Now, granted that the exegesis of 'there shall no blood be shed for him', as including both week days and the Sabbath, is necessary, for I might think that this case is similar to that of those who are executed by *Beth din*, who may not be executed on the Sabbath:⁴ we are therefore told that [the thief] may be slain [even on the Sabbath].⁵ But why deduce 'there shall be blood shed for him', neither on a week day nor on the Sabbath? If he may not be slain on a week day, he may surely not be slain on the Sabbath? — R. Shesheth replied:

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This is necessary only to teach that a pile [of debris] must be removed for his sake.⁶

Our Rabbis taught: [If a thief be found breaking up,] and be smitten, — by any man; that he die, — by any death wherewith you can slay him. Now, [the exegesis] 'And be smitten, — by any man' is rightly necessary; for I might think that only the owner may be assumed not to remain passive. Whilst his money is being stolen, but not a stranger:² it is therefore taught that he is regarded as a potential murderer,³ whom even a stranger may kill [in defense of the owner]. But what need of 'that he die', — by any death wherewith you can slay him'; can this not be deduced from a murderer? For it has been taught: He that smote him shall surely be put to death; for he is a murderer.² I only know that he may be executed with the death that is decreed for him; whence do I know that if you cannot execute him with that death, that you may execute him with any other death? From the verse: He that smote him shall surely be put to death, implying in any manner possible!¹⁰ — There it is different, because Scripture writes, He shall surely be put to death. Then why not derive this from it? Because the murderer and the avenging kinsman are two verses with the same object, and the teaching of such two verses does not extend to anything else.¹¹

Our Rabbis taught: If a thief be found breaking in:¹² from this I know that law only for breaking in [through the wall]: whence do we know it if he be found on the roof, in the court, or in an enclosure [attached to the house]? — From the verse, If the thief be found, implying, wherever he is [found as thief].¹³ If so, why state 'breaking in'? — Because most thieves enter by breaking in.

Another [Baraita] taught: if a thief be found breaking in: from this I know the law only for breaking in: whence do I know it if he be found on the roof, in the court, or an enclosure? From the verse, 'If the thief be

found,' implying. Wherever he is found as thief. If so, why state 'breaking in'? — Because his breaking in constitutes a formal warning.¹⁴

R. Huna said: A minor in pursuit may be slain to save the pursued.¹⁵ Thus he maintains that a pursuer, whether an adult or a minor, need not be formally warned. R. Hisda asked R. Huna: we learnt: Once his head has come forth, he may not be harmed, because one life may not be taken to save another.¹⁶ But why so? Is he not a pursuer?¹⁷ — There it is different, for she is pursued by heaven.¹⁸

Shall we say that the following supports him? [Viz.,] If a man was pursuing after his fellow to slay him, he (observer) says to him, 'See, he is an Israelite, and a son of the covenant, whilst the Torah hath said, Whosoever would shed the blood of a man, [to save] that man shall his own blood be shed,¹⁹ meaning, save the blood of the pursued by the blood of the pursuer!²⁰ — That is based on the ruling of R. Jose son of R. Judah. For it has been taught; R. Jose son of R. Judah said: A haber²¹ need not be warned, because a warning is necessary only to distinguish between ignorance and presumption.²²

Come and hear: If a man was pursuing his neighbor to slay him, the observer says to him 'See he is an Israelite, and a son of the Covenant, whilst the Torah hath taught, Whosoever would shed the blood of a man, to save that man, shall his blood be shed'. If he [the pursuer] replied. 'I know that it is so', he is not liable to be slain; but if he replied. 'I do it even on such a condition',²³ he is liable!²⁴ — This is only if they are standing on two opposite sides of the river, so that he cannot save him. Hence what is [to be done]? To bring him before *Beth din*! But [punishment] by *Beth din* must be preceded by a warning. An alternative answer if you wish is this: R. Huna can tell you: My ruling agrees with the Tanna of 'breaking in', who held that his breaking in constitutes a formal warning.²⁵

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1. A father has more compassion for his son than a son for his father. Hence, if a father robs his son, the latter must assume that he will not go to extremes if he defends his property. Consequently, he may kill him only if he is certain thereof. But if a son robs his father (and even more so, when he robs a stranger), he may assume that he is prepared to kill him, unless certain that he will not. Therefore, if he has any doubt, he may take his life.
2. Which disposes of his righteousness.
3. Ex. XXII, 1-2. *Damim* is plural, teaching that this law holds good on more than one occasion and is therefore interpreted as referring to Sabbaths and week days.
4. For this is really execution, the house owner standing in lieu of *Beth din*: hence, just as the latter may not execute on the Sabbath, so the former too.
5. Since it is self-defense.
6. If, in burrowing his way in, he dislodged a pile of masonry, which fell upon him, it must be removed even on the Sabbath, and if the owner does not, he is guilty of bloodshed.
7. For it is only because of that assumption that his death is regarded as self-defense. But a stranger might not be assumed (by the thief) actively to interfere; therefore the thief is not likely to slay him, and hence his death at the hands of a stranger is not in self-defense.
8. Lit., 'pursuer'.
9. Num. XXXV, 21.
10. V. p. 358, n. 2.
11. V. *supra* 45b. Hence the need of a special verse here.
12. Ex. XXII, 1.
13. Since the writ does not state, If he be found, etc., but if the thief be found, which is superfluous, being understood from the context, it shows that if he is at all seen to be a thief, no matter what his position, the law applies.
14. I.e., the owner need not warn him before killing him, as in the case elsewhere.
15. Lit., 'the pursued is to be saved by his (the pursuer's) blood'.
16. This refers to a woman giving birth, whose life is endangered. Now, if the fetus put forth any limb but the head, it may be cut off, so as to facilitate delivery, and save the mother. But if his head issued, it is regarded as alive, and the mother may not be saved at his expense.
17. I.e., in seeking to be born, he is as a pursuer, endangering his mother's life.
18. I.e. it is an 'act of God'.
19. Gen, IX, 6.
20. Though the pursuer did not accept the warning, as is normally necessary in a formal

admonition, he may be slain, which proves that a warning is unnecessary in his case.

21. Lit., 'associate', fellow student; it was also a scholar's title (Fellow), and is employed in this sense here.
22. Hence a scholar who knows what is forbidden need not be warned, even if his crime is punished by *Beth din*. Likewise, the above Baraitha is on the same basis. But on the opposing view that all transgressors, including scholars, must be formally warned, and the warning accepted, it may be that the same applies to a pursuer. Therefore this does not support R. Huna.
23. I.e., even if I am to be slain for it.
24. The latter formula is the acceptance of a warning. This proves that the pursuer must be formally warned, and thus refutes R. Huna.
25. V. p. 494, n. 1. Because by breaking in he is rea

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MISHNAH. THE FOLLOWING MUST BE SAVED [FROM SINNING] EVEN AT THE COST OF THEIR LIVES: HE WHO PURSUES AFTER HIS NEIGHBOUR TO SLAY HIM, [OR] AFTER A MALE [FOR PEDERASTY]. [OR] AFTER A BETROTHED MAIDEN [TO DISHONOUR HER].¹ BUT HE WHO PURSUES AFTER AN ANIMAL [TO ABUSE IT]. OR WOULD DESECRATE THE SABBATH, OR COMMIT IDOLATRY, MUST NOT BE SAVED [FROM SINNING] AT THE COST OF HIS LIFE.

GEMARA. Our Rabbis taught: whence do we know that he who pursues after his neighbor to slay him must be saved [from sin] at the cost of his own life? From the verse, Thou shalt not stand by the blood of thy neighbour.² But does it come to teach this? Is it not employed for the following [Baraitha] that has been taught: Whence do we know that if a man sees his fellow drowning, mauled by beasts, or attacked by robbers, he is bound to save him? From the verse, Thou shalt not stand by the blood of thy neighbor! — That in truth is so. Then whence do we know that [the pursuer] must be saved at the cost of his own life? — It is inferred by an *ad majus* reasoning from a betrothed maiden. If a betrothed maiden, whom he wishes merely to

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dishonor, yet the Torah decreed that she may be saved by the life of her ravisher, how much more so does this hold good for one who pursues his neighbor to slay him. But can punishment be inflicted as a result of an *ad majus* conclusion?³ — The School of Rabbi taught, It is derived by analogy:⁴ For as when a man riseth against his neighbor, and slayeth him, even so in this matter.⁵ But what do we learn from this analogy of a murderer?⁶ Thus, this comes to throw light, and is itself illumined.⁷ The murderer is compared to a betrothed maiden; just as a betrothed maiden must be saved [from dishonor] at the cost of his [her violator's] life, so in the case of a murderer, he [the victim] must be saved at the cost of his [the attacker's] life. And whence do we know this of betrothed maiden? — As was taught by the School of R. Ishmael. For the School of R. Ishmael taught; [The betrothed damsel cried]; and there was none to save her,⁸ but, if there was a rescuer, he must save her by all possible means [including the death of her ravisher].

[To revert to] the above text: 'Whence do we know that if a man sees his neighbor drowning, mauled by beasts, or attacked by robbers, he is bound to save him? From the verse, Thou shalt not stand by the blood of thy neighbor.' But is it derived from this verse? Is it not rather from elsewhere? Viz., Whence do we know [that one must save his neighbor from] the loss of himself? From the verse, And thou shalt restore him to himself!⁹ — From that verse I might think that it is only a personal obligation,¹⁰ but that he is not bound to take the trouble of hiring men [if he cannot deliver him himself]: therefore, this verse teaches that he must.

Our Rabbis taught: He who pursues after his neighbor to slay him, he who pursues a male [for sexual abuse], or a betrothed maiden, a woman forbidden to him on pain of death at the hands of *Beth din*, or one forbidden on pain of extinction¹¹ — these are saved [from sin] at the cost of their own lives. But a High

Priest in pursuit of a widow, and an ordinary priest in pursuit of a divorcee or a *haluzah*, may not be saved at the cost of their lives. If [the betrothed maiden] has been ravished previously, she may not be saved by her pursuer's death, likewise, if she can be otherwise rescued. R. Judah said: This applies also if she said [to her rescuers]. 'Let him be,' lest he slay her.¹²

Whence do we know all this? — *But unto the damsel na'ar[ah] thou shalt do nothing: there is in the damsel no sin worthy of death.*¹³ *Na'ar* refers to a male, *na'arah* to a betrothed maiden;¹⁴ sin — to women forbidden on pain of extinction; death — to those forbidden on pain of death at the hands of *Beth din*.¹⁵ Why are all these needed?¹⁶ — They are necessary. For had the Divine Law written *na'ar* [a youth], I would have thought that he must thus be saved because it is unnatural lust; but since connection with a maiden is natural, I would think that she may not be saved thus. Whilst if *na'arah* [damsel] were written, I would think that the law applies only to her, because he destroys her virginity; but not to a youth, who is not thus injured. And had these [only] been stated,

1. These must be slain, rather than be allowed to carry out their intention.
2. Lev. XIX, 16. Stand not idly by, but save him from committing such a great sin.
3. v. *supra* 54a.
4. A *hekkesh*, v. [Glos.](#),
5. Deut. XXII, 26. This refers to the ravishing of a betrothed maiden.
6. For the simile itself is superfluous, since the Torah explicitly states that the maiden is not punished. Hence it implies that a certain feature of the law of a murderer holds good here too, and vice versa.
7. I.e., the verse shows that the case of a murderer throws light upon that of a betrothed maiden (v. *infra* 74a), but is it itself also illumined thereby.
8. *Ibid.* 27.
9. *Ibid.* 2. The passage refers to restoring a neighbor's lost property. This interpretation extends it to his own person. e.g. if he has lost himself, he must be helped to find his way

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again. Hence it also applies to the rescuing of one from danger.

10. Because, 'thou shalt restore' ... implies thou in person.
11. To commit incest or adultery.
12. Before they reach her.
13. Ibid. 26.
14. The second half of the verse is superfluous, since the first half states, 'but unto the damsel thou shalt do nothing'. Hence each part thereof is separately interpreted. Though the verse as read (Kre) is *na'arah*, ([H] damsel). the written text (Kethib) is *na'ar*, ([H] a youth). Hence both the written and the read word are interpreted.
15. And those deduced from the verse must be saved at the cost of their pursuer's life.
16. Could not the Torah have taught it of one, from which the others might be deduced?

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I would think that it is because the one is unnatural, and the other is deprived of her virginity; but other consanguineous relations, cohabitation with whom is both natural and does not inflict a great loss,¹ might not be thus saved: therefore the Divine Law writes 'sin'.² Now, had the Divine Law written 'sin' [only], I would have thought it applies even to those who are forbidden merely by a negative precept: therefore the Divine Law wrote 'death'. And had the Divine Law written 'death' [only], I would have thought the law applies only to those forbidden on pain of death by *Beth din*, but not on pain of extinction: therefore the Divine Law writes 'sin'. Then why did the Divine Law not write merely there is no sin worthy of death, *na'ar* [youth] and *na'arah* [a damsel] being superfluous?³ — That is so. But as for *na'ar* and *na'arah*, one teaches the exclusion of an idolater, and the other, the exclusion of bestiality and the [desecration of the] Sabbath.⁴ But on the view of R. Simeon b. Yohai that an idolater must be saved [from sin] at the cost of his life, why are these verses necessary? — One excludes bestiality, and the other excludes the [desecration of the] Sabbath; for I would [otherwise] think, that the Sabbath is included through an analogy

with idolatry, since 'profanation' is written in both.⁵ But on the view of R. Eleazar son of R. Simeon, that he who desecrates the Sabbath must be saved [from sin] by death, because an analogy is drawn with idolatry, on account of profanation being written in both, what can you say? — One excludes bestiality; and as for the other, since the Divine Law wrote *na'ar*, it also wrote *na'arah*.⁶

'R. Judah said: The same applies if she said [to her rescuer] "Let him be", lest he slay her.'⁷

In which case do they⁸ differ? — Raba said: when she objects to dishonor, yet permits him, so that he should not slay her. The Rabbis maintain, The Divine Law was insistent for her honor, and since she too is particular about it. [her pursuer may be slain]. But R. Judah maintains that the reason that the Divine Law decreed that he should be slain is because she is prepared to give her own life [rather than be violated]; but this one is not prepared to do so.

R. Papa said to Abaye: But does not a High Priest dishonor a widow?⁹ — He replied, The Divine Law sought to protect her from great dishonor, but not from little dishonour.¹⁰

'Sin — refers to women forbidden on pain of extinction.

The Scholars objected: [We learnt,] Fine is imposed for the violation of the following maidens:¹¹ he who outrages his sister.¹² — The Rabbis explained this before R. Hisda: Once he has committed the first stage, thereby dishonoring her, he may no longer be slain;¹³ whereas monetary liability is not contracted until the completion of cohabitation.¹⁴ Now, this agrees with the view that the first stage [which dishonors her] is contact with her sexual organ; but on the view that the first stage is the insertion of the membrum, what can you say?¹⁵ But R. Hisda answered thus: This refers to unnatural followed by natural

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cohabitation.¹⁶ Raba said: This applies where she allows him [to have his will] so that he shall not slay her, and is based on the ruling of R. Judah.¹⁷

1. For if they are unbetrothed, there is no arus (a betrothed husband) in whom the loss of virginity will rankle deeply; whilst if they are married, her virginity has already gone.
2. Teaching that it applies to those who are forbidden on pain of execution.
3. Since the violation of a betrothed maiden and the abuse of a male are punishable by death, they are included in the exegesis of 'death'.
4. That one must not be prevented from sinning in respect of these by killing him.
5. v. *Infra* 74b.
6. In fact, it is not a double redundancy, for though *na'ar* is written, the context demands that *na'arah* be read, since the entire passage refers to a maiden.
7. In the Baraitha quoted above,
8. R. Judah and the Rabbis.
9. By violating her he disqualifies her from marrying a priest; why then should she not be saved at the cost of his life?
10. I.e., the Torah authorized the extreme measure of slaying the ravisher only when he would inflict great dishonor, e.g., in the case of incest forbidden on pain of extinction, as a result of which she becomes a harlot (*zonah*) and the child a bastard. But here (a widow, violated by a High Priest), she is merely profaned (*halalah*).
11. The reference is to Deut. XXII, 28f. The fifty *shekels* are regarded as a fine.
12. Keth. 29a. I.e., even his sister, though and she shall be his wife is inapplicable. But if she might be saved by his life, he should not be fined, in accordance with the principle stated on p, 490, n. 1. In the case of the death penalty, this principle holds good even if the offender is not actually executed, or, as in this case, slain by the rescuers,
13. By her rescuers in order to save her, for the extreme measure is permitted only if she is as yet untarnished,
14. Consequently, the two penalties are not incurred simultaneously, and the principle is inoperative. By 'completion' the destruction of her virginity is meant,
15. Since then dishonor and destruction of virginity are simultaneous.
16. Since she has been unnaturally violated before, whether by her brother or another, she may not be saved now by his life. Therefore he is fined for destroying her virginity.

17. V. *supra* 73a.

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R. Papa said: This refers to seduction [not outrage], and therefore agrees with all.¹ Abaye said: This applies where she could have been saved at the cost of one of the limbs [of the violator].² and agrees with R. Jonathan b. Saul. For it has been taught: If one was pursuing his fellow to slay him, and he could have been saved³ by maiming a limb [of the pursuer] but did not thus save himself [killing him instead], he is executed on his account.⁴

What is R. Jonathan b. Saul's reason? — Because it is written, if men strive [and hurt a woman ...] he shall be surely punished ... and pay as the judges determine. And if any mischief follow, then thou shalt give life for life.⁵ Whereon R. Eleazar said: The verse refers to attempted murder,⁶ for it is written, And if any mischief follow, then thou shalt give life for life⁷ and yet the Divine Law states, If no mischief follows, he shall surely be punished. Now this is correct if you say that where the pursued can be saved at the cost of one limb [of the pursuer] the latter may not be slain: hence it is conceivable that he shall be punished [by paying monetary compensation]. But if you maintain that he may be slain, how is it possible for him to be punished!⁸ Perhaps it is different here, because his liability to death is incurred on account of one person, but his monetary obligation on account of another?⁹ — That makes no difference. For Raba¹⁰ said: If a man was pursuing after his fellow [to slay him]. and broke some utensils, whether of the pursued or of some other person. he is free from liability. Why so? Because he is liable to be killed. If the pursued broke some articles: if they belonged to the pursuer, he is not liable for them; if to someone else, he is. 'If they belonged to the pursuer he is not liable', — because his property is not more precious than his own person.¹¹ But 'if to someone else, he is', — because he saved himself at his

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neighbor's expense. But if one pursuer was pursuing another pursuer to save him [the latter's victim] and broke some utensils, whether of the pursuer, or the pursued, or of any other person, he is not liable for them. This should not be so in equity¹² but if thou wilt not rule thus, no man will save his neighbor from a pursuer.¹³

BUT HE WHO PURSUES AN ANIMAL [TO ABUSE IT]. It has been taught: R. Simeon b. Yohai said: An idolater may be saved [from sin] at the cost of his own life. This is deduced by reasoning from the minor to the major: If the dishonoring of a human¹⁴ being must be averted even at the cost of [the violator's] life, how much more so the dishonoring of the All-Highest.¹⁵ But can we punish¹⁶ as a result of an *ad majus* conclusion? — He maintains that we can.

It has been taught: R. Eliezer, son of R. Simeon, said: He who desecrates the Sabbath may be saved [from sin] by his own life. He agrees with his father, that punishment is imposed as a result of an *ad majus* conclusion, and then he deduces the Sabbath from idolatry by [a *gezerah shawah* based on the use of] 'profanation' in connection with the Sabbath and idolatry.¹⁷

R. Johanan said in the name of R. Simeon b. Jehozadak: By a majority vote, it was resolved in the upper chambers of the house of Nithza in Lydda¹⁸ that in every [other] law of the Torah, if a man is commanded: 'Transgress and suffer not death' he may transgress and not suffer death, excepting idolatry, incest, [which includes adultery] and murder.¹⁹ Now may not idolatry be practiced [in these circumstances]? Has it not been taught: R. Ishmael said: whence do we know that if a man was bidden, 'Engage in idolatry and save your life', that he should do so, and not be slain? From the verse, [Ye shall therefore keep my statutes and my judgments,' which if a man do] he shall live in them:²⁰ but not die by them. I might think

that it may even be openly practiced. but Scripture teaches, Neither shall ye profane my holy name; but I will be hallowed?'²¹ — They²² ruled as R. Eliezer. For it has been taught, R. Eliezer said: And thou shalt love the Lord thy God with all thy heart and with all thy soul, and with all thy might.²³ Since 'with all thy soul' is stated, why is 'with all thy might' stated? Or if 'with all thy might' be written, why also write 'with all thy soul'? For the man to whom life is more precious than wealth, 'with all thy soul' is written,²⁴ whilst he to whom wealth is more precious than life is bidden, 'with all thy might' [i.e., substance].²⁵

Incest and murder [may not be practiced to save one's life], — even as Rabbi's dictum. For it has been taught: Rabbi said, For as when a man riseth against his neighbor, and slayeth him, even so is this matter.²⁶ But what do we learn from this analogy of a murderer? Thus, this comes to throw light and is itself illumined. The murderer is compared to a betrothed maiden: just as a betrothed maiden must be saved [from dishonor] at the cost of his [the ravisher's] life, so in the case of a murderer, he [the victim] must be saved at the cost of his [the attacker's] life. Conversely, a betrothed maiden is compared to a murderer: just as one must rather be slain than commit murder, so also must the betrothed maiden rather be slain than allow her violation. And how do we know this of murder itself? — It is common sense. Even as one who came before Raba²⁷ and said to him, 'The governor of my town has ordered me, "Go and kill so and so; if not, I will slay thee"'. He answered him, 'Let him rather slay you than that you should commit murder; who knows that your blood is redder? Perhaps his blood is redder.'²⁸

When R. Dimi came,²⁹ he said: This was taught only if there is no royal decree,³⁰ but if there is a royal decree, one must incur martyrdom rather than transgress even a minor precept. When Rabin came, he said in R. Johanan's name: Even without a royal

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decree, it was only permitted in private; but in public one must be martyred even for a minor precept rather than violate it. What is meant by a 'minor precept'? — Raba son of R. Isaac said in Rab's name:

1. For if she is seduced of her own consent, she may not be saved at the cost of her seducer's life, nevertheless, the fine is imposed.
2. Without killing him.
3. Here Rashi explains, either by the pursued, or by another person. On 57a he states, 'by the pursued'.
4. Hence, in such circumstances the violator is not liable to death, and consequently liable to the fine.
5. Ex. XXI. 22ff.
6. I.e., he who injured the woman was striving to kill his opponent.
7. Ibid. The extreme penalty, though the murder of the woman is unintentional, is explicable only on the above assumption.
8. V. p. 490, n. 1.
9. I.e., he is liable to be slain because he seeks to slay his combatant; but the monetary liability arises through his injury to the woman. Where, however, these liabilities are incurred on account of two different persons it may be that the one does not cancel the other.
10. In B.K. 117b the text is Rabbah.
11. And just as he would not have been punished had he killed him, so he is not liable for destroying his property.
12. For if he who saves himself at another's expense is liable for the damage, how much more so when one saves another at a third party's expense.
13. Lest in doing so he causes damage for which he will have to pay. Hence reverting to the subject under discussion, in the case of one man striving to kill another and injuring a woman, it must be assumed that he was not liable to be slain, and this is only possible if his opponent could be saved by a limb of the murderer, which proves R. Jonathan b. Saul's assertion.
14. Viz., that of a betrothed maiden.
15. Idolatry, by recognizing a divine power in addition to God's, dishonors Him, conceding to another that which is His alone.
16. In this case, indemnify his slayer.
17. The Sabbath: Everyone that profaneth it shall surely be put to death (Ex. XXXI, 14) idolatry: And thou shalt not let any of thy seed pass through the fire to Moloch, neither shalt thou profane the name of the Lord thy God, (Lev. XVII, 21).
18. A town in South Palestine (Roman name Diospolis).
19. According to Graetz, *Geschichte*, IV, p.p. 155 and 428ff this took place during the Hadrianic persecutions consequent upon the failure of the revolt of Bar Cochba 132-135 C.E. [According to Halevy Doroth i.e., p. 371. before the fall of Bether].
20. Lev. XVIII, 5.
21. Lev. XXII, 32.
22. The Sages that met at the house of Nithza.
23. Deut, VI. 5.
24. I.e., even to give thy soul (life) in His service.
25. This proves that one must incur a martyr's death rather than practice idolatry, for 'and thou shalt love the Lord thy God' means that we must not worship any other in His place.
26. Deut. XXII, 26.
27. *Var. lec.*, Rabbah.
28. I.e., you have no right to murder him to save yourself: his life is no less valuable than your own.
29. V. p. 390 n. 1.
30. Forbidding the practice of Judaism, the action being by an individual.

Sanhedrin 74b

Even to change one's shoe strap.¹ And how many make it public? — R. Jacob said in R. Johanan's name: The minimum for publicity is ten.

It is obvious that Jews are required [for this publicity], for it is written. But I will be hallowed among the children of Israel.² R. Jeremiah propounded: What of nine Jews and one Gentile? — Come and hear: For R. Jannai, the brother of R. Hiyya b. Abba learned: An analogy is drawn from the use of tok ['among'] in two passages. Here is written, But I will be hallowed among [be-tok] the children of Israel; and elsewhere, separate yourselves from among [mi-tok] this congregation:³ just as there the reference is to ten, all Jews, so here too — ten, all Jews.⁴ But did not Esther transgress publicly?⁵ — Abaye answered; Esther was merely natural soil.⁶ Raba said: When they [sc. the persecutors] demand it for their personal pleasure. it is different.⁷ For otherwise, how dare we yield to them' [sc. the Parsees or fire worshippers]

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our braziers [or fire bellows] and coal shovels?⁸ But their personal pleasure is different;² so here too [in Esther's case].¹⁰ This [answer] concurs with Raba's view expressed elsewhere. For Raba said: If a Gentile said to a Jew. 'Cut grass on the Sabbath for the cattle, and if not I will slay thee', he must rather be killed than cut it; 'Cut it and throw it into the river, he should rather be slain than cut it. Why so? — Because his intention is to force him to violate his religion.

It was asked of R. Ammi: Is a Noachide bound to sanctify the Divine Name or not? — Abaye said, Come and hear: The Noachides were commanded to keep seven precepts.¹¹ Now, if they were commanded to sanctify the Divine Name, they are eight. Raba said to him: Them, and an pertaining thereto.¹²

What is the decision? — The disciples of Rab¹³ said: It is written, In this thing, the Lord pardon thy servant, that when my master goeth into the house of Rimmon to worship there, and he leaneth on my hand, and I bow myself in the house of Rimmon.¹⁴ And it is written, And he said unto him, Go in peace.¹⁵

1. When religion itself is persecuted even the most insignificant religious custom or habit must be defended at all costs, having regard to the higher principle at stake. [The shoe latches worn by Jews were white, those worn by heathens black. v. Nacht. JQR, (N.S.) VI, p. 12.]
2. Lev. XXII, 23.
3. Num. XVI, 21.; v. Meg. 23b. A further analogy is there drawn from the use of congregation ('edah vsg) in two passages; one, just quoted, and the second, How long shall I bear with this evil congregation. ('edah) Ibid. XIV, 27. 'Congregation' there refers to the Spies sent out by Moses. As Joshua and Caleb had dissociated themselves from their evil report, ten were left, all Israelites, cf. *Supra* Mishnah I.i.
4. Therefore one is not called upon to suffer martyrdom if bidden to transgress in the presence of nine Jews and one Gentile.

5. By permitting a Gentile — Ahasuerus — to take her to wife.
6. Which is tilled, i.e., she was only the passive object of his embraces.
7. And not as a measure of religious persecution.
8. The passage is obscure. The interpretation here is that of Levy. Who adopts the reading [H]. This refers to the Guebres, who permitted no fires in private dwellings on the festival days, and forced the Jews to give up to them their braziers (or bellows) and coal shovels, and themselves sit in darkness. On this interpretation [H] is derived from [H], the sound made by blowing up a fire. The Munich edition reads[H] or [H] (another reading), bears a strong resemblance to dominica: now, dies dominica (the Lord's Day) signifies Sunday, and aedes dominica signifies church; [H], for which an alternative reading is [H], may be a Greek word ([G]) also meaning church. In Raba's time there were Christian communities in Persia, observing their Sunday as strictly as the Jews observed the Sabbath, who therefore arranged for the Jews to heat their churches on that day, as they probably did a similar service for the Jews on the Sabbath (M. Jast. in REJ 1884, pp. 277ff.)
9. I.e., They do not demand the fire as a religious act, whereby the Jew shall associate himself in idolatrous worship, but merely desire its warmth in their churches.
10. Ahasuerus made her transgress for his personal pleasure, not because he desired her to violate her religion.
11. V. *supra* 56a.
12. I.e. sanctifying the Divine Name by observing their seven precepts is not a separate precept, but included therein.
13. V. p. 387 n. 7.
14. II Kings V, 18.
15. Ibid. 19.

Sanhedrin 75a

Now, if it be so [that a Noachide is bidden to sanctify the Divine Name], he should not have said this?¹ — The one is private, the other public.²

Rab Judah said in Rab's name: A man once conceived a passion for a certain woman,³ and his heart was consumed by his burning desire [his life being endangered thereby]. When the doctors were consulted, they said, 'His only cure is that she shall submit.'

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Thereupon the Sages said: 'Let him die rather than that she should yield.' Then [said the doctors]; 'let her stand nude before him;' [they answered] 'sooner let him die'. 'Then', said the doctors, 'let her converse with him from behind a fence'. 'Let him die,' the Sages replied 'rather than she should converse with him from behind a fence.' Now R. Jacob b. Idi and R. Samuel b. Nahmani dispute therein. One said that she was a married woman; the other that she was unmarried. Now, this is intelligible on the view, that she was a married woman, but on the latter, that she was unmarried, why such severity? — R. Papa said: Because of the disgrace to her family. R. Aha the son of R. Ika said: That the daughters of Israel may not be immorally dissolute. Then why not marry her? — Marriage would not assuage his passion, even as R. Isaac said: Since the destruction of the Temple, sexual pleasure has been taken [from those who practice it lawfully] and given to sinners, as it is written, *Stolen waters are sweet, and bread eaten in secret is pleasant.*⁴

CHAPTER IX

MISHNAH. THE FOLLOWING ARE BURNT: HE WHO COMMITS INCEST WITH A WOMAN AND HER DAUGHTER, AND A PRIEST'S ADULTEROUS DAUGHTER. THERE IS INCLUDED IN 'A WOMAN AND HER DAUGHTER' HIS OWN DAUGHTER, HIS DAUGHTER'S DAUGHTER, HIS SON'S DAUGHTER, HIS WIFE'S DAUGHTER AND THE DAUGHTER OF HER DAUGHTER OR SON, HIS MOTHER-IN-LAW, HER MOTHER, AND HIS FATHER-IN-LAW'S MOTHER.

GEMARA. The Mishnah does not state, 'He who commits incest with a woman whose daughter he has married', but 'HE WHO COMMITS INCEST WITH A WOMAN AND HER DAUGHTER'; this proves that both are forbidden. Who are they then? His mother-in-law and her mother. Then the Mishnah further states, THERE IS INCLUDED IN 'A WOMAN AND HER

DAUGHTER'; this proves that the first are explicit and the others derived.⁵ Now this agrees with Abaye,⁶ who maintains that they⁷ differ as to the text from which the law is derived; hence the Mishnah is taught in accordance with R. Akiba's view.⁸ But on Raba's view, that they differ about his mother-in-law after [his wife's] death,⁹ with whom does the Mishnah agree? — Raba can answer you: Read [in the Mishnah] He who commits incest with a woman whose daughter he has married.

THERE IS INCLUDED IN 'A WOMAN AND HER DAUGHTER HIS MOTHER-IN-LAW, HER MOTHER, AND HIS FATHER-IN-LAW'S MOTHER. In Abaye's view,¹⁰ since the Mishnah desires to state — HIS FATHER-IN-LAW'S MOTHER, it adds HIS MOTHER-IN-LAW AND HER MOTHER. On Raba's view,¹¹ because the Mishnah must teach 'HIS FATHER-IN-LAW'S MOTHER', and 'HIS MOTHER-IN-LAW'S MOTHER', 'HIS MOTHER-IN-LAW' too is mentioned.

Whence do we know this? — For our Rabbis taught: *And if a man take a woman and her mother [it is wickedness: they shall be burnt with fire, both he and they.]*¹² This law refers only to a woman and her mother. Whence do I derive it for a woman and her daughter, or her daughter's daughter, or her son's daughter? The word zimmah [wickedness] occurs here, and is also written elsewhere:¹³ Just as there, her daughter, her daughter's daughter and her son's daughter [are meant by zimmah], so here too her daughter, her daughter's daughter, and her son's daughter [are included in the punishment of burning decreed for incest with them]. Whence do we know that males are as females? 'Wickedness' [zimmah] is stated here, and also elsewhere; just as there, males are as females, so here too. Whence do we know that the lower is as the upper? 'Wickedness' [zimmah] is stated here, and also elsewhere: just as there, the lower is as the upper, so here too; and just as here the upper is as the lower, so there too.¹⁴

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The Master said: 'Whence do we know that males are as females?' What is meant by this? Shall we say that her son's daughter is equally forbidden as her daughter's daughter?¹⁵ But these are simultaneously derived!¹⁶ Again, if it means that his father-in-law's mother is as his mother-in-law's mother:¹⁷ but seeing that the latter is as yet unproven, why demonstrate that the former is equal thereto?¹⁸

1. For thereby he tacitly concurred in Naaman's proposal.
2. Naaman was to simulate idolatry in the Temple of Rimmon, where no Jews were present. This, according to the statement on 74b, is transgression in private. The problem however is whether he must publicly sanctify the Divine Name, i.e. in the presence of Jews.
3. Lit., 'set his eyes on a certain woman.'
4. Prov. IX, 17.
5. The statement that a number of other women are included in the first cannot be literal, for in fact the meaning of 'a woman and her daughter' cannot be extended to include, e.g., his own daughter or his son's daughter. Hence it must mean that 'a woman and her daughter' are explicitly stated in the Bible, whilst the others are included as derivations from these two. Now since the wording of the Mishnah shows that both the first two are forbidden and that the only relation explicitly forbidden on pain of burning is his mother-in-law, it follows that 'a woman and her daughter' must mean his mother-in-law ('daughter') and her mother. And these are regarded as explicitly forbidden.
6. V. *infra* 76b.
7. R. Akiba and R. Ishmael.
8. Who holds that the mother of his mother-in-law is explicitly prohibited.
9. But as to his mother-in-law's mother there is a common agreement that the prohibition is only derived and not explicitly stated.
10. That burning for the first two is explicitly decreed, so that they cannot be included in 'a woman, etc.' but are identical therewith.
11. That only his mother-in-law is explicitly forbidden on pain of death by fire, but not her mother.
12. Lev. XX, 14.
13. Thou shalt not uncover the nakedness of a woman and her daughter, neither shalt thou take her son's daughter, or her daughter's daughter, to uncover her nakedness; for they are her near kinswomen; it is wickedness, [H] (Lev. XVIII, 17).
14. This is explained in the Gemara.

15. The meaning being, the issue of males is prohibited just as that of females.
16. From the gezarah shawah of zimmah.
17. Thus teaching that incest with both is punished by fire.
18. At this stage, nothing has been adduced to show that incest with his mother-in-law's mother is thus punished, for 'a woman' has been translated literally. Consequently, only his mother-in-law is forbidden in this verse.

Sanhedrin 75b

— Abaye said, This is what is meant: Whence do we know that his issue is as hers?¹ The word 'zimmah' occurs here, and is also written elsewhere, etc. But 'zimmah' is not written in connection with his issue?² Raba answered: R. Isaac b. Abudimi said unto me: We learn identity of law from the fact that 'hennah' [they] occurs in two related passages, and likewise 'zimmah' [wickedness] in two.³

The Master said: 'Whence do we know that the lower is as the upper?' What is meant by 'lower' and 'upper'? Shall we say that her son's daughter and her daughter's daughter ['lower'] are as her own daughter ['upper']?⁴ But are not [all three] simultaneously derived?⁵ Again, if it means that his father-in-law's mother and his mother-in-law's mother are as his mother-in-law: then instead of 'the lower is as the upper', the Tanna should have said 'the upper is as the lower'?⁶ — Read, 'the upper is as the lower'. If so, [how explain] wickedness [zimmah] is stated here, and also elsewhere'; seeing that their very prohibition is as yet unknown, how can 'zimmah' be written in connection therewith?⁷ Abaye answered: This is its meaning: Whence do we know that the third generation above is treated as the third below?⁸ — The word 'zimmah' is written in connection with both the lower generation⁹ and the upper;¹⁰ just as in the lower, the third generation is forbidden also,¹¹ so in the upper too;¹² and just as the lower is assimilated to the upper in respect of punishment, so is the upper to the lower in respect of formal prohibition.¹³ R. Ashi said:

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After all, it is as taught:¹⁴ What then is the meaning of 'lower'? Lower in [gravity of the] prohibition.¹⁵

Now, if so,¹⁶ then just as her [i.e. his wife's] maternal grandmother is forbidden [to him], so is his maternal grandmother?¹⁷ — Abaye answered: The Writ sayeth, [The nakedness of thy father, or the nakedness of thy mother, shalt thou not uncover'] she is thy mother — 18 teaching: thou canst punish for [incest with] his mother, but not with his mother's mother.

Raba said: Whether we maintain, 'judge from it in its entirety', or¹⁹ 'judge from it, and place it on its own basis', this could not be deduced.²⁰ For on the view, 'judge from it in its entirety', [the deduction would proceed thus:] Just as her [his wife's] maternal grandmother is forbidden [to him], so is his maternal grandmother forbidden. [Then carrying the analogy] to its uttermost, just as in her case [i.e., incest with the former] is punished by fire so in his case [i.e., incest with the latter] is punished by fire. But on the view²¹ that burning is severer [than stoning]. This analogy can be refuted. [Thus:] Why is her case [forbidden]?²² Because her [his wife's] mother is similarly forbidden.²³ But can you say the same in his case, seeing that his mother is forbidden [only] on pain of stoning?²⁴ Moreover, his mother is forbidden on pain of stoning: shall his mother's mother be forbidden on pain of burning?²⁵ Further, just as in her [his wife's] case, you have drawn no distinction between her mother and her mother's mother [both being forbidden on pain of burning], so in his, no distinction must be drawn between his mother and his mother's mother.²⁶ And on the view that stoning is severer, the analogy cannot be deduced because of this last difficulty.²⁷ Whilst on the view, 'judge from it and place it on its own basis,' [the deduction would proceed thus:] Just as her [his wife's] maternal grandmother is forbidden [to him], so is his maternal grandmother forbidden.

But 'place it on its own basis', thus: in the former case the punishment is burning; but in the latter, stoning, the penalty which we find prescribed for incest with his mother. Now, on the view that burning is severer, this can be refuted,

1. I.e., that his daughter, his son's daughter, or daughter's daughter by a mistress are forbidden to him on pain of burning just as wife's daughter, her son's daughter, and her daughter's daughter. For Lev. XVIII, 17 (cited on p. 508 n. 5) refers to the offspring of marriage, not of seduction or outrage. On this interpretation, 'male' refers to his issue, 'female' to his wife's.
2. For that his issue is at all forbidden is derived not from Lev. XVIII, 17, but from Lev. XVIII, 10: The nakedness of thy son's daughter, or thy daughter's daughter, even their nakedness thou shalt not uncover: for their's (hennah [H]) is thine own nakedness
3. *Supra* 51a. In Lev. XVIII, 10 it is stated. The nakedness of thy son's daughter, or of thy daughter's daughter, even their nakedness thou shalt not uncover; for they (hennah) are thine own nakedness. Further, it is written (*ibid.* XVIII, 17): Thou shalt not uncover the nakedness of a woman and her daughter, neither shalt thou take her son's daughter, or her daughter's daughter, to uncover her nakedness; for they (hennah) are her near kinswomen; it is wickedness (zimmah, [H]). Since hennah occurs in these two passages, they are identified with each other, and zimmah in the second passage, referring to her issue, is understood to be implicit in the first too, which refers to his issue. Then the first passage is further identified with Lev. XX, 14: And if a man take a wife and her mother, it is wickedness (zimmah): They shall be burnt with fire: thus we derive burning for incest with his issue.
4. So that 'lower' and 'upper' refer to the order of generations: 'lower', the third generation in the downward direction, viz. her son's daughter and her daughter's daughter; 'upper', one generation above them, viz., her daughter.
5. As explained in that very passage.
6. For the older generation is always referred to as the upper.
7. Cf. p. 509 n. 4. At this stage, no verse has been adduced at all to show that his father-in-law's mother or his mother-in-law's mother are forbidden.

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8. I.e., just as his daughter's daughter and his son's daughter (the third generation below) are forbidden, so likewise his father-in-law's mother and mother-in-law's mother, the third generation above.
9. Lev. XVIII, 17.
10. Ibid. XX, 14.
11. I.e., his son's daughter and daughter.
12. I.e., though only the second generation is explicitly interdicted, viz., his mother-in-law, the third is included too, viz., his mother-in-law's mother and his father-in-law's mother.
13. For in Lev. XVIII, 10, where the third lower generation is forbidden, nothing is said about punishment, which is derived from Lev. XX, 14, as stated above. On the other hand, in Lev. XX, 14, which is made to include the third generation above, though only explicitly stating the second, no formal prohibition is given. This in turn is derived from Lev. XVIII, 10. (Both are derived through the medium of Lev. XVIII, 17, the connecting link between the other two.) On Abaye's interpretation it is necessary to amend the Baraitha from 'and the lower is as the upper', to 'that the upper is as the lower, etc.'
14. I.e., no emendation is necessary.
15. I.e., 'the upper' or higher prohibition is that of his mother-in-law, his more immediate relation, whilst the prohibition of her mother, as also of his father-in-law's mother, is regarded as 'lower', i.e., weaker, as they are a generation further removed. Hence this is its meaning: Whence do we know that his mother-in-law's mother and his father-in-law's mother, whose relationships are lower (i.e., further removed, and consequently weaker) than his mother-in-law's, are treated as his mother-in-law? — It is derived from his wife's daughter: just as in the latter case, the 'lower' relation is as the 'upper' (stronger), i.e., his wife's daughter's daughter is as his wife's daughter, though more distant; so here too, his mother-in-law's mother is as she herself. This deduction is in respect of equal punishment. The second clause is explained by R. Ashi as Abaye, as referring to the prohibition.
16. This reverts to the explanation of 'whence do we know that males are regarded as females', as meaning, 'whence do we know that his relations are regarded as hers?'
17. Whereas in Yeb. 21a the prohibition of the latter is regarded as Rabbinical only, whilst the former is Biblical.
18. Lev. XVIII, 7.
19. Lit., 'whether according to the one (Tanna) who says ... or whether according to the one who says, etc.'
20. A verse is unnecessary, because his maternal grandmother could not be deduced from the *gezerah shawah* based on zimma, whatever view be held on the scope of a *gezerah shawah*. There are two views on this. One is that the identity of law taught by a *gezerah shawah* must hold good in all respects, so that the case deduced is equal to the premise in all points; this is called 'judge from it and from (all) of it'. An opposing view is that the analogy holds good only in respect of the main question at issue, but that thereafter, the case deduced may diverge from its premise. This is called, 'judge from it, but place it on its own basis', i.e., confine the analogy to the main question, not to the subsidiary points.
21. Lit., 'but according to the one Tanna who says that, etc.'
22. I.e., the reason that his wife's maternal grandmother is forbidden on pain of burning.
23. Hence, since the prohibition of his wife's mother is so severe, it is natural that it should extend to her maternal grandmother too.
24. Surely not! Since the prohibition is weaker, its punishment being more lenient, its extent too may be more limited, and not include his maternal grandmother.
25. Surely there cannot be a severer punishment for the latter, a more distant relative, than for the former. Yet if the latter be derived at all by this *gezerah shawah*, the punishment must be burning, on this view that the analogy must be carried through on all points.
26. Just as incest with his mother is punished by stoning, so with his mother's mother. But making the analogy from another angle, the latter should be punished by burning, as has already been shown. Hence, by a *reductio ad absurdum*, we are forced to dismiss the entire analogy.
27. Though the former two do not arise.

Sanhedrin 76a

[Thus]: Why is her case [i.e., his wife's maternal grandmother forbidden]? Because her mother is [forbidden] on pain of death by fire. But can you say the same in his case, seeing that his mother is forbidden on pain of stoning [only]? Further, his maternal grandmother is like her's: just as in the latter case no distinction is drawn between his wife's maternal grandmother and her [his wife's] daughter,¹ so in the former, no distinction should be allowed between his own maternal

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grandmother and his daughter.² Whilst on the view that stoning is severer, the analogy cannot be made on account of this last difficulty.³

But if so,⁴ just as his daughter-in-law is forbidden him, so is his wife's daughter-in-law forbidden him?⁵ Abaye answered: The Writ saith, [Thou shalt not uncover the nakedness of thy daughter-in-law:] she is thy son's wife;⁶ teaching, you can punish only for incest with his son's wife, but not with her [his wife's] son's wife. Raba said: Whether it be maintained, 'judge from it in its entirety,' or 'judge from it and place it on its own basis', this could not be deduced. For on the first view, [the deduction would proceed thus:] just as his daughter-in-law is forbidden him, so is her's forbidden him. [Then carrying through the analogy] 'in its entirety, 'just as in his case [the penalty] is stoning,⁷ so in her case is the penalty stoning. But if we regard stoning severer, this analogy can be refuted. [Thus]: Why is his [daughter-in-law forbidden]? Because his mother is forbidden him on pain of stoning: Can you then say the same of her daughter-in-law, seeing that incest with her mother incurs only death by fire?⁸ Moreover, her daughter is forbidden on pain of burning: shall her daughter-in-law be forbidden on pain of stoning?⁹ [This is no difficulty, for] let his own case prove it: his own daughter is forbidden by fire, yet his daughter-in-law by stoning. But [refute the analogy thus:] just as in his case, thou drawest no distinction between his mother and his daughter-in-law, so in her's [his wife's], you can draw no distinction between her mother and her daughter-in-law.¹⁰ And on the view that burning is considered more severe, the analogy cannot be made because of this last difficulty.¹¹ Whilst on the view, 'judge from it and place it on its own basis,' [the deduction would proceed thus:] just as his daughter-in-law is forbidden him, so is her daughter-in-law forbidden; and place it on its own basis, thus: in the former case, [his daughter-in-law] the punishment is stoning; but in the latter,

burning, the punishment we find for incest with her mother. But if stoning is severer, this can be refuted. [Thus]: Why is his daughter-in-law forbidden? Because his mother is forbidden him on pain of stoning. But can you say the same of her daughter-in-law, seeing that her mother is forbidden only on pain of burning! Moreover, just as in his case, you draw a distinction between his daughter [punished by burning] and his daughter-in-law [by stoning], so in her case, you should draw a distinction between her daughter and her daughter-in-law.¹² And even on the view that burning is severer, the analogy cannot be made on account of this last difficulty.

Whence do we know that his daughter by a seduced woman [not his wife] is forbidden him?¹³ — Abaye said:¹⁴ This may be proved by arguing from the minor to the major; if he is punished for incest with his daughter's daughter, surely he is punished for his own daughter!¹⁵ But can punishment be imposed as the result of an *ad majus* conclusion? — The argument merely illumines the prohibition.¹⁶ Raba answered: R. Isaac b. Abudimi said unto me; we learn identity of law from the fact that 'hennah' [they] occurs in two related passages, and likewise 'zimmah' in two.¹⁷

The father of R. Abin learned: Because we have no express sanction [from Scripture that incest] with an illegitimate daughter [is punished by burning], therefore the Writ must say, And the daughter of a man [and] a priest, if she profane herself through her father, she profaneth him; she shall burnt with fire.¹⁸ If so, just as in the case of a priest's [adulterous] daughter, only she is burnt, but not her paramour, so for incest with an illegitimate daughter, only she should be burnt, but not her paramour?¹⁹ — Abaye answered: The Writ sayeth, she profaneth her father, teaching that this applies only to a case where she profaneth her father, excluded thus is this case,²⁰ since her father profanes her,²¹ Raba answered, In the former case²² you

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rightly exclude him from the penalty of a priest's daughter, and assimilate him to an Israelite's daughter.²³ But in this case,²⁴ to whom will you assimilate him? to an unmarried woman?²⁵

Now, whence do we derive a formal prohibition of incest with an illegitimate daughter? This is in order according to Abaye and Raba: from the verse from which they deduce punishment, they also learn the prohibition.²⁶ But what of the deduction made by R. Abin's father?²⁷ — R. Elai answered: The Writ sayeth, Do not profane thy daughter to cause her to be whore.²⁸ R. Jacob, the brother of R. Aha b. Jacob objected: Is this verse, Do not profane thy daughter to cause her to be a whore, employed for this purpose? But it is needed for that which has been taught: 'Do not profane thy daughter, to cause her to be a whore' I might think that this prohibits²⁹ a priest from marrying his daughter to a Levite or an Israelite:³⁰ therefore Scripture states, 'to cause her to be a whore', showing that the reference is only to profanation by harlotry, thus prohibiting the giving over of one's daughter for sex purposes without marriage intention'? If so, Scripture should have said *al tahl*; why *al tehalle*? — That both may be deduced from it.³¹

Now, how do Abaye and Raba utilize the verse, Do not profane thy daughter to cause her to be a whore? — R. Mani said: [According to them] this refers to one who marries his [young] daughter to an old man.³² As it has been taught: Do not profane thy daughter to cause her to be a whore; R. Eliezer said: This refers to marrying one's [young] daughter to an old man. R. Akiba said: This refers to the delay in marrying off a daughter who is already a *bogereth*.³³

R. Kahana said on R. Akiba's authority: The only poor in Israel is the subtly wicked and he who delays in marrying off his daughter, a *bogereth*.³⁴ But is not one who thus delays himself subtly wicked?³⁵ Abaye answered:

1. Incest with both being punishable by fire.
2. So that incest with the former should be punished by burning, as with the latter. This however is impossible, for incest with one's grandmother cannot be more severely punished than with his mother, the penalty for which is only stoning, which on the present hypothesis is more lenient than burning.
3. Since according to this comparison incest with his maternal grandmother is punished by burning. But his maternal grandmother should also be compared to his mother, the punishment for which is stoning; hence the entire analogy falls to the ground.
4. This raises a new difficulty, reverting to the statement (75b) that his relatives are compared to hers.
5. I.e., the wife of her son by a previous husband. But this is not so.
6. Lev. XVIII, 15.
7. v. *supra* 53a.
8. Hence, since the prohibition of his relative, viz., his mother, is so severe, it is natural that it should extend in a downward direction too, whereas the prohibition of her relation, viz., her mother, being punished only by burning and consequently weaker, its extent may be more limited, and not embrace her daughter-in-law.
9. Surely not!
10. Hence, incest with the latter should be punished by burning. But as has already been proved, stoning is the proper punishment; therefore the entire analogy is impossible.
11. Though the former two do not arise.
12. I.e., Just as the punishment for his daughter-in-law is severer than for his daughter, viz., stoning instead of burning, so her daughter-in-law should be more stringently interdicted than her daughter, viz., by stoning, instead of burning. But if we compare her daughter-in-law to her mother, the punishment is burning. Hence the entire deduction is impossible.
13. As explained by Abaye *supra* 75b. q.v. The difficulty arises because in Lev. XVIII, 10 q.v., which has been interpreted as referring to his illegitimate offspring, no mention is made of his own daughter.
14. V. next note.
15. [Thus Tosaf.; var lec., Did not Abaye say, etc. i.e., 'what is the question'-surely Abaye has solved it.]
16. I.e., does not add the prohibition of another person, but shows that when Scripture (in Lev. XVIII, 10) interdicted his daughter's daughter, it meant that the daughter relationship in general is forbidden.

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17. V. p. 342, n. 1; just as in Lev. XVIII, 17 the daughter is forbidden equally with the daughter's daughter, so in XVIII, 10. The punishment of burning is then deduced from Lev. XX, 14.
18. Lev. XXI, 9. 'A man' is superfluous, and therefore teaches that even if she is only his daughter, not his wife's, this law holds good. By translating the rest of the verse as in the text, we deduce that an illegitimate daughter is burnt for incest with her father; and by regarding 'a man' as distinct from 'priest' (the latter being attached to the former with the copula 'and'), the deduction is made to refer to any illegitimate daughter, not only a priest's (v. Tosef. Sanh. XII).
19. Seeing that the former is deduced from 'she shall be burnt with fire', whilst the verse is made to refer to incest too.
20. Incest with one's illegitimate daughter.
21. Her case is excluded from the limitation implied in, she (and not her paramour) 'shall be burnt with fire': hence her paramour is likewise punished.
22. The seducer of a priest's adulterous daughter.
23. I.e., punishing him by stoning instead of burning. For the limitation of 'she', though teaching that the special law of a priest's daughter does not apply to him, yet leaves him to be punished as the seducer of a married woman in general.
24. Incest with an illegitimate daughter.
25. For if an incestuous paramour be excluded from the punishment of an adulterous woman, whether the daughter of a priest or an Israelite (since relationship is independent of these), his law can only be assimilated to that of an unmarried woman, whose unchastity is not punished at all. But surely it cannot be maintained that an illegitimate daughter is burnt for incest with her father, though her offence is a passive one, and less than the man's (v. *supra* 74b), whilst he goes scot free! Hence the limitation of 'she' cannot apply to this.
26. Both being stated in the verses they employ for this purpose.
27. Lev. XXI, 9 speaks only of punishment, but contains no prohibition.
28. Lev. XIX, 29. This includes incest, and since 'daughter' in general is mentioned, it applies to an illegitimate one too.
29. Lit., 'the Writ speaks of a priest, etc.'
30. Since he thereby 'profanes her', in that she is not permitted to eat of *terumah* (v. [Glos.](#)) thereafter.
31. The latter [H] is a heavier form, yet with the same meaning [H], the former. Being heavier, it has a wider application.
32. Since she cannot willingly accept him, she may be led to adultery.
33. Having attained puberty, she may become unchaste if not married. Marriage, of course, was then at a far earlier age than now.
34. This is explained further on.
35. Why 'and he who delays, etc.': the two are identical. His wickedness consists in that he keeps her unmarried, that he may profit by her labor whilst endangering her chastity.

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This is its meaning: Which poor man is subtly wicked? He who delays marrying off his daughter, a bogereth.¹

R. Kahana also said on R. Akiba's authority: Beware of one who counsels thee for his own benefit.²

Rab Judah said in Rab's name: One who marries his daughter to an old man or takes a wife for his infant son, or returns a lost article to a Cuthean,³ — concerning him Scripture sayeth, [that he bless himself in his heart saying, I shall have peace, though I walk in the imagination of mine heart] to add drunkenness to thirst: The Lord will not spare him.⁴

An objection was raised: He who loves his wife as himself and honors her more than himself,⁵ and leads his children in the right path, and marries them just before they attain puberty — of him Scripture saith, And thou shalt know that thy tabernacle shall be in peace and thou shalt visit thy habitation, and shalt not sin.⁶ — If just before puberty, it is different.

Our Rabbis taught: He who loves his neighbor, displays friendly intimacy towards his relatives, and marries his sister's daughter and lends a *sela'* to the poor man in time of

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his need — of him Scripture saith, Then shalt thou call, and the Lord shall answer.²

Our Rabbis taught: [And if a man take a wife and her mother, it is wickedness: they shall be burnt with fire,] both he and they [ethe'en].⁸ [This means], he and one of them. That is R. Ishmael's opinion. R. Akiba said: [It means], he and both of them. Wherein do they differ?⁹ — Abaye said: They differ as to the text from which the law is derived: R. Ishmael maintains that 'he and ethe'en' means 'he and one of them', for in Greek 'one' is hello.¹⁰ Hence [incest with] his mother-in-law's mother [as a punishable offence] is arrived at [only] by [Biblical] interpretation. But R. Akiba maintained, 'he and ethe'en' means 'he and both of them', hence his mother-in-law's mother is explicitly interdicted in this verse.¹¹ Raba said: They differ about his mother-in-law after [his wife's] death: R. Ishmael holds that [incest with] his mother-in-law after [his wife's] death is punished by burning; whilst R. Akiba's view is that it is merely forbidden.¹²

MISHNAH. THE FOLLOWING ARE DECAPITATED: A MURDERER, AND THE INHABITANTS OF A SEDUCED CITY. A MURDERER WHO SLEW HIS FELLOW WITH A STONE OR AN IRON, OR KEPT HIM DOWN UNDER WATER OR IN FIRE, SO THAT HE COULD NOT ASCEND THENCE, IS EXECUTED. IF HE PUSHED HIM INTO WATER OR FIRE, BUT SO THAT HE COULD ASCEND, YET HE DIED, HE IS FREE [FROM DEATH]. IF HE SET ON A DOG OR A SNAKE AGAINST HIM [AND THEY KILLED HIM], HE IS FREE FROM DEATH. BUT IF HE CAUSED A SNAKE TO BITE HIM [BY PUTTING HIS JAWS AGAINST HIM] — R. JUDAH RULED THAT HE IS EXECUTED; THE SAGES, THAT HE IS NOT.

GEMARA. Samuel said: why is 'hand' not mentioned in connection with iron?¹³ — Because iron can kill no matter what its size. It has been taught likewise: Rabbi said; It was well known to Him who spake and the world came into being that iron, no matter how

small, can kill; therefore the Torah prescribed no size for it. This however, is only if one pierced therewith:¹⁴

OR KEPT HIM DOWN UNDER WATER. The first clause teaches the extreme limit of the law, and so does the last. Thus, the first clause teaches the extreme limit of the law, that though he himself did not push him [into the water], yet since he could not ascend, [through being held down], and so died, he is executed. The last clause likewise teaches the extreme limit, that though he actually pushed him into the water, yet since he could have ascended, but died, he is free from death.

Whence do we know that [he is liable to death] for keeping him down? — Samuel answered: The Writ sayeth, Or if with enmity he smote him with his hand:¹⁵ this extends the law to one who keeps his neighbor fast [e.g., in water, thus causing his death].

A certain man confined his neighbor's animal in a place exposed to the sun, so that it died [of sunstroke]. Rabina held him liable: R. Aha b. Rab ruled that he was not. Rabina held him liable by an *ad majus* argument from a murderer. If a murderer, in whose case unwitting murder is not treated as deliberate, nor an accident as intention, is nevertheless executed for confining [his neighbor in a place where he must die];

1. Through his poverty he delays her marriage, that he may profit from her labor, The poor man has no other opportunity of cunning wickedness
2. Lit., 'in his own way'.
3. v. p. 388, nn. 5-6.
4. Deut. XXIX, 18ff. i.e., the associations involved in these practices are displeasing in the eyes of the Lord. [How bitter must have been the persecution of the Jews under Ardeshir (v. Funk, *op. cit* 1, pp 66 ff.) to have provoked gentle Rab to this harsh utterance.]
5. By providing her with fine ornaments (Rashi).

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6. Job. V. 24. This proves that it is meritorious to marry off one's children whilst minors.
7. Isa. LVIII, 9.
8. [H], Lev. XX, 14.
9. For obviously R. Akiba cannot mean that a man's wife must be burnt because her husband committed incest with his daughter.
10. [G], acc. of [G].
11. Since R. Ishmael maintains that only 'one of them' is denoted by [H], it must mean his mother-in-law. Consequently, her mother is not directly referred to, and has to be deduced. But R. Akiba, translating [H] 'both of them' (which cannot possibly include his wife), regards the verse as referring to his mother-in-law and her mother; hence death by fire for the latter is explicitly taught in this verse.
12. R. Ishmael interprets the verse, '*he and one of them*' i.e., even if only one of them is alive (viz., his mother-in-law), the penalty for incest is burning, whilst R. Akiba maintains, 'he and both of them' i.e., only during the lifetime of *both* is incest with his mother-in-law punished by fire. Otherwise, there is no penalty, though it is forbidden.
13. In Num. XXXV, 16-18, dealing with murder, iron, stone, and wooden weapons are enumerated: 'hand' is used in connection with the latter two, implying that they must be large enough to afford a hold to the hand, but not in connection with the first.
14. But if used to strike therewith, it must be of a certain minimum size before the murderer is executed.
15. Num. XXXV, 21.

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then with respect to damages, wherein unwitting damage is treated as deliberate, and an accident as intention,¹ surely he is liable for confining [the animal].

'R. Aha b. Rab ruled that he is not liable.' Said R. Mesharshia: Why does my grandfather² rule him not liable? — Because of the verse, [Or in enmity he smite him with his hand, that he die:] He that smote him shall surely be put to death: for he is a murderer:³ only a murderer has the law made liable for confining, but not one who causes damage thereby.

Raba said: If one bound his neighbor and he died of starvation, he is not liable to execution. Raba also said: If he bound him in the sun, and he died, or in a place of intense cold and he died, he is liable; but if the sun was yet to appear, or the cold to make itself felt, he is not.⁴ Raba also said: If he bound him before a lion, he is not liable:⁵ before mosquitoes, [who stung him to death] he is. R. Ashi said: Even before mosquitoes, he is not liable, because these go and others come.⁶

It has been stated: If one overturned a vat upon a man [who then died of suffocation], or broke open a ceiling above him,⁷ — Raba and R. Zera [differ]: One ruled that he is liable, the other that he is not. It can be proved that it was Raba who ruled that he is not liable, for he said: If one bound his neighbor and he dies of starvation, he is not liable.⁸ On the contrary, it can be shown that R. Zera ruled that he is not liable. For R. Zera said: If one led his neighbor in to an alabaster chamber⁹ and lit a candle therein, so that he died [of the fumes], he is liable. Now, the reason is only that he lit a candle that he is liable;¹⁰ but had he not lit a candle [and the prisoner died of the natural heat and lack of air], he would be exempt!¹¹ — I will tell you: In that case, without a candle, the heat would not have commenced [its effects]

1. It being a general principle that a man is liable for any damage he does, no matter how, B.K. 26b.
2. R. Aba b. Rab was a Babylonian Amora of the fourth century, and the grandfather of R. Mesharshia.
3. Ibid. The first half of the verse extends the law to confining one's neighbor in a place of death, (p. 519).
4. I.e., he is liable only if the place was already exposed to heat or cold. But if it was merely destined to become hot, the sun not yet having risen, he is not liable. In the first case, he is regarded as a direct murderer, in the second, as an indirect cause. That is the general reason for the exemptions taught in this passage.
5. Because he could not have saved himself in any case. [Raba probably refers

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to a prisoner thrown into an arena to be torn by lions.]

6. I.e., the mosquitoes before which the prisoner was bound do not kill him entirely, as there is a continuous coming and going. Hence it is similar to binding one in a place where the sun will appear, but has not yet done so.
7. So that the cold entering therein, killed him.
8. This is similar: he did not kill him but indirectly caused his death.
9. Which was then hermetically sealed, so that no fumes could escape.
10. This being considered active murder under the circumstances.
11. Thus R. Zera maintains that no penalty is incurred for indirectly causing one's death.

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immediately [he placed him therein];¹ but in this case [of placing the upturned vat over him] the heat commences immediately.

(Mnemonic: *Ladder, shield, balsam, in a wall.*)

Raba said: If one thrust his neighbor into a pit, in which there was a ladder [so that he could have climbed out], and then another came and removed it, or even if himself hastened to remove it, he is not liable [for the victim's death], because when he threw him in he could have climbed out. Raba also said: If one shot an arrow at his neighbor, who was holding a shield, but another came and snatched it away, or even if he himself [the thrower] hastened to do so, he is not liable, because when he shot the arrow its force was spent.²

Raba also said: If one shot an arrow at his neighbor, who had balsam in his hand [wherewith he could have healed the wound], but another dashed it out of his hand, or even if he himself [the thrower] did so, he is not liable, because when he did it he could have been healed. R. Ashi said: Therefore this holds good even if there was balsam in the market.³ R. Aha the son of Raba asked R.

Ashi: What if he came across the balsam by chance?⁴ — He replied: Behold, he has left *Beth din* a free man.⁵

Raba also said: If one threw a stone at a wall, which rebounded and killed his neighbour,⁶ he is liable. And a Tanna teaches [in support of this]: If murder is committed by a man playing, for example, with a ball,⁷ if intentional, the thrower is executed; if unintentional, he is sentenced to the refuge cities.⁸ 'If unintentional, he is sentenced to the refuge cities:' but is that not obvious? — It is necessary to teach that if intentional, he is executed, [the second half being added to complete it]; for I might say, this is a case of 'a doubtful warning', for who knows that it will rebound?⁹ We are therefore taught otherwise.

R. Tahlifa of the West¹⁰ recited before R. Abbahu [the following]: If [unintentional] murder is committed by a man playing, for example, with a ball, if [the victim] was within four cubits [of the wall], the thrower is exempt; if beyond four cubits, he is liable [to exile]. Rabina objected to R. Ashi: How is this? If he desired it [to rebound], he should be liable even for a short distance;¹¹ whilst if not, he should be liable even for a greater distance? — He replied: The greater the rebound, the more is the average player pleased.¹²

Are we to say that [a murder] so committed is regarded as by his direct action?¹³ But the following contradicts it: If one was sanctifying [the water], and the ashes¹⁴ fell upon his hand or upon the side of the utensil, whence it fell into the trough, it is unfit?¹⁵ — The reference here is to a dripping down.¹⁶

Come and hear! If an [unclean] needle was lying upon a shard, and the [purifying] water was sprinkled thereon, but it is doubtful whether upon the needle or upon the shard, and then it spurted [miza] upon the needle, the sprinkling is invalid.¹⁷ — R. Hinena b. R.

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Judah said in Rab's name: We have learnt, It was found [maza].¹⁸

R. Papa said: If one bound his neighbor and then caused a column of water to inundate him, it is as his arrows, and he is liable [for his death]. But that is only if [he was drowned] by his direct agency; but if through his indirect agency,¹⁹ he is merely regarded as a subsidiary cause.²⁰

R. Papa also said: If one threw a stone upwards, and it returned in a slanting direction and killed a man, he is liable. Mar son of R. Ashi asked R. Papa. Why so? Because it is by his agency! But if so it should go upwards;²¹

1. [By consuming the oxygen, the fire immediately produces effects of asphyxiation, but without fire such effects are not immediately felt.]
2. Lit., 'broken', as at the time it was released there was a shield to prevent its killing.
3. I. e., if when the arrow was thrown, a **healing ointment could have been procured** sufficiently quickly to prevent death, the attacker is not liable, even if for some reason the ointment became subsequently unavailable.
4. When smitten, he neither possessed nor could procure it. But by some happy chance, he subsequently obtained it, and though he could have healed himself therewith, did not. Do we say, since when the attack was made, murder was its probable outcome, he is liable; or since he could have healed himself, he is not.
5. I. e., he is not liable: in spite of the fact that the balsam was unavailable when he threw the arrow.
6. And this was his intention.
7. Children play by throwing a ball at a wall and catching or striking it on the rebound, thus here, one threw something at a wall, which, rebounding, struck his neighbor and killed him.
8. V. Num. XXXV, 15.
9. V. *supra* 72b. In this case, however, it might be thought that no true warning can be given, since the murder is doubtful.
10. I. e., a Palestinian Amora.
11. I. e., even if it did not rebound so far, and struck a man standing within four cubits

12. Therefore it may be presumed that he intended it to rebound at least four cubits; hence if less, he is not liable.
13. Lit., 'force'.
14. Lit., 'the sanctifier'.
15. The reference is to the law of the red heifer: Num. XIX. The ashes thereof, when mixed with running water, are said to sanctify, the ashes themselves being denominated 'the sanctifier'. These had to be placed by a person into the water, not merely fall therein. Now, if one was engaged in sanctifying the water, and instead of pouring the ashes straight in, permitted them to fall upon his hand or on the side of a utensil, whence they fell into the trough containing the sanctified water, the water is unfit for its purpose, because the mixing had not been done directly by the person. This proves that a rebound is not regarded as a person's direct action, and this contradicts the law of murder.
16. The ashes did not fall with force from the side of the utensil into the trough, but merely dripped down; therefore it is not regarded as man's direct agency. Had they fallen with force, however, the fall would be regarded as part of the man's action in dropping them on to the utensil, and the water would accordingly be fit. In the case of murder, the rebound is with force, and directly caused by the strength of the throw.
17. Because the sprinkling, as the mixing, must be done by man. Thus we see that the rebound is not regarded as direct action.
18. I. e., the text is corrupt, and instead of miza [H], maza [H] is to be read. Thus, the water was found upon the needle, but how it came there is not known, whether sprinkled direct thereon, or it had rebounded from the shard, which, on the present hypothesis would also be valid, or flowed of itself from the shard on to the needle, in which case it was not due at all to man's action.
19. **If the victim was lying immediately in front of the burst**, where the strength of the water's flow is still due to the man's action, the drowning is by his direct agency. **But if he was lying at some distance**, he is held to be an indirect or secondary cause.
20. **Not the actual murderer.**
21. For he had exerted himself to cause it to go up, not down.

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whilst if it is not by his agency, it should fall [vertically] down?¹ — But it is through his agency, though weakened.²

Our Rabbis taught: If ten men smote a man with ten staves, whether simultaneously or successively, and he died, they are exempt. R. Judah b. Bathyra said: If successively, the last is liable, because he struck the actual death blow.³ R. Johanan said: Both derive [their rulings] from the same verse, And he that killeth kol nefesh⁴ [lit., 'all life'] of man shall surely be put to death.⁵ The Rabbis maintain that kol nefesh implies the whole life;⁶ but R. Judah b. Bathyra holds that kol nefesh implies whatever there is of life.⁷

Raba said: Both agree that if he killed a *terefah*,⁸ he is exempt; if he slew one who was dying through an act of God,⁹ he is liable; their dispute refers only to one who was dying through man's act:¹⁰ the one likens him to a *terefah*,¹¹ the other to a person dying naturally. Now, he who likens him to a *terefah*, why does he not liken him to a person dying naturally? — Because no injury has been done to the latter; but an injury has been done to this one. Whilst he who likens him to a person dying naturally, why does he not liken him to a *terefah*? — A *terefah* has his vital organs affected,¹² but this one has not.¹³

A Tanna recited before R. Shesheth: And he that killeth all life of man: this includes one who smote his fellow, but there was not in his blow enough [force] to kill, and then a second came and killed him, [teaching] the latter is executed — But if the first man's blow was insufficient to kill, is it not obvious [that the second is liable]? — But [say thus: the first smote him] with sufficient force to kill, [but before he expired] a second came and slew him; then the second is liable. This anonymous Baraitha agrees with R. Judah b. Bathyra.¹⁴

Raba said: If one kills a *terefah*, he is

exempt; whilst if a *terefah* committed murder: if in the presence of a *Beth din*, he is liable; otherwise he is exempt. Why is he liable if in the presence of a *Beth din*? — Because it is written, so shalt thou put away the evil from the midst of thee.¹⁵ But if not, he is exempt, because the law of confuted testimony is inapplicable, and testimony which cannot be so confuted is inadmissible.¹⁶

Raba also said: He who commits pederasty with a *terefah* is liable to punishment; but if a *terefah* committed it, if in the presence of a *Beth din*, he is liable; otherwise he is not. 'If in the presence of a *Beth din*, he is liable', because it is written, So shalt thou put the evil away from the midst of thee. 'Otherwise he is not', because the law of confuted testimony is inapplicable. Why state this second [law]; is it not identical with the first? — It is necessary to teach concerning one who commits pederasty with a *terefah*: for I might think that he is as one who abuses a dead person, and hence exempt. Therefore he teaches that [punishment is generally imposed] because of the [forbidden] pleasure derived, and in this case too pleasure is derived.¹⁷

Raba also said: if witnesses testified [to murder] against a *terefah* and were then confuted,¹⁸ they are not executed.¹⁹ But if witnesses, themselves *terefah*, were confuted, they are executed. R. Ashi said: Even these are not slain, because those who disprove their evidence are not liable if their own is subsequently confuted.²⁰

Raba also said: If an ox, a *terefah*, killed [a man], it is liable [to be stoned]; but if an ox belonging to a *terefah* [person] killed, it is exempt. Why so? — Because the Writ saith, The ox shall be stoned, and his owner shall also be put to death;²¹ wherever it is possible to read, 'and his owner shall also be put to death,' we also read, 'the ox shall be stoned;' but where we cannot apply, 'and his owner shall also be put to death,'²² we do not read,

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'the ox shall be stoned.' R. Ashi said: Even an ox, a *terefah* is exempt. Why so? — Since the owner in a similar condition would be exempt, the ox too is exempt.²³

IF HE SET ON A DOG OR A SNAKE AGAINST HIM, etc. R. Aha b. Jacob said: If you will investigate [the grounds of the dispute, you will learn that] in R. Judah's opinion the snake's poison is lodged in its fangs, therefore, one who causes it to bite [by placing its fangs against the victim's flesh] is decapitated, whilst the snake itself is exempt. But in the view of the Sages the snake emits the poison of its own accord; therefore the snake is stoned, whilst he who caused it to bite is exempt.²⁴

MISHNAH. IF A MAN SMOTE HIS FELLOW, WHETHER WITH A STONE OR WITH HIS FIST, AND THEY [THE EXPERTS] DECLARED THAT DEATH WOULD ENSUE; BUT THEN ITS EFFECT LESSENERD [SO THAT IT WAS THOUGHT THAT HE WOULD LIVE], ONLY TO INCREASE SUBSEQUENTLY, SO THAT HE DIED. — HE IS LIABLE. R. NEHEMIAH SAID THAT HE IS EXEMPT, SINCE THERE IS EVIDENCE²⁵ [THAT HE DID NOT DIE AS A RESULT OF HIS INJURIES, AS HE HAD ALREADY BEEN ON THE MEND.]

GEMARA. Our Rabbis taught: R. Nehemiah gave the following exposition: If he rise again, and walk abroad

1. Not in a slanting direction.
2. I.e., most of the force with which he threw it was already expended, but sufficient was left to impel it in the direction in which it fell.
3. Lit., 'brought his death near'; v. B.K. 26b.
4. [H].
5. Lev. XXIV, 17.
6. Hence, if ten men assailed him successively, he was already nearly dead when the last smote him: therefore the last too is exempt.
7. I.e., however little life the man has, even if he is nearly dead, the man who actually kills him is liable.

8. V. **Glos.** When used of a person, it means that he was suffering from some fatal organic disease, recovery from which is impossible.
9. I.e., naturally, through age or weakness, but without an organic disease or wound.
10. As here: nine men had smitten him, and though not actually a *terefah*, he was already at the point of death.
11. Hence his slayer is exempt.
12. Lit., 'cut'.
13. Although suffering very much from the successive blows, and on the point of death, no vital organ, e.g., the heart or lungs, is injured, as in the case of a *terefah*.
14. That the last of the ten is liable for hastening his death, though the cumulative effect of the preceding nine would have caused his death in any case, if not so soon.
15. Deut. XIII, 6.
16. Ibid. XIX, 16-19. Since the murder was not committed in the presence of a *Beth din*, witnesses must testify thereto. But should they subsequently be proved false (*Zomemim*, v. **Glos.**) they could not be executed in accordance with Deut. XIX, 16-19, because they had sought the execution of one who is already regarded as dead, a *terefah* being thus considered, and testimony to which this law is inapplicable is not valid. But if the murder was committed in the presence of a *Beth din*, so that no testimony at all is required, the ordinary law of a murderer applies.
17. Whereas there is no sexual gratification in abusing the dead.
18. It being proved they were absent from the scene of the alleged murder.
19. V. p. 523, n. 3.
20. If A and B's testimony is disproved by C and D, who testify that they were with them elsewhere than at the scene of the alleged crime, and then the latter themselves are similarly refuted, the law of Deut. XIX, 16-19 is applicable to C and D, since they had sought to impose punishment upon the first two. But if A and B were *terefah*, this law would not apply to C and D; consequently, the entire law does not apply, and hence they are not executed.
21. Ex. XXI, 29.
22. As here, since the owner, being a *terefah*, is regarded as already dead.
23. For this verse puts the two on an equal basis. It should be observed that in practice the owner was never killed, but ransomed, in accordance with Ex. XXI, 30 (v. *supra* 2a).

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24. On R. Judah's view, the fangs themselves are poisonous. Consequently, the snake does nothing, the murder being committed by the person. But the Sages maintain that even when its fangs are embedded in the flesh, they are not poisonous, unless it voluntarily emits poison. Consequently the murder is committed by the snake, not the man. The law of Ex. XXI, 30 applies to all animals and reptiles.
25. Lit., 'there are feet', 'there is a basis, a reason for it'.

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upon his staff, then shall he that smote him be quit.¹ Now, could you have thought that whilst he walks in the market place his assailant is executed! But it must refer to one who, it was judged, would die [of his injuries], but then their effect lessened, only to increase subsequently so that he died, [the Torah thus teaching that his assailant] is quit. But how do the Rabbis² explain 'then shall he that smote him be quit'? — This teaches that he is incarcerated [until the result is known]. Whence does R. Nehemiah know this? — From the 'gatherer [of sticks]'.³ Then let the Rabbis also deduce it thence? — The 'gatherer' was certainly liable to death, Moses merely not knowing by which death;⁴ that excludes our case, where we do not know whether he is liable to death at all.⁵ But R. Nehemiah maintains that it can be deduced from the 'blasphemer': though not knowing whether he was liable to death, they imprisoned him.⁶ But the Rabbis say that in case of the blasphemer, [his incarceration] was an ad hoc decision.⁷

[The preceding discussion agrees with what] has been taught: Moses knew that the 'gatherer' was to be executed, for it is written, Every one that defileth it shall surely be put to death;⁸ but he did not know by which death, as it is written, [And they put him in ward,] because it was not declared what should be done to him.⁹ But in the case of the blasphemer, it is only said, [And they put him in ward,] that the mind of the Lord might be showed them;¹⁰ implying that Moses did not

know whether he was at all liable to death or not.

Now, on R. Nehemiah's view, it is right that two phrases bearing on judicial assessment are written;¹¹ one teaching that if his injury was declared to be fatal, but yet he survived; the other, that if it was judged that he would die, and then the effect of the blow was lightened, [yet he subsequently died — that in both cases he is quit]. But according to the Rabbis [who maintain that in the latter case he is executed], why are two such clauses necessary? — One teaches that if his injuries were declared fatal, yet he survived, and the other, that if they were declared non-fatal, yet he died, — [that in both cases the assailant is free]. But R. Nehemiah maintains that no verse is necessary for the latter case, since he left *Beth din* a free man.¹²

Our Rabbis taught: If a man smite his neighbor and the blow was assessed to be fatal, yet he survived, he is dismissed.¹³ If the injury was declared fatal, but subsequently lightened, a second assessment of the financial damage is made.¹⁴ If thereafter he grew worse and died, the second assessment is followed.¹⁵ This is R. Nehemiah's view. The Sages maintain: There can be no second assessment after the first.¹⁶

Another [Baraita] taught: If his injuries were declared fatal, they may subsequently be declared non-fatal.¹⁷ But once his injuries are declared non-fatal, they cannot subsequently be declared fatal.¹⁸ If the blow was assessed to be fatal, but then he became better, a second assessment of the financial damage is made, and if he subsequently died, he must make compensation for the damage, pain [etc.]¹⁹ to the heirs. From when must compensation be made? — From when he smote him.²⁰ And thus this anonymous [Baraita] agrees with R. Nehemiah.²¹

MISHNAH. IF HE INTENDED KILLING AN ANIMAL BUT SLEW A MAN, OR A HEATHEN AND HE KILLED AN ISRAELITE, OR A

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PREMATURELY BORN AND HE KILLED A VIABLE CHILD, HE IS NOT LIABLE.² IF HE INTENDED TO STRIKE HIM ON HIS LOINS, WHERE THE BLOW WAS INSUFFICIENT TO KILL, BUT SMOTE THE HEART INSTEAD, WHERE IT WAS SUFFICIENT TO KILL, AND HE DIED; OR IF HE INTENDED SMITING HIM ON THE HEART,

1. Ex. XXI, 19.
2. The representatives of the anonymous opinion in the Mishnah.
3. V. Num. XV, 32-36. Pending a decision, 'they put him in ward'.
4. Hence it is obvious that he had to be incarcerated. On this view, Moses knew that he had to be executed. This is discussed below.
5. I.e., this case could not be deduced from the other.
6. Lev. XXIV, 10-14.
7. Lit., 'a decision for the moment'. For, death not having been previously prescribed for blasphemy, there was no reason for his incarceration, but that it seemed expedient. But a special ad hoc decision cannot be taken as precedent for normal procedure.
8. Ex. XXXI, 14.
9. Num. XV, 34.
10. Lev. XXIV, 12. This implies that the entire law was unknown, whilst 'what should be done to him' indicates that only the details, i.e. mode of death, were unknown.
11. V. Ex. XXI, 18f: And if men strive together, and one smite another with a stone, or with his fist, and he die not, but keepeth his bed: If he rise again, and walk abroad upon his staff, then shall he that smote him be quit: only he shall pay for the loss of his time, and shall cause him to be thoroughly healed. Two phrases are superfluous, viz., 'and he die not', and 'If he rise again and walk abroad upon his staff', for it is self-evident that the assailant cannot be executed under such circumstances: hence they must refer to a judicial calculation that he would not die, which was, however, subsequently falsified.
12. A favorable verdict cannot be reversed (v. *supra* 33b). Therefore in the latter case it is obvious that 'he is quit'.
13. [I.e., exempt from death, but liable to pay damages.]
14. I.e., the probable period that he would be incapacitated and the cost of medical assistance, for both of which he is liable.
15. I.e., he is liable for the financial damage, as it was computed, but not to death.
16. I.e., since on the first computation the injuries were declared fatal, when he subsequently grew better, and financial damages were awarded, we do not regard him as having left *Beth din* a free man (in respect of the capital penalty), but judge him according to the ultimate issue, and hence he is executed.
17. If he grew better, and the assailant is thus freed from death.
18. If he grew worse and died, the culprit is not executed.
19. [On the payments for injuries, v. B.K. VIII, 1.]
20. In assessing the victim's worth, his value before being smitten is taken. But we do not say, since his injuries were first declared fatal, and then not fatal, subsequent to which he died, his value should be assessed on the basis of his health at the time of the second computation.
21. That financial compensation must be made, but there is no liability to death.
22. [A prematurely born child for the first thirty days is not considered viable.]

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WHERE IT WAS ENOUGH TO KILL, BUT STRUCK HIM ON THE LOINS, WHERE IT WAS NOT, AND YET HE DIED, HE IS NOT LIABLE. IF HE AIMED A BLOW AT AN ADULT, WHOM IT WAS INSUFFICIENT TO KILL, BUT CAUGHT A CHILD,¹ WHOM IT WAS ENOUGH TO KILL, AND HE DIED, HE IS NOT LIABLE. IF HE STRUCK AT A CHILD WITH SUFFICIENT FORCE TO KILL HIM, BUT IT CAUGHT AN ADULT, FOR WHOM IT WAS INSUFFICIENT, AND YET HE DIED, HE IS NOT LIABLE. BUT IF HE INTENDED TO STRIKE HIS LOINS WITH SUFFICIENT FORCE TO KILL, BUT CAUGHT THE HEART INSTEAD, HE IS LIABLE. IF HE AIMED A BLOW AT AN ADULT HARD ENOUGH TO KILL, BUT STRUCK A CHILD INSTEAD, AND HE DIED, HE IS LIABLE. R. SIMEON SAID: EVEN IF HE INTENDED KILLING ONE BUT KILLED ANOTHER, HE IS NOT LIABLE.

GEMARA. To which clause does R. Simeon refer? Shall we say to the last? In that case, the Mishnah should state, R. Simeon declares him not liable.² But he refers to the first clause: **IF HE INTENDED KILLING AN**

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ANIMAL, BUT SLEW A MAN, OR A HEATHEN AND HE SLEW AN ISRAELITE, OR A PREMATURELY BORN AND HE SLEW A VIABLE CHILD, HE IS NOT LIABLE. This implies, that if he intended killing one [Israelite] and killed another, he is liable. [Thereupon] R. SIMEON SAID: EVEN IF HE INTENDED KILLING ONE BUT KILLED ANOTHER, HE IS NOT LIABLE.

Now, it is obvious that if Reuben and Simeon were standing, and the murderer said, 'I intended killing Reuben, not Simeon [whom he did actually kill] — that is the case wherein they differ. But what if he said, 'I intended killing any of them,'³ or [again], if he thought that this victim was Reuben, but then found him to be Simeon? — Come and hear! For it has been taught: R. Simeon said: [He is not liable] unless he declares, 'My intention was to kill so and so' [whom he did kill].⁴

What is R. Simeon's reason? — The Writ saith, [But if any man hate his neighbor,] and lie in wait for him, and rise up against him:⁵ teaching that his intention must be against him. But the Rabbis?⁶ — The disciples of R. Jannai said: This excludes the case of one who threw a stone into the midst of a company [of Israelites and heathens]. How is this? Shall we say that the company consisted of nine heathens and one Israelite? Then his non-liability can be inferred from the fact that the majority were heathens. And even if half and half, when there is a doubt in a capital charge, a lenient attitude must be taken!⁷ — The verse is necessary only if there were nine Jews and one heathen, so that the heathen [though in a minority] is 'settled' there, and every 'settled' [minority] is as half and half.⁸

All is well according to the Rabbis, who maintain that if he intended killing one man and killed another, he is liable. For it is written, If men strive, and hurt a woman with child;⁹ whereupon R. Eleazar observed: The verse refers to attempted murder,¹⁰ because It is written, And if any mischief follow, then

thou shalt give life for life.¹¹ But how does R. Simeon interpret, 'thou shalt give life for life'?¹² — It refers to monetary compensation, in harmony with Rabbi's [interpretation]. For it has been taught: Rabbi said: Then thou shalt give life for life: this refers to monetary compensation.¹³ You say, monetary compensation: but perhaps this is not so, life being literally meant? 'Giving' is stated below;¹⁴ and 'giving' is also stated

1. Lit., 'a minor'.
2. Why repeat, Even if he intended, etc.? Since it bears upon the clause immediately preceding, the circumstances having been stated, it is sufficient just to give R. Simeon's ruling.
3. Does R. Simeon regard this as intentional, or not, since he would have been equally satisfied had the other been killed.
4. This proves that in both cases propounded, he is not liable according to R. Simeon.
5. Deut. XIX, 11
6. How do they interpret 'for him' and 'against him'?
7. Since they were equally divided, we do not know whether he aimed at a Israelite or a heathen, and hence even without a verse we know that he is not liable.
8. This is a general rule in the Talmud. Although the majority is always followed, that is only when the minority is not [H] Kabua', fixed, settled in a certain place; but otherwise, it is equal to the majority. The following example from the Talmud will make it clearer. If there are ten butcher shops in a street, nine of which sell only kosher meat, the tenth selling *terefah* meat, and a piece of meat is found in the street, it may be assumed to be kosher, as the majority is followed. But if meat was bought in one of the shops, and it is not known from which, this assumption may not be made, because the doubt arises not in the street but in the shop, and the minority is in a settled place. Thus here too, since the company is all together, the place of the heathen is known and fixed, as it were. The verse under discussion teaches that the murderer in this case is not liable: hence it becomes the source of the principle that a 'settled' minority is regarded as equal to the majority.
9. Ex. XXI, 22.
10. Lit., 'the verse speaks of a strife with murderous intent'.

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11. Ibid. 23; v. *supra*, 74a.
12. Since the murder of the woman was unintentional, according to R. Simeon there is no death penalty.
13. I.e., the value of the woman's life must be paid to her husband.
14. Viz., in the verse under discussion.

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above:¹ just as the latter refers to money, so the former too.

Raba said: The following Tanna of the School of Hezekiah differs from both Rabbi and the Rabbis — For a Tanna of the School of Hezekiah taught: And he that killeth a beast [shall pay for it:] and he that killeth a man, [he shall be put to death].² Just as in the case of one who kills an animal, you draw no distinction between an unwitting or a deliberate act, an intentional or unintentional blow, a downward blow or an upward one,³ not acquitting him thereof, but imposing monetary liability; so in the case of killing a man,⁴ you must draw no distinction between an unwitting or a deliberate act, an intentional or unintentional blow, a downward or an upward thrust, not imposing a monetary liability. but acquitting him thereof.⁵ Now, what is meant 'unintentional'? Shall we say, entirely unintentional? But then it is identical with 'unwitting'. Hence it obviously means not intending to slay this one, but another: and for such a case it is taught, 'not imposing monetary liability', but acquitting him thereof'. But if he is liable to death, it is surely unnecessary to teach that he is not liable to make compensation?⁶ Hence it follows that he is liable neither to execution nor to make compensation.⁷

MISHNAH. IF A MURDERER BECAME MIXED UP WITH OTHERS, THEY ARE ALL EXEMPTED [FROM THE PENALTY]. R. JUDAH SAID: THEY ARE PLACED IN A CELL.⁸ IF A NUMBER OF CONDEMNED PERSONS DIFFERING IN THEIR DEATH SENTENCES BECAME MIXED UP WITH ONE

ANOTHER, THEY ARE EXECUTED BY THE MOST LENIENT [DEATH]. IF CRIMINALS CONDEMNED TO STONING [BECAME MIXED UP] WITH OTHERS CONDEMNED TO BURNING, — R. SIMEON SAID: THEY ARE STONED, BECAUSE BURNING IS SEVERER; BUT THE SAGES SAY THEY ARE BURNED, BECAUSE STONING IS MORE SEVERE. R. SIMEON SAID TO THEM: WERE NOT BURNING SEVERER, IT WOULD NOT BE DECREED FOR A PRIEST'S ADULTEROUS DAUGHTER. THEY REPLIED: WERE NOT STONING MORE SEVERE, IT WOULD NOT BE THE PENALTY OF A BLASPHEMER AND AN IDOLATER. IF MEN CONDEMNED TO DECAPITATION BECAME MIXED UP WITH OTHERS CONDEMNED TO STRANGLING, — R. SIMEON SAID: THEY ARE [ALL] DECAPITATED; THE SAGES SAY: THEY ARE STRANGLED.

GEMARA. Who are meant by 'others'?⁹ Shall we say, other innocent men: is it not obvious?¹⁰ Moreover, could R. Judah say in such a case that 'they are placed in a cell'? (Mnemonic Besh rak)¹¹ — R. Abbahu said in Samuel's name: The Mishnah treats of an unsentenced murderer who became mixed up with other murderers already sentenced, the Rabbis holding that no man can be condemned save¹² in his presence; therefore they are all freed;¹³ while R. Judah maintains that they cannot all be exempted, since they are murderers: therefore they are placed in a cell.

Resh Lakish said: If this happened to human beings, all agree that they are exempt. But here the reference is to an ox [that had gored] but was as yet uncondemned, which was mixed up with other oxen already condemned. The Rabbis maintain: As the death penalty of its owner, so is that of the ox; therefore an ox [too] can be sentenced only in its presence, hence they are all exempt. But R. Judah rules that they are placed in a cell.¹⁴ Raba demurred:

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1. Viz., *If ... no mischief follow ... he shall pay* (Heb. [H] give) *as the judges determine*.
2. Lev. XXIV, 21. This verse, by coupling the two, likens them to each other; It also implies that where monetary compensation was to be made for an animal, it is not so for a man, since 'shall pay for it' is only prescribed for the former.
3. This is irrelevant here, but is mentioned because in the case of homicide this distinction is drawn (v. Mak. 7a).
4. Where, as observed in n. 4, there is no monetary compensation.
5. [The greater penalty of death attached to the offence acquits the offender of all monetary liability even in cases where the death penalty is not applied.]
6. V. p, 490 n. 1.
7. Thus this teacher differs from Rabbi, who holds him liable to compensation, and from the Rabbis, who rule that he is even executed.
8. V. *infra* 81b.
9. In the first clause.
10. That they must all be freed.
11. [H], B ([H]) ABBAHU; SH ([H]) = SAMUEL; R ([H]) = RABA; K ([H]) = RESH LAKISH; the names of the Amoraim that follow.
12. Even if they are all assembled, it is still regarded as in his absence, since he is unknown.
13. Lit., 'they complete not the trial of a man'.
14. The reasoning being as before.

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If so, how could R. Jose observe thereon: Even if Abba Halafta were amongst them?¹ — But Raba explained it thus: If two were standing, and an arrow was shot by one of them² [unknown] and killed, they are both exempt. Whereon R. Jose remarked: Even if Abba Halafta was one.³ But if an ox [a gorer] which had been sentenced was mixed up with innocent⁴ oxen, they are all stoned.⁵ R. Judah said: They are placed in a cell.⁶ And thus has it been taught likewise: If a cow killed [a man] and then calved: if before sentence, the calf is permitted [for any use]; if after the sentence, the calf is forbidden.⁷ If the cow became mixed up with others, and these with others again, they are placed in a cell. R. Eleazar, son of R. Simeon, said: They are [all] brought to *Beth din* and stoned.

The Master said: 'If [it calved] before sentence, the calf is permitted'; implying, even if it was with calf when it gored. But did not Raba say: The calf of a cow that gored is forbidden, because the mother and the calf gored; the calf of a cow subjected to bestiality is [likewise] forbidden because the mother and the calf were thus subjected!⁸ — Say thus: If the calf was conceived and born before its mother was condemned, it is permitted [for use]; but if conceived and born after sentence, it is forbidden.⁹ Now, this agrees with the view that the product of two things [one being forbidden] is itself forbidden;

1. Abba Halafta was a pious scholar. Raba objects to both explanations: whether 'others' mean murderers or goring oxen. R. Jose's remark is entirely irrelevant.
2. Lit., 'came forth from between them'.
3. Though unthinkable that he should have shot the arrow, the other cannot be executed on this ground.
4. Lit., 'good'.
5. Since, in any case one could not benefit at all from them (v. Zeb. 70b), the owners suffer no loss.
6. On this interpretation the text of the Mishnah is assumed to be defective, since R. Judah's ruling cannot refer to the first case.
7. Because whilst within its mother, it is regarded as a part thereof. Therefore, when its mother became forbidden for use, as is the case of an animal condemned to stoning (v. Ex. XXI, 28), the prohibition extended to the unborn calf, which remains in force even after its birth.
8. The reference is to sacrifice; these animals are not fit to be sacrificed. The act of goring or bestiality was in this case attested by one witness only, so that the cow is not stoned, and is permitted for secular, but not for sacred use, otherwise both mother and calf would be stoned. Thus we see that if the cow was with calf when it gored, the calf is regarded as identical with its mother.
9. In the first case, the mother itself was permitted at the time of calving, hence the calf too is likewise permitted; in the second, the cow having being condemned, the calf was the product of a forbidden animal, and hence itself forbidden too; but in both cases, the calf was not yet conceived at the time of goring, whereas Raba's statement applies only if it had already been conceived.

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but on the view that such is permitted, what can you say?¹ — But Rabina said: Read thus: If the calf was conceived and born before its mother was condemned, it is permitted: but if conceived before sentence and born after sentence, it is forbidden, because the embryo is a thigh [i.e., part] of its mother.²

IF A NUMBER OF CONDEMNED PERSONS DIFFERING IN THEIR DEATH SENTENCES, etc. ... [THEY ARE EXECUTED BY THE MOST LENIENT DEATH]. This proves that a warning of a greater penalty is ipso facto a warning for a smaller one too!³ — R. Jeremiah said: [This is no proof, for] the Mishnah treats of a case where he was warned in general terms,⁴ and it agrees with the following Tanna. For it has been taught: But others liable to any death penalty decreed in the Torah⁵ are executed only on the testimony of [at least two] witnesses, by a 'congregation' [i.e., a full *Beth din* of twenty three], and after a warning, which warning must have stated that he 'was liable to death at the hands of *Beth din*. R. Judah said: They [the witnesses] must have informed him by which death he would be executed.⁶ The first Tanna deduces his ruling from 'the gatherer [of sticks', who had not been warned how he would be executed, but was nevertheless stoned]. Whereas R. Judah maintains that 'the gatherer' [was executed] on an ad hoc decision.⁷

IF CRIMINALS CONDEMNED TO STONING [BECAME MIXED UP] WITH OTHERS CONDEMNED TO BURNING. R. Ezekiel taught his son Ram: If criminals condemned to burning [became mixed up] with others condemned to stoning — R. Simeon said, they are stoned, because burning is severer. Thereupon Rab Judah said to him, 'Father, teach it not thus: Why state the reason because burning is severer? This follows from the fact that the majority are for stoning.'⁸ How then should I teach it? The

son replied, 'Thus: IF CRIMINALS CONDEMNED TO STONING [BECAME MIXED UP] WITH OTHERS CONDEMNED TO BURNING, — R. SIMEON SAID, THEY ARE STONED, BECAUSE BURNING IS SEVERER.' If so, consider the second clause, BUT THE SAGES SAY, THEY ARE BURNED, BECAUSE STONING IS MORE SEVERE. But does it not follow from the fact that the majority are to be burnt? — There the Rabbis oppose R. Simeon: You say, burning is severer; but that is not so, for stoning is severer.⁹

Samuel said to Rab Judah: You keen scholar,¹⁰

1. The calf is the product of a cow and an ox, but the ox is permitted; therefore, on the latter view, even if conceived after sentence, it should still be permitted.
2. In this case it is forbidden, not because it is the product of its mother, but because before birth it is part and parcel of its mother, and the prohibition of the latter applies to the embryo too.
3. For each culprit must have been warned, and presumably, the warning had stated to which manner of death he would be liable. Since the Mishnah rules that they are all executed by the most lenient death, it follows that the warning in respect of a particular death is regarded as a warning in respect of an easier death too. Otherwise, they could not be executed.
4. I.e., the culprit had been warned that he was liable to death, but not of the manner of execution.
5. I.e., excluding a mesith, who requires no warning.
6. Tosef. Sanh. XI.
7. V. p. 527, n. 8.
8. For 'if criminals condemned to burning became mixed up with others condemned to stoning' implies that the latter were in the majority, as the smaller number is lost (i.e., 'mixed up') in the larger.
9. But their ruling could be deduced from the fact that the majority are to be burnt.
10. Others translate: 'man of long teeth'.

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speak not thus to your father;¹ for it has been taught: If one was [unwittingly] transgressing

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a precept of the Torah, his son must not say 'Father, you transgress a Biblical precept', but say, 'The Torah writes thus.'² But after all, does it not amount to the same thing? — But he must say this, 'Father, the following verse is written in the Torah.'³

MISHNAH. HE WHO INCURS TWO DEATH PENALTIES IMPOSED BY *BETH DIN* IS EXECUTED BY THE SEVERER. IF HE COMMITTED ONE SIN FOR WHICH A TWOFOLD DEATH PENALTY IS INCURRED, HE IS EXECUTED BY THE SEVERER. R. JOSE SAID: HE IS JUDGED ACCORDING TO THE FIRST INTERDICT WHICH LAY UPON HIM.⁴

GEMARA. Is it not obvious [that he is executed by the severer]: shall he then profit [by his additional crime]? Raba answered: The circumstances are these: First he committed the lighter offence, for which he was sentenced; then the more serious one. I might think, since he was already under sentence for the lighter offence, he is as a dead man [and cannot be further sentenced] — We are therefore taught otherwise.

The father⁵ of R. Joseph b. Hama inquired of Rabbah b. Nathan: Whence do we know this law stated by the Rabbis viz., ONE WHO INCURS TWO DEATH PENALTIES PASSED BY *BETH DIN* IS EXECUTED BY THE SEVERER? — [He answered:] From the verse, If he [sc. the righteous man] beget a son that is a robber, a shedder of blood, ... [who] hath eaten upon the mountains, and defiled his neighbor's wife.⁶ Now, 'If he beget a son that is a robber, a shedder of blood, — this [murder] is punished by decapitation; 'and defiled his neighbor's wife', — this is adultery, punished by strangulation; 'and hath lifted up his eyes to the idols',⁷ refers to idolatry, for which stoning is incurred. And it is written, He shall surely die, his blood shall be upon him,⁸ which indicates stoning.² R. Nahman b. Isaac objected: May it not refer to a series of offences all punishable by stoning? Thus: 'If he beget a sort a robber, a shedder

of blood', refers to a wayward and rebellious son,¹⁰ who is stoned; 'and defiled his neighbor's wife', to a betrothed maiden, whose ravisher too is stoned; 'and hath lifted up his eyes to the idols', to idolatry, for which stoning is likewise incurred? — If so, what does Ezekiel teach us?¹¹ But perhaps he was merely revising the Torah?¹² — Then he should have revised it [all] just as Moses had revised it.¹³

R. Aha b. Hanina gave the following exposition: What is meant by, [But if a man be just and do that which is lawful and right, etc.] and hath not eaten upon the mountains?¹⁴ I.e., he did not eat through his forbears' merit;¹⁵ neither hath he lifted up his eyes to the idols of the house of Israel, that he did not walk with haughty mien; neither hath defiled his neighbor's wife, indicating that he did not [competitively] enter his neighbor's profession; neither hath come near to a menstruous woman, meaning that he did not benefit from the charity fund.¹⁶ And it is written, He is just, he shall surely live.¹⁷ When R. Gamaliel read this verse he wept, saying, 'Only he who does all these things shall live, but not merely one of them!' Thereupon R. Akiba said to him, 'If so, Defile not yourselves in all these things.¹⁸ is the prohibition against all [combined] only, but not against one?' [Surely not!] But it means, in one of these things; so here too, for doing one of these things [shall he live].

IF HE COMMITTED ONE SIN FOR WHICH A TWOFOLD DEATH PENALTY IS INCURRED, etc.

It has been taught: When did R. Jose rule, HE IS JUDGED ACCORDING TO THE FIRST INTERDICT WHICH LAY UPON HIM? E.g., if a woman was first interdicted as a mother-in-law¹⁹ and then became a married woman, he is judged [for incest with her] as for his mother-in-law only. If she was first forbidden to him as a married woman and then became his mother-in-law, he is punished

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for a married woman.²⁰ R. Adda b. Ahaba said to Raba: 'If she was first his mother-in-law and then became a married woman, he is judged as for his mother-in-law only'; but should he also not be punished for the interdict attaching to her as a married woman? For R. Abbahu said: R. Jose agrees in regard to a more extensive prohibition [that it becomes operative where a prohibition already exists].²¹

1. I.e., explicitly telling him that he was wrong.
2. I.e., he states the Biblical law.
3. But not directly state the law, leaving it for his father to draw the inference. This does not shame him.
4. This is explained below.
5. *Var. lec.*, 'brother'.
6. Ezek. XVIII, 10f.
7. *Ibid* 12.
8. *Ibid*. 13.
9. 'His blood shall be upon him' always means stoning, v. p. 357 n. 7. Thus we see that the severest penalty is imposed; and it must be under the circumstances posited by Raba, for otherwise the verse is unnecessary.
10. So called, because he ultimately becomes a murderer, v. *supra* 72a.
11. For then it is obvious.
12. His coreligionists having forgotten it; but not intending to teach any new law.
13. [In Deuteronomy.]
14. *Ibid*. 6.
15. His own merit being sufficient that God should sustain him. 'Mountains' is interpreted as metaphorically referring to one's ancestors; cf. Micah VI, 2, which may be so translated.
16. It being wrong to do so unless one is absolutely compelled.
17. *Ibid*. 9.
18. Lev. XVIII, 24.
19. I.e., if one marries a widow's daughter, so that the widow is forbidden to him only as a mother-in-law.
20. Because R. Jose maintains that a second prohibition cannot become operative where one is already in existence. Adultery with a married woman is punished by strangling; incest with one's mother-in-law by burning.
21. As his mother-in-law she was forbidden to him only; on remarriage, the prohibition was extended to all men. Since the second prohibition is thus wider in scope than the first, it is operative even where the first already exists.

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— He replied: 'Adda, my son, will you execute him twice!'¹

MISHNAH. HE WHO WAS TWICE FLAGELLATED [FOR TWO TRANSGRESSIONS, AND THEN SINNED AGAIN,] IS PLACED BY *BETH DIN* IN A CELL AND FED WITH BARLEY BREAD, UNTIL HIS STOMACH BURSTS.

GEMARA. Because he has been twice flagellated *Beth din* places him in a cell?² — R. Jeremiah answered in the name of Resh Lakish: The reference is to flagellation for an offence punishable by extinction,³ so that he is already liable to death [at the hand of God], but the time of his death has not yet come: since, however, he abandoned himself [to sin, by transgressing a third time], we hasten his death. R. Jacob said to R. Jeremiah b. Tahlifa: 'Come, I will interpret it to you. This treats of flagellation for one sin involving extinction [which was twice repeated]: but [if he committed]two or three different sins each involving extinction, It may merely be his desire to experience sin, and not a complete abandonment thereto.'⁴

ONE WHO WAS TWICE FLAGELLATED. Twice, though not thrice; shall we say that the Mishnah does not agree with R. Simeon b. Gamaliel? For if it did, does he not maintain, There is no presumption until a thing has happened three times?⁵ — Rabina said: It may agree even with R. Simeon b. Gamaliel: The Mishnah is of the opinion that transgressions afford a basis for presumption.⁶

An objection was raised: If one committed an offence involving flagellation, the first and second time he is flagellated; on the third occasion he is placed in a cell. Abba Saul said: Even on the third occasion he is flagellated; but on the fourth, he is placed in a cell.⁷ Now presumably, both agree that flagellation

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affords a basis for presumption, and they differ on the lines of Rabbi and R. Simeon b. Gamaliel?⁸ — No. Both agree with R. Simeon b. Gamaliel, but they differ on this question: One Master² holds that transgression affords a basis for presumption, the other Master,¹⁰ that only flagellation affords it. But what of the following that has been taught, viz.: If he [the transgressor] was warned [of his liability to flagellation], but remained silent, or warned and nodded his head, — the first and second time he is to be warned, but on the third occasion he is placed in a cell. Abba Saul said: The third time too he is warned, but on the fourth, he is placed in a cell.¹¹ Now there he is not flagellated:¹² wherein then do they differ? — Rabina said: They differ as to whether one must be warned of the cell.¹³

And what was the form of the cell? — Rab Judah said: A chamber of his [the transgressor's] full height. And where is it alluded to?¹⁴ — Resh Lakish quoted: Evil shall slay the wicked.¹⁵ Resh Lakish also said: What is meant by, For man also knoweth not his time, as the fishes that are taken in an evil trap;¹⁶ what is 'an evil trap'? — Resh Lakish said: A hook.¹⁷

MISHNAH. ONE WHO COMMITS MURDER WITHOUT WITNESSES IS PLACED IN A CELL AND [FORCIBLY] FED WITH BREAD OF ADVERSITY AND WATER OF AFFLICTION'.¹⁸

GEMARA. How do we know [that he committed murder]? — Rab said: On a 'disjoined' evidence.¹⁹ Samuel said: Without a warning.²⁰ R. Hisda said in Abimi's name: Through witnesses who were disproved as to the minor circumstances [of the crime], but not on the vital points.²¹ As we learned: It once happened that Ben Zakkai examined [the witnesses] as to the stalks of the figs.²²

AND FED 'BREAD OF ADVERSITY AND WATER OF AFFLICTION'. Why does this Mishnah teach, AND FED WITH BREAD OF ADVERSITY AND WATER OF

AFFLICTION', whilst the former teaches, HE IS PLACED BY *BETH DIN* IN A CELL AND FED WITH BARLEY BREAD UNTIL HIS STOMACH BURSTS? — R. Shesheth answered: In both cases he is fed with 'bread of adversity and water of affliction' for his intestines to shrink [thus blocking the passage], and then he is fed with barley bread until his stomach bursts.

MISHNAH. IF ONE STEALS THE KISWAH,²³ OR CURSES BY ENCHANTMENT, OR COHABITS WITH A HEATHEN [LIT. SYRIAN] WOMAN, HE IS PUNISHED BY ZEALOTS.²⁴ IF A PRIEST PERFORMED THE TEMPLE SERVICE WHILST UNCLEAN, HIS BROTHER PRIESTS DO NOT CHARGE HIM THEREWITH AT *BETH DIN*, BUT THE YOUNG PRIESTS TAKE HIM OUT OF THE TEMPLE COURT AND SPLIT HIS SKULL WITH CLUBS. A LAYMAN WHO PERFORMED THE SERVICE IN THE TEMPLE, R. AKIBA SAID: HE IS STRANGLERED; THE SAGES SAY: [HIS DEATH IS] AT THE HANDS OF HEAVEN.

GEMARA. What is kiswah? — Rab Judah answered: The service vessels [of the Temple]; and thus it is said, And the vessels [Kesoth]²⁵ of libation.²⁶ And where is this alluded to?²⁷ That they come not to see how the holy things are stolen,²⁸ lest they [the purloiners] die.²⁹

OR CURSES BY ENCHANTMENT. R. Joseph learned, [He curses thus:] May the charm [the idol] slay its enchanter.³⁰ The Rabbis, others say, Rabbah b. Mari, say: [He curses:] May the charm slay him [his enemy], his Master and his Provider, etc.³¹

OR COHABITS WITH A HEATHEN WOMAN. R. Kahana propounded a problem to Rab:

1. Obviously not! Therefore under no circumstances can one prohibition take legal hold where another exists, if death is the penalty. R. Jose's admission refers only to unwitting transgression, and is in connection with sacrifices.
2. Surely that is inequitable!

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3. But the witnesses had warned him that he would be flagellated, — a lesser penalty.
4. So that there is hope for his reformation; consequently we do not hasten his death.
5. This is in connection with widowhood: only if a woman has been thrice widowed is there a presumption that it is her destiny to cause her husbands' death, and hence she may not remarry. Rabbi maintains that this presumption may be made even if she has only been twice widowed.
6. Not flagellation. Therefore, if he transgressed thrice, though only twice flagellated, there is a presumption that he is incorrigible.
7. Tosef. Sanh. XII.
8. The first Tanna agreeing with Rabbi that twice affords presumption, Abba Saul with R. Simeon b. Gamaliel. But since the first Tanna is identical with the Tanna of our Mishnah, it follows that it cannot agree with R. Simeon b. Gamaliel. This refutes Rabina.
9. The first Tanna.
10. Abba Saul.
11. Tosef. XII. When a warning is given, the offender must explicitly accept it, (cf. *supra* pp. 494-5), otherwise he cannot be punished. Nevertheless, since he was warned, and showed by his silence or his nodding that he accepted the warning, there is a presumption that he is a confirmed sinner, and hence the law of Mishnah applies to him.
12. So that there is no flagellation to afford a basis for presumption.
13. Both agree that he becomes a confirmed sinner when he has thrice transgressed. The first Tanna maintains that once we regard him as such, he is placed in a cell without further ado; but Abba Saul is of the opinion that this too must be preceded by a formal warning. Hence, after sinning three times, it is necessary that he shall sin a fourth time, that he may be warned of the consequences.
14. It is assumed that the law is traditional, going back to Moses; nevertheless, an allusion is sought in the Bible.
15. Ps. XXXIV, 22.
16. Ecc. IX, 12.
17. This, though small, captures even large fish; thus it is more subtle and dangerous than a net. Presumably also it is more painful.
18. Isa. XXX, 20.
19. I.e., the murder was witnessed by two persons who were not standing together. In that case, he cannot be executed; hence he is imprisoned. cf. Mak. 6b.
20. I.e., there were two witnesses, but invalid to impose the usual death sentence, because they did not warn him.
21. By 'vital points' ([H]) time and place of the crime are meant; by 'minor circumstances' (bedikoth [H]) the weapon, clothes worn by the victim or the murderer, etc. Since the vital evidence has not been disproved, the accused is adjudged a murderer; as, however, the witnesses were disproved on minor details, he cannot be executed, and is therefore placed in a cell.
22. The witnesses having deposed that the murder took place under a fig tree. Ben Zakkai examined them on the nature of the stalks, Whether thick or thin, etc. v. *supra* 40a ff.
23. V. Gemara.
24. I.e., pious men, jealous for the honor of Judaism, may punish him if they apprehend him in the act; but if they did not, they cannot subsequently charge him therewith at *Beth din* (Rashi).
25. [H]
26. Num. IV, 7.
27. That a zealot who sees the theft must punish, i.e., slay him.
28. [H] lit., 'swallowed up'.
29. *Ibid.* 20. Nevertheless, this not being the true meaning of the verse, q.v., it is regarded merely as a hint, the actual law being traditional. [The allusion is probably to the vessel employed for water libation, a rite opposed by the Sadducees. The purloiner would accordingly be a member of that sect, v. Krauss, Sanh.-Mak. p. 260.]
30. Referring to God. The meaning of the passage is uncertain. H. Danby, Tractate Sanhedrin, a.l., suggests that [H] may be an abbreviation of some transliterated unorthodox divine name, e.g., [G], or a disguised form of the Tetragrammaton. The offence then will consist in blaspheming the Divine Name under a pseudonym (Sanh. VII, 5). Levy, s.v. oxe translates: May the charmer (= idol) slay its charmer (= God). But the Munich MS. reads [H] = what is like him (cf. [H] *supra* 56a). Jastrow renders: 'May the carver (i.e., God, invoked as 'carver' instead of creator ex nihilo) strike his carving!'
31. The last two refer to God. This is translated by Levy (loc. cit.): The charmer smite him, his possessor, and Him who gives him possession. The J. a. l. reads: [H] e.g., as the Nabateans curse, viz., Cursed be thou, thy possessor, and Him who gives thee possession.

Sanhedrin 82a

What if zealots did not punish him? Now Rab had completely forgotten [what he had learnt

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about this];¹ So R. Kahana was made to read in his dream, Judah hath dealt treacherously, and an abomination is committed in Israel and in Jerusalem; for Judah hath profaned the holiness of the Lord which he loved, and hath been intimate with the daughter of a strange god.² He then went and related to Rab, 'This was I made to read'. Thereupon he reminded Rab of it all: Judah hath dealt treacherously, — this refers to idolatry, even as it is said, [Surely as a wife departeth treacherously from her husband], so have ye dealt treacherously with me, O house of Israel, saith the Lord;³ and an abomination is committed in Israel and in Jerusalem, refers to pederasty, and thus it is written, Thou shalt not lie with mankind as with womankind; it is an abomination;⁴ for Judah hath profaned the holiness [kodesh]⁵ of the Lord, — this refers to harlotry, and thus it is said, There shall be no consecrated harlot [kedeshah]⁶ of the daughters of Israel;⁷ and hath been intimate with the daughter of a strange god, — this refers to intimacy with a heathen woman. Now, this verse is followed by, The Lord will cut off the men that doeth this, the master and the scholar, out of the tabernacles of Jacob, and him that offereth an offering unto the Lord of Hosts.⁸ This means: If he is a scholar, he shall have none awakening [i.e., teaching] among the sages and none responding among the disciples; if a priest, he shall have no son to offer an offering unto the Lord of hosts.⁹

R. Hiyya b. Abuiah said: He who is intimate with a heathen woman is as though he had entered into marriage relationship with an idol, for it is written, and hath been intimate with the daughter of a strange god:¹⁰ hath then a strange god a daughter — But it refers to one who cohabits with a heathen woman.

R. Hiyya b. Abuiah also said: 'This and yet another' is written upon Jehoiakim's skull.¹¹ R. Perida's grandfather found a skull thrown down at the gates of Jerusalem, upon which 'this and yet another' was written. So he

buried it, but it re-emerged; again he buried it, and again it re-emerged. Thereupon he said, This must be Jehoiakim's skull, of whom it is written, He shall be buried with the burial of an ass, drawn and cast forth beyond the gates of Jerusalem.¹² Yet, he reflected, he was a king, and it is not mannerly to disgrace him. So he took it, wrapped it up in silk, and placed it in a chest. When his wife came home and saw it, she went and told her neighbors about it. 'It must be the skull of his first wife', said they to her, 'whom he cannot forget'. So she fired the oven and burnt it. When he came, he said to her, 'That was meant by its inscription, "This and yet another"'.¹³

When R. Dimi came,¹⁴ he said: The *Beth din* of the Hasmoneans¹⁵ decreed that one who cohabits with a heathen woman is liable to punishment on account of Nashga.¹⁶ When Rabin came,¹⁷ he said: On account of Nashgaz, i.e., *niddah*, *shifhah*, *goyyah* and *zonah*;¹⁸ but not on account of a married woman, because they themselves [sc. the heathens] do not recognize the marriage bond.¹⁹ But the other?²⁰ — They certainly gave no license to their wives.²¹

R. Hisda said: If the zealot comes to take counsel [whether to punish the transgressors enumerated in the Mishnah], we do not instruct him to do so. It has been stated likewise: Rabbah b. Bar Hana said in R. Johanan's name: If he comes to take counsel, we do not instruct him to do so. What is more, had Zimri forsaken his mistress and Phinehas slain him, Phinehas would have been executed on his account;²² and had Zimri turned upon Phinehas and slain him, he would not have been executed, since Phinehas was a pursuer [seeking to take his life].

And Moses said unto the judges of Israel, Slay ye every one of his men that were joined unto Baal Peor.²³ Thereupon the tribe of Simeon went unto Zimri ben Salu and said unto him, 'Behold, capital punishment is being meted out, yet you sit silent [i.e., inactive].' What did

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he do? He arose and assembled twenty-four thousand Israelites and went unto Cozbi, and said unto her, 'Surrender thyself unto me.' She replied, 'I am a king's daughter, and thus hath my father instructed me, "Thou shalt yield only to their greatest man"'. 'I too,' he replied, 'am the prince of a tribe; moreover, my tribe is greater than his [Moses], for mine is second in birth, whilst his is third.'²⁴ He then seized her by her coiffure and brought her before Moses. 'Son of Amram,' exclaimed he, 'is this woman forbidden or permitted? And should you say. "She is forbidden", who permitted thee Jethro's daughter'? At that moment Moses forgot the *halachah* [concerning intimacy with a heathen woman], and all the people burst into tears; hence it is written, and they were weeping before the door of the tabernacle of the congregation.²⁵ And it is also written, And Phineas, the son of Eleazar, the son of Aaron the priest, saw it.²⁶ Now, what did he see? — Rab said: He saw what was happening and remembered the *halachah*, and said to him, 'O great-uncle! did you not teach us this on thy descent from Mount Sinai: He who cohabits with a heathen woman is punished by zealots?' He replied. 'He who reads the letter, let him be the agent [to carry out its instructions]'. Samuel said: He saw that 'There is no wisdom nor understanding nor counsel against the Lord':²⁷ whenever the Divine Name is being profaned, honor must not be paid to one's teacher.²⁸ R. Isaac said in R. Eleazar's name: He saw the angel wreaking destruction amongst the people. And he rose up out of the midst of the congregation, and took a spear in his hand;²⁹ hence one may not enter the house of learning with weapons.³⁰ He removed its point and placed it in his undergarment, and went along

1. He did not know what to reply.
2. Mal. II, 11.
3. Jer. III, 20. The simile shows that the reference is to idolatry.
4. Lev. XVIII, 22.
5. [H]
6. [H]
7. Deut. XXIII, 18.

8. Mal. II, 12.
9. This is his punishment and the answer to R. Kahana's question.
10. Ibid. 11.
11. The meaning of this is given in the following story.
12. Jer. XXII, 19.
13. I.e., it would be exposed to this disgrace, of being cast away in the streets, and yet another, viz., burning.
14. From Palestine; v. p. 390, n. 1.
15. J. Derenbourg, Essai p. 84 places this *Beth din* during the rule of Simeon the Hasmonean (143-135 B.C.E.), or the first years of his son John. The troublous times of the Maccabees would seem to have led to licentiousness and a lowering of moral standards, and consequent liaisons with heathens. When the country became more settled, the religious authorities naturally attempted to stem this, and hence the decree. (V. 'A.Z. (Sonc. ed.) p. 177, n. 7.)
16. This is a mnemonic: N = *niddah*, a menstruous woman; SH = Shifhah, a non-Jewish maidservant; G = goyyah, a heathen woman; and A = esheth, ish, a married woman. He is regarded as having transgressed in respect of all four, and as such will be punished by heaven.
17. V. p. 544, n. 7.
18. Zonah = harlot; for the first three v. preceding note.
19. They are very lax, and their women, even married, indulge in promiscuity; v. Weiss, Dor. Vol. II, pp. 19 ff.
20. R. Dimi, who includes this.
21. I.e., they expect their wives to observe the marriage bond.
22. For the zealot may slay only when he is engaged in the commission of the offence.
23. Num. XXV, 5.
24. Simeon was Jacob's second son; Levi, to which Moses belonged, the third.
25. Ibid 6.
26. Ibid 7.
27. Prov. XXI, 30.
28. I.e., seeing the profanation of the Divine Name, he did not wait for Moses' ruling.
29. Num. XXV, 7.
30. Since he rose up out of the congregation, i.e., the Sanhedrin, implying that he went out.

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leaning upon the stock [of the spear, into which the pointed blade is inserted], and as soon as he reached the tribe of Simeon, he exclaimed, 'Where do we find that the tribe of

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Levi is greater¹ than that of Simeon? [i.e., I too wish to indulge]. Thereupon they said, 'Let him pass too. He enters to satisfy his lust. These abstainers have now declared the matter permissible.' R. Johanan said: Six miracles were wrought for Phinehas: — [i] Zimri should have withdrawn [from the woman] but did not;² [ii] he should have cried out [for help], but did not; [iii] he [Phinehas] succeeded [in driving his spear] exactly through the sexual organs of the man and woman;³ [iv] they did not slip off the spear; [v] an angel came and lifted up the lintel;⁴ [vi] an angel came and wrought destruction amongst the people.⁵ Then he [Phinehas] came and struck them down before the Almighty, saying, 'Sovereign of the Universe! shall twenty-four thousand perish because of these.' even as it is written, And those that died in the plague were twenty and four thousand.⁶ Hence it is written, then stood up Phinehas, and executed judgment [wa-yefallel]⁷ R. Eleazar said: [wa-yispallel] [he prayed] is not written, but wa-yefallel,⁸ as though he argued with his maker [on the justice of punishing so many]. Thereupon the ministering angels wished to repulse him, but He said to them, 'Let him be, for he is a zealot and the descendant of a zealot; a turner away of wrath and the son of a turner away of wrath.'⁹ The tribes now began abusing him: 'See ye this son of Puti [= Putiel] whose maternal grandfather fattened [pitted] cattle for idols,¹⁰ and who has now slain the prince of a tribe of Israel!' Therefore Scripture detailed his ancestry: Phinehas, the son of Eleazar, the son of Aaron the Priest.¹¹ [Moreover,] the Holy One, blessed be He said to Moses, 'Be the first to extend a greeting of peace to him', as it is written, Wherefore say, Behold, I give unto him my covenant of peace;¹² and this atonement, [that Phinehas has made] is worthy of being an everlasting atonement.¹³

R. Nahman said in Rab's name: What is meant by, *A greyhound* [zarzir mathnaim, lit, 'energetic of loins']: *an he goat also* [tayish];

*and a king, against whom there is no rising up?*¹⁴ — That wicked man, [sc. Zimri] cohabited four hundred and twenty-four times,¹⁵ that day, and Phinehas waited for his strength to weaken,¹⁶ not knowing that [God is] a King, against whom there is no rising up.¹⁷ In the Baraitha we learnt: Sixty [time], until he became like an addled egg, whilst she became like a furrow filled with water. R. Kahana said: And her seat was a *beth s'eah*.¹⁸ R. Joseph learned: Her womb opening was a cubit.

R. Sheshet said: Her name was not Cozbi, but Shewilanai the daughter of Zur. Why then was she called Cozbi? Because she falsified¹⁹ her father's teachings.²⁰ Another interpretation is: She said to her father, 'Devour me [kosbi]²¹ this people,' And thus it is a popular proverb, 'What business hath Shewilanai²² by the reeds of the lake? What hath Shewilanai to do amongst the peeling rushes?²³ She prostitutes her mother.'²⁴

R. Johanan said: [Zimri] had five names: Zimri, the son of Salu, Saul, the son of the Canaanitish woman, and Shelumiel, the son of Zurishaddai. Zimri, because he became like an addled egg [beza hamuzereth]; the son of Salu, because he outweighed [hisli]²⁵ the sins of his family;²⁶ Saul, because he lent himself [hish'il fr. sha'al] to sin; the son of the Canaanitish woman, because he acted in a Canaanitish fashion, [i.e., depravedly]; whilst his real name was Shelumiel the son of Zurishaddai.

IF A PRIEST PERFORMED THE TEMPLE SERVICE WHILST UNCLEAN R. Abba b. Huna propounded a problem to R. Shesheth: Does a priest who performed the Temple service whilst unclean merit death at the hands of Heaven or not? — He replied: We learnt it: IF A PRIEST PERFORMED THE TEMPLE SERVICE WHILST UNCLEAN, HIS BROTHER PRIESTS DO NOT CHARGE HIM AT BETH DIN, BUT THE YOUNG PRIESTS TAKE HIM OUT OF THE TEMPLE COURT AND BREAK HIS

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SKULL WITH CLUBS. But should you think that he merits death at the hands of Heaven, should he not be left to be slain by Him? Will you say then that he is not so liable? Is there anything for which the Merciful One did not impose a penalty, for which we may kill? — And is there not? But we learnt, **ONE WHO WAS TWICE FLAGELLATED IS PLACED BY BETH DIN IN A CELL:** thus, the Merciful One exempted him, yet we slay him! — [That is no difficulty;] for did not R. Jeremiah say in the name of Resh Lakish: The reference is to flagellation for an offence punishable by extinction?²⁷ hence he is liable to death. But what of one who steals a *Kiswah*? — [That too causes no difficulty], for did not Rab Judah say: This refers to service vessels, [death for the theft of which] being alluded to in the verse, That they come not to see how the holy things are stolen, lest they [the purloiners] die.²⁸ But what of one who **CURSES BY ENCHANTMENT?**²⁹ — [There too,] did not R. Joseph learn, [He curses thus:] May the charm slay the enchanter? So that it is somewhat analogous to blasphemy.³⁰ But what of **ONE WHO COHABITS WITH A HEATHEN WOMAN?** — There too, R. Kahana was made to read [a verse] in his dream, which [on being told to Rab], entirely reminded him of the law.³¹

He objected: He who pours [the oil on the meal-offering], mingles [it with the flour], breaks up [the meal-offering cakes], salts [the meal-offering], waves it, presents it [opposite the south west corner of the altar], sets the table [with the show bread], trims the lamps, takes off the handful [of flour from the meal-offering] or receives the blood. — [if he did any of these] outside [the Temple Court], he is not liable [to extinction]. Nor is punishment incurred for any of these acts

1. I.e., more sanctimonious.
2. Had he withdrawn, Phinehas could not have punished him.
3. Thus showing that he was punishing immorality, and not satisfying a private hate.
4. So that it should not interfere with the spear as he was carrying them out aloft.

5. Thereby distracting their attention: otherwise Zimri's partisans would have slain him.
6. Ibid. 9.
7. Ps. CVI, 30.
8. Fr. [H], to argue.
9. Levi, the first ancestor of his tribe, had shown zeal for his sister's honor (Gen. XXXIV, 25f.); Aaron, Phinehas' grandfather, had turned away God's wrath on the occasion of Korah's revolt. Num. XVII, 13.
10. V. Ex. VI. 25: And Eleazar, Aaron's son, took him one of the daughters of Putiel to wife. According to the legend, Putiel was Jethro, so called because as a priest of Midian he had fattened ([H], with which Putiel is here connected) cattle for idolatrous sacrifices.
11. Num. XXV, 11.
12. Ibid. 12.
13. Cf. ibid. 13.
14. Prov. XXX, 31.
15. The numerical value of *zarzir* [H], whilst cohabitation is understood from 'loins'.
16. Heb. [H], (weakened) is connected here with [H].
17. I.e., he need not have waited, for Zimri was already doomed.
18. I.e., she became very bloated. *Beth se'ah* is a field requiring one *se'ah* of seed.
19. From [H] falsehood.
20. V. 82a; he had instructed her to surrender only to the greatest man in Israel.
21. [H]
22. A common name for a dissolute woman. [The word is connected with the Arabic denoting 'womb opening', v. *MGWJ*. LXXIII, p. 398].
23. I.e., surely she goes to these secluded spots only for immoral purposes.
24. I.e., she transfers her own harlotry to her mother — an unchaste woman being generally called a harlot, the daughter of a harlot (Rashi). Jast. renders, 'Did she embrace her mother?'
25. From [H].
26. From [H]. Others: he caused the sins of the family to rise, i.e., became notorious. (Jast.); Rashi (one version) caused his sins to be searched out, probed.
27. V. *supra* 81b.
28. Num. IV, 20.
29. The reading here in our printed texts differs slightly from that of the Mishnah on 81b; the latter has been followed; cp. DS. a.l.
30. V. *supra* 56a. May Jose smite Jose: blasphemy was punished by death.
31. That verse hints at death.

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on account of zaruth,¹ uncleanness, lack of [priestly] garments² or the [non-] washing of hands and feet.³ [This implies,] but if he burned incense,⁴ he is liable, and presumably [his liability is] to death⁵ — [No;] merely in respect of a prohibition.⁶ But if so, the Zaruth mentioned is likewise merely in respect of a prohibition: surely, it is written, And the stranger [zar] that cometh nigh shall be put to death⁷ — Each has its own ruling.⁸ Now it follows that not even a negative precept is transgressed for pouring and mingling [under the conditions enumerated]; but it has been taught: Whence do we derive a negative precept for the pouring and mingling [of the oil by an unclean priest]? — From the verse, They shall be holy unto their God, and not profane [the name of their God]?⁹ — The prohibition is Rabbinical only, the verse being a mere support. An objection was raised: The following are liable to death [at the hands of Heaven ... an unclean [priest] who performed the [Temple] service, (etc.)] This definitely refutes his [R. Shesheth's] ruling.

To turn to the main [Baraita]: The following are liable to death [at the hands of Heaven]: One who ate *tebel*,¹⁰ an unclean priest who ate undefiled *terumah*, a zar or an unclean [priest] who performed [the Temple service], or one who performed it on the day of his ritual bath,¹¹ or lacking the proper [priestly] garments, or lacking the [sacrificial] atonement,¹² one who did not wash his hands and feet, or drank wine, or a priest with overgrown locks.¹³ But the performance of the service by an uncircumcised [priest], an onen.¹⁴ or by one who officiated whilst sitting is not liable to death, but merely prohibited. If a priest with a blemish [officiated], Rabbi said: He is liable to death; the Sages maintain: He is merely prohibited. If he deliberately transgressed in respect of a trespass offering,¹⁵ Rabbi said: He is liable to death. and the Sages say: He transgressed a mere prohibition.

Now, whence do we know it of one who eats *tebel*? — As Samuel said on the authority of R. Eliezer: Whence do we know that one who eats *tebel* is liable to death? From the verse, And they shall not profane the holy things of the children of Israel, which they shall offer to the Lord.¹⁶ Now, the verse refers to that which is yet to be offered;¹⁷ and then identity of law is learnt from the use of 'profanation' here and in the case of *terumah*:¹⁸ just as there the penalty is death, so here too. But let us rather learn [the penalty] from the use of profanation here and in the case of nothar:¹⁹ just as there, the penalty is extinction. so here too? — It is logical to make the deduction from *terumah*, because they are equal in the following points: — [i] *terumah*, [ii] extra-territoriality, [iii] annulment, [iv] plural form, [v] land produce. [vi] piggul, and [vii] nothar.²⁰ On the contrary, should not the deduction rather be made from nothar, since they are alike in the following points: [i] unfitness of food and [ii] no annulment of prohibition by a mikweh?²¹ — Even so, those [*tebel* and *terumah*] have more points in common. Rabina answered: The use of the plural form is certainly a stronger link.²² And whence do we know that an unclean priest who ate undefiled *terumah* [is liable to death]? — As Samuel said: Whence do we know that an unclean priest who ate undefiled *terumah* is punished by death at the hands of Heaven? From the verse, Therefore they shall keep mine ordinance, lest they bear sin for it, and die therefore, if they profane it.²³ This [however] applies only to undefiled, but not to polluted *terumah*: for Samuel said in R. Eliezer's name: Whence do we know that an unclean priest who ate unclean is not liable to death? — From the verse, and die therefore, if they profane it:

1. I.e., the prohibition of a zar (a non-priest) to officiate in the Temple: a zar who performs any of these services is not punished, as none of these functions form the concluding part of a service.
2. The priest had to officiate in the special garments prescribed in Ex. XXVIII; if he did

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not wear them all whilst engaged in any of these, he incurs no liability.

3. (Zeb. 112b), V. Ex. XXI, 17f.
4. A function completing a service.
5. But since uncleanness is mentioned, it follows that a ritually unclean priest who offered incense is liable to death. This contradicts R. Shesheth's ruling.
6. He is merely regarded as having transgressed an ordinary prohibition.
7. Num. XVIII, 7.
8. I.e., for uncleanness there is a mere prohibition: for zaruth, death.
9. Lev. XXI, 6. This is referred to the performance of one of these services whilst unclean.
10. V. Glos.
11. Tebbul Yom. Lit., 'one who immersed during the day'. An unclean priest purified himself by taking a ritual bath: yet even then he could not officiate until after sunset.
12. A priest who became unclean through the dead was sprinkled with the ashes of the red heifer mixed with water; then he took a ritual bath; and on the eighth day of his uncleanness, he offered a sacrifice, which made atonement for him. Before this, he is regarded as one 'lacking atonement', and may not officiate.
13. I.e., who has not trimmed his hair for thirty days or more.
14. A mourner before the burial of a near relative, e.g. father.
15. I.e., be benefited from a holy thing, for the secular (unwitting) use of which one is bound to bring a trespass offering; cf. Lev. V, 14ff.
16. Lev. XXII, 15.
17. The verb [H] is imperfect ('which they shall offer') and hence refers to 'holy things' — i.e., *terumah* — which is yet to be separated from the produce, so that it is all *tebel*.
18. Ibid. 9: They shall therefore keep mine ordinance, lest they bear sin for it, and die therefore, if they profane it. This refers to the eating of *terumah* by an unclean priest.
19. That which is left over of the sacrifice after the time appointed for eating. Ibid. XIX, 6, 8: And if ought remain until the third day, it shall be burnt in fire ... Therefore every one that catch it shall bear his iniquity, because he hath profaned the hallowed thing of the Lord: and that soul shall be cut off from among his people.
20. Both deal with *terumah*, as *tebel* too is forbidden on account of the unseparated *terumah* which it contains. Neither *terumah* nor *tebel* operated outside Palestine, but nothar was forbidden in the wilderness too. Further, both of these prohibitions can be

annulled: that of the unclean priest by a ritual bath; *tebel*, by separating its *terumah*: but under no circumstances can the prohibition of nothar be annulled. Profanation in both cases is stated in plural form: *tebel*: And they shall not profane, etc. *terumah*: ... if they profane it; but nothar has its use in the singular ... because he hath profaned. *Tebel* and *terumah* apply to land produce (cereals and fruits); nothar to animals. Finally, the law of piggul (v. Glos) and nothar is inapplicable to *tebel* and *terumah*.

21. In the case of *tebel* and nothar the substance itself is forbidden; but the *terumah* is not forbidden, only that the priest is unclean. Also the prohibition of *tebel* and nothar cannot be annulled through a mikweh (ritual bath); but that of *terumah* ceases when the priest takes a ritual bath.
22. I.e., the fourth point which *tebel* and *terumah* have in common is itself sufficient to justify the preference for *terumah*, as the basis for deduction, rather than nothar.
23. Lev. XXII, 9.

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excluding this [unclean *terumah*], which already stands profaned.

A zar who ate *terumah*: Rab said: A zar who ate *terumah* is flagellated. R. Kahana and R. Assi said to him: Why does not the master say — is liable to death, since it is written, there shall no stranger eat of the holy thing?¹ — I the Lord do sanctify them breaks across the subject.² An objection is raised: The following are liable to death: ... a zar who ate *terumah*? — Do you oppose a Baraita to Rab's ruling? Rab is a Tanna, and may dispute [the ruling of Baraita].³

'A zar who performed the [Temple] service': for it is written, And the stranger that cometh nigh shall be put to death.⁴

'Or an unclean [priest] who performed the [Temple] service:' even as R. Hiyya b. Abin inquired of R. Joseph: Whence do we know that an unclean priest who performed the [Temple] service is punished by death? Because it is written, Speak unto Aaron, and

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to his sons, that they separate themselves from the holy things of the children of Israel, and that they profane not my holy name.⁵ And identity of law is derived from the use of 'profanation' here and in the case of *terumah*; just as there the penalty is death, so here too. But should not the deduction rather be made from nothar: just as there the penalty is extinction, so here too? — It is reasonable to make the deduction from *terumah*, because they have the following in common: — [i] bodily [unfitness], [ii] uncleanness, [iii] mikweh, [iv] plural form.⁶ On the contrary, should not the deduction rather be made from nothar, since they share the following in common: [i] sanctity, [ii] within [the Temple court], [iii] piggul and [iv] nothar?⁷ — Even so, the fact that in both cases [viz. *terumah* and the sacrificial service] profanation is spoken of as an act of many [unlike nothar], outweighs [the points which sacrificial service and nothar have in common].

'Or one who performed it on the day of his ritual bath'. Whence do we know this? — Even as has been taught: R. Simai said: Where is the allusion that one who officiated in the Temple on the day of his ritual bath has committed an act of profanation? From the verse, They shall be holy unto their God, and not profane [the name of their God].⁸ Since this cannot refer to the ministration of an unclean priest, [the prohibition of which] is derived from that they separate themselves,⁹ apply it to a priest's officiating on the day of his ritual bath. Then an analogy is drawn from the use of 'profanation' both here and in the case of *terumah*: just as there, the penalty is death, so here too.

'Or lacking the proper priestly garments'. Whence do we know it? — R. Abbahu said in R. Johanan's name, and [the teaching] is ultimately derived from R. Eleazar son of R. Simeon: [The Writ saith, And thou shalt ... put coats upon them...] and thou shalt gird them with girdles. [Aaron and his sons, and put the bonnets on them': and the priest's

office shall be theirs for a perpetual state]:¹⁰ when wearing the appointed garments, they are invested in their priesthood; when not, they lack their priesthood and are considered zarim,¹¹ and a Master hath said, A zar who performs the [Temple] service is liable to death.

'Or one lacking the sacrificial atonement — Whence do we know this? — R. Huna said: The Writ saith, And the priest shall make an atonement for her, and she shall be clean.¹² 'And she shall be clean' implies that hitherto she was unclean: and a Master hath said, An unclean priest who officiated is liable to death.

'One who did not wash his hands or feet.' Whence do we know this? — From the verse, When they go into the tabernacle of the congregation, they shall wash with water, that they die not.¹³

'Or drank wine'. Because it is written, Do not drink wine or strong drink, [thou, nor thy sons with thee, when ye go into the tabernacle of the congregation, lest ye die].¹⁴

'Or a priest with overgrown locks'. As it is written, Neither shall they shave their heads, nor suffer their locks to remain unshorn;¹⁵ and this is followed by, Neither shall they drink wine:¹⁶ hence the former is likened to the latter: just as the latter is liable to death, so the former too.

'But the performance of the service by an uncircumcised [priest], an onen, or [by one who officiated whilst sitting is not liable to death, but merely prohibited.' Whence do we know it of the uncircumcised? — R. Hisda said: We did not learn this from the Torah of Moses our Teacher, until Ezekiel the son of Buzi came and taught it to us: No stranger, uncircumcised in heart,

1. Ibid. 10. This immediately follows the verse stating ... and die therefore, if they profane it.
2. Vv. 9 and 10 read: ... and die therefore, if they profane it: I the Lord do sanctify them. There

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shall be no stranger eat of the holy thing. 'I the Lord do sanctify them' clearly marks a break: consequently the penalty of death stated in v. 9. does not apply to the prohibition of v. 10.

3. Whilst it is axiomatic that an Amora cannot disagree with a Tanna, unless he finds a support in another Tanna, Rab, as a younger contemporary of Rabbi, stood midway between the last generation of the Tannaim and the first of Amoraim; and although generally assigned to the latter, he is occasionally, as here, conceded to be a Tanna, owing to his personal greatness and vast erudition.
4. Num. XVIII, 7.
5. Lev. XXII, 2: the reference is to abstention from sacrificial service during their uncleanness, as is stated in v. 3.
6. Both the eating of *terumah* and the sacrificial service are prohibited to the priest through his bodily unfitness. Also, this bodily unfitness in both cases is uncleanness (this is counted as a second point, since bodily unfitness may be for some other cause, viz., a blemish). Further, in both cases, the unfitness can be remedied by a ritual bath. And finally, profanation in both cases is ascribed to many (v. p. 551, n. 8). Nothar differs on all these points.
7. Both the eating of nothar and the sacrificial service by an unclean priest are offences in respect of the extreme sanctity of sacrifices. *Terumah*, however, is of a lower degree of sanctity. Also, they are done within the Temple precincts. Again, *piggul* is possible in both cases, for the unclean priest too whilst engaged in sacrificing might have intended eating the flesh beyond its appointed time, as nothar in fact has so been left. And finally, he might actually have eaten it thus. (The last two are counted as two distinct points, since the mere expressed intention of eating the flesh beyond its appointed time is an offence, even if not done subsequently. The actual eating again, is another and separate offence.) None of these, however, is applicable to the eating of *terumah* by an unclean priest.
8. Lev. XXI, 6.
9. Lev. XXII, 2ff.
10. Ex. XXIX, 9.
11. Zarim, pl. of Zar.
12. Lev. XII, 8. This refers to a woman after confinement, but its implications extend to all forms of uncleanness which must be followed by a sacrifice.
13. Ex. XXX, 20. The preceding verse states that they are to wash their hands and feet.
14. Lev. X, 9.
15. Ezek. XLIV, 20.

16. Ibid. 21.

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nor uncircumcised in flesh, shall enter into my sanctuary.¹ Whence do we know it of an onen? — Because it is written, Neither shall he [sc. the onen High Priest] go out of the sanctuary, yet shall he not profane the sanctuary of his God:² hence, if any other [priest] does not go out, he profanes [the sanctuary]. R. Adda said to Raba: Then let us derive [identity of law] from the use of 'profanation' here and in the case of *terumah*: just as there the punishment is death, so here too? — Is then the [prohibition] of an onen explicitly stated in that verse? It is only inferred [from the High Priest]. Hence it is a law derived from a general proposition, and such cannot be further subjected to deduction by a *gezerah shawah*.

Whence do we know it of one who officiates whilst sitting? — Raba said in R. Nahman's name: The Writ saith, For the Lord thy God hath chosen him out of all thy tribes, to stand to minister:³ implying, I have chosen him for standing, but not for sitting.

If a priest with a blemish [officiated], Rabbi said: He is liable to death [at the hands of Heaven]; the Sages maintain: He is merely prohibited. What is Rabbi's reason? — Because it is written, Only he shall not go in unto the veil, [nor come nigh unto the altar, because he hath a blemish]; that he profane not my sanctuaries.⁴ Then the law is derived from the use of 'profanation' here and in the case of *terumah*; just as there the penalty is death, so here too. But let it rather be derived from nothar; just as there the penalty is extinction, so here too? — It is more reasonable to make the deduction from *terumah*, for thus bodily unfitness is derived from bodily unfitness.⁵ On the contrary, is it not preferable to base the analogy on nothar, since they share the following in common: [i] sanctity, [ii] within the Temple precincts, [iii]

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piggul and [iv] nothar?⁶ — But the analogy is drawn from an unclean priest who officiated; thus bodily unfitness is derived from bodily unfitness, and a case distinguished by sanctity, the inner precincts of the Temple, piggul and nothar derived from another so distinguished. But the Rabbis?⁷ — The Writ saith, and die therefore:⁸ implying but not for the sin of being blemished.⁹

'If he deliberately transgressed in respect of a trespass offering, Rabbi said: He is liable to death; and the Sages maintain: He is merely prohibited.' What is Rabbi's reason? — R. Abbahu said: He derives identity of law from the fact that 'sin' is used here and in the case of *terumah*:¹⁰ just as there, the penalty is death, so here too. But the Rabbis?¹¹ They maintain, the Writ saith, and die therefore:¹² implying, but not for trespass.

A ZAR WHO OFFICIATED IN THE TEMPLE. It has been taught: R. Ishmael said: It is here written, And the stranger that cometh nigh shall be put to death;¹³ whilst it is elsewhere said, Whosoever cometh anything near unto the tabernacle of the Lord shall die:¹⁴ just as there death was at the hands of Heaven, so here too. R. Akiba said: It is here written, And the stranger that cometh nigh shall be put to death; whilst it is elsewhere said, And that prophet, or that dreamer of dreams, shall be put to death:¹⁵ just as there, it is by stoning, so here too. R. Johanan b. Nuri said: Just as there, it is by strangling, so here too. Wherein do R. Ishmael and R. Akiba differ? — R. Akiba maintains, 'shall be put to death' must be compared with 'shall be put to death' but not with 'shall die'.¹⁶ Whilst R. Ishmael maintains, a layman must be compared to a layman, but not to a prophet. But R. Akiba avers, Since he seduced, no man is more of a layman than he.¹⁷ Wherein, do R. Akiba and R. Johanan b. Nuri differ? — In the dispute of R. Simeon and the Rabbis. For it has been taught: If a prophet seduced, he is stoned; R. Simeon said: he is strangled. But we learnt, R. AKIBA SAID, HE [THE ZAR]

IS STRANGLED?¹⁸ — Two Tannaim differ as to R. Akiba's ruling: our Mishnah is taught on R. Simeon's view¹⁹ as to R. Akiba's ruling; whilst the Baraitha [stating that the zar is stoned, and that this is derived from the false prophet] gives the Rabbis' view as to R. Akiba's ruling.²⁰

1. *Ibid.* 9; v. 7 shows that the reference is to entering for the purpose of ministrations.
2. Lev. XXI, 12. By 'not going out' continuance of the service is meant.
3. Deut. XVIII, 5.
4. Lev. XXI, 23.
5. V. p. 552, n. 1.
6. V. p. 553, n. 4. The same applies to a blemished priest.
7. In view of this deduction, why do they maintain that he is merely prohibited?
8. [H] (because of it) *Ibid.* XXII, 9. This refers to an unclean priest eating *terumah*.
9. I.e., there is no death penalty for transgressing the prohibition particularly applying to a blemished priest, viz., performing the Temple service.
10. Trespass: If a soul commit a trespass, and sin through ignorance, in the holy things of the Lord. (Lev. V, 15); *Terumah*: Lest they bear sin for it, and die therefore (*Ibid.* XXII, 9).
11. Do they not admit this deduction?
12. *Ibid.*
13. Num. XVIII, 7.
14. *Ibid.* XVII, 28. This refers to the plague which followed Korah's rebellion.
15. Deut. XIII, 6.
16. V. verses quoted.
17. I.e., he has lost all claims to the prophetic title.
18. Which contradicts the passage quoted where R. Akiba says that he is stoned.
19. That the false prophet is strangled, and from this he derives the law of a zar.
20. Both the Rabbis here mentioned and R. Simeon being R. Akiba's disciples.

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CHAPTER X

MISHNAH. THE FOLLOWING ARE STRANGLED: HE WHO STRIKES HIS FATHER OR MOTHER; OR KIDNAPS A JEW [TO SELL AS A SLAVE]; AN ELDER REBELLING AGAINST THE RULING OF *BETH DIN*; A FALSE PROPHET; ONE WHO

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PROPHECIES IN THE NAME OF AN IDOL;
ONE WHO COMMITS ADULTERY;
WITNESSES WHO TESTIFIED FALSELY [TO
THE ADULTERY OF] A PRIEST'S DAUGHTER,
AND HER PARAMOUR.¹

GEMARA. Whence do we know it of him who strikes his father or mother? — From the verse, And he that smiteth his father or mother shall surely be put to death:² and by every unspecified death sentence decreed in the Torah strangulation is meant. But say! perhaps it is only if he kills [not merely strikes] them? — You surely cannot think so: for killing any other person he is decapitated, whilst for his father's murder he is [only] strangled! Now, this [answer] is correct on the view that strangulation is more lenient: but on the view that the sword is more lenient, what canst thou say? — But since it is written, He that smiteth a man, so that he dies, shall surely be put to death:³ and also, or in enmity smite him with his hand, that he die,⁴ it follows that whenever an unqualified smiting is mentioned, it does not mean slaying.

Now, it is necessary that both 'He that smiteth a man' and 'whoso killeth any soul, etc.'⁵ be written. For had the Divine Law written only, 'He that smiteth a man, that he die', I should have thought that it applies to the slaying of an adult [ish]⁶ only, since such is himself bound by law, but not [to the slaying of] a minor; therefore the Divine Law writes, 'Whoso killeth any soul.' Whilst had the Divine Law written only, 'Who killeth any soul,' I should have thought that it applies even to a nefel⁷ or an 'eight months' child:⁸ therefore the former verse is necessary too [to exclude these].

[Now, reverting to the main question:] Let us say that even if he [smote his father] without wounding him [he is executed]: Why have we learnt, He who strikes his father or his mother is liable only if he wounds them? — The Writ saith, And he that killeth a beast, he shall restore it; and he that killeth a man, he shall

be put to death:⁹ just as for smiting an animal [there is no liability] unless it is wounded, since *nefesh* ['soul'] is written in connection therewith;¹⁰ so also, no liability is incurred for smiting a man [i.e., one's parent] unless there is a wound. R. Jeremiah objected: If so, if one [permanently] impaired its [sc. the animal's] strength by [loading] stones upon it, [yet not wounding it], is he then not liable [for its loss in value]? — But [say thus]: Since *nefesh*, written in connection with an animal, is irrelevant there, for even if one impaired its strength by loading stones upon it he is liable, transfer Its teachings to man.¹¹ Then what need is there of the analogy?¹² For that which was taught in the school of Hezekiah.¹³ Now, this is well according to the view which accepts this teaching: but on the view that rejects it, why is the analogy required? [To teach:] just as one who smites an animal to heal it is not liable for any damage, so if one wounds a man [sc. his parent] to heal him he is not liable [for any damage that may ensue]. For the scholars propounded: May a son let blood for his father?¹⁴ — R. Mathna ruled: But thou shalt love thy neighbor as thyself.¹⁵ R. Dimi b. Hinena said: [The Writ saith,] And he that killeth a beast, he shall restore it: and he that killeth a man, he shall be put to death:¹⁶ just as one who strikes an animal to heal it is not liable for damage, so if one wounds a man [sc. his parent] to heal him he is not liable. Rab would not permit his son to extract a thorn [from his flesh, since in drawing it out he would make a slight wound]. Mar, the son of Rabina, would not permit his son to lance a fester for him, lest he wound him, thereby unintentionally transgressing a prohibition. If so, even a stranger should be forbidden?¹⁷ — In the case of a stranger, the unintentional transgression is in respect of a mere negative precept: but his son's involves strangulation. But what of that which we learnt: A small needle [lit. 'hand-needle'] may be moved [on the Sabbath] for the purpose of extracting a thorn?¹⁸ But should we then not fear that a wound might be made [in extracting it], and

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thus a prohibition involving stoning be unintentionally transgressed? — There by so doing he effects damage.¹⁹ Now, this agrees with the view that one who does damage on the Sabbath is not liable [to punishment]: but on the view that he is, what can you say? — Whom have you heard maintaining that one who inflicts damage by means of a wound is liable [for the desecration of the Sabbath]? R. Simeon;

1. If she was *nesu'ah*, cf. *supra* 51b.
2. Ex. XXI, 15.
3. *Ibid.* 12.
4. Num. XXXV, 21.
5. *Ibid.* 30.
6. [H] a man, an adult.
7. Lit., 'born of miscarriage', a term applied to all non-viable births.
8. I.e., one born after eight months of pregnancy. The Talmud regards such as nonviable, though a seven months' child is.
9. Lev. XXIV, 21.
10. And he that smiteth the *nefesh* of a beast shall make it good. *Ibid.* 18. *Nefesh* is elsewhere associated with the blood (e.g. Gen. IX, 4) and therefore denotes here that the blood of the animal is affected by the wounding stroke.
11. *Nefesh*, which indicates that the blow must wound, is irrelevant in respect of an animal: therefore its teaching must be transferred to the smiting of man, sc. one's parent. On this method of interpretation, v. p. 368 n. 7.
12. In view of this latter suggested interpretation.
13. *Supra* 79b.
14. Since he thereby inflicts a wound on him.
15. Lev. XIX, 18; i.e., since he would desire it to be done to himself, if necessary, he may do it to another, even his father.
16. Lev. XXIV, 21.
17. Since no man may wound another.
18. Some utensils may not be handled at all on the Sabbath, notably, those whose purpose is a manner of work forbidden on the Sabbath: others may be handled. This Mishnah enumerates various articles which may be handled, and for what purpose.
19. There is no punishment for committing an act of damage on the Sabbath, even deliberately.

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but R. Simeon also maintains that any mode of work not required for itself is not punishable.¹

A problem was propounded to R. Shesheth. May one be appointed an agent [by *Beth din*] to flagellate and curse his father?² — He replied, Who then permitted even a stranger to do this, but that the Divine honor overrides [other prohibitions]: so here too, the Divine honor overrides [the prohibition against smiting and cursing one's parents].³ An objection was raised: If one, whom it is a positive command to smite, may nevertheless not be smitten; how much more so, may one, whom it is not a positive command to smite, not be smitten. Now, do not both clauses relate to smiting as a precept, but that one treats of a son, the other of a stranger?⁴ — No. In both clauses no distinction is drawn between a son and a stranger, yet there is no difficulty. The one treats of smiting as a precept, the other when not. And it is thus to be interpreted: If when a precept is involved, i.e., when it is a positive command to smite [sc. a person under sentence of flagellation], it is nevertheless a command not to smite [unnecessarily, i.e., with more than the prescribed number of lashes, viz., forty]; then when no positive command is involved, viz., when one is not to be flagellated, one is surely commanded not to smite unnecessarily.⁵ Come and hear: If one was going forth to execution, and his son came and smote him and cursed him, he is liable; if a stranger did this, he is exempt. Now we pondered thereon, What is the difference between a son and a stranger? And R. Hisda answered: This refers to one who is being impelled forth, but holds back?⁶ — R. Shesheth maintains that it refers to one who is not urged to go forth. If so, a stranger too [should be punished for beating him]? — As far as a stranger is concerned, he is already a dead man.⁷ But did not R. Shesheth say: If one insulted a sleeping person, and he died [in his sleep], he is nevertheless liable [to punishment for same]?⁸ — The reference here is to a blow which inflicted an injury less than a *perutah* in value. But did not R. Ammi say in R. Johanan's name: [Even] if one smote his neighbor with a blow inflicting less than a *perutah*'s worth of

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damage, he is punished with lashes? — By 'exempt', non-liability to monetary compensation is meant. It follows then that a son is liable to monetary compensation!⁹ But it must therefore mean, [he is liable] according to the law pertaining to him.¹⁰ If so [a stranger too is exempt from] the law pertaining to him [for smiting his neighbor, viz., lashes].¹¹ But this is the reason why a stranger is exempt, because the Writ saith, Thou shalt not curse a prince among thy people:¹² meaning, [only] when he acts as if fitting for thy people.¹³ This is well as far as cursing is concerned: but whence do we know the same of smiting? — Because we compare smiting with cursing. If so, should not the same apply to his son? — Even as R. Phineas said [elsewhere]: This refers to one who had repented. If so, even a stranger [should be liable]? — R. Mari answered, 'among thy people' implies 'abiding among thy people'.¹⁴ If so, should not the same apply to his son?

1. E.g., the carrying out of a dead body on its bier from a private to a public domain. Now, this is not done because the dead body is wanted there, but because it is not wanted in the private domain. So here too, when a thorn is extracted and a wound made, even intentionally, no punishment is involved, because the purpose of the work is extraction, not wounding.
2. I.e., if his father had to be thus punished or banned, when a curse was pronounced (for the latter).
3. It is an offence to curse or smite any Jew; nevertheless, it is permitted in God's honor, i.e., as a punishment for transgressing the Divine law: hence it is likewise permitted to a son.
4. The meaning then will be as follows: If one, whom it is a positive command to smite — i.e., who is under sentence of flagellation — may nevertheless not be smitten by his son as the agent appointed to execute the sentence, how much more so may one, whom it is not a positive command to smite — i.e., who is not under sentence of flagellation — not be smitten by his son. Thus, by an ad majus reasoning, a formal prohibition is deduced against a son's striking his father. For Ex. XXI, 15 merely prescribes the punishment; but it is either stated or deduced from elsewhere. On this

interpretation, of course, R. Shesheth's ruling is contradicted.

5. Hence this teaches a prohibition against smiting anyone unless sentenced by *Beth din*.
6. Hence this teaches that his son, as an agent of *Beth din*, may not smite him to drive him forward, and is punished for so doing, which is in contradiction to R. Shesheth.
7. But this reasoning obviously cannot apply to his son, who is bound to honor him even after death, the verse excluding a transgressor from this filial duty being at this stage of the discussion unknown.
8. Though he was not even aware of it. Surely then smiting a condemned man comes under the same category.
9. But that is impossible, since the injury is less than a perutah's worth.
10. I.e., the law pertaining to the smiting of a father by his son, viz., death.
11. Thus the question remains, what is the difference between his son and a stranger?
12. Ex. XXII, 27.
13. But to transgress is not 'fitting for thy people': hence the prohibition does not apply to such a case.
14. But when one is sentenced to death, he is no longer so.

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— It is the same as after death.¹ What is our final decision? — Rabbah son of R. Huna said, and a Tanna of the school R. Ishmael taught] likewise; For no offence may a son be appointed an agent to smite or curse his father, excepting if he be a mesith, since it is written, neither shalt thou spare nor conceal him.²

MISHNAH. HE WHO STRIKES HIS FATHER OR HIS MOTHER IS LIABLE ONLY IF HE WOUNDS THEM. IN THIS RESPECT, CURSING IS MORE STRINGENT THAN SMITING, FOR, HE WHO CURSES [HIS PARENTS] AFTER DEATH IS LIABLE, WHILST HE WHO SMITES THEM AFTER DEATH IS NOT.

GEMARA. Our Rabbis taught: His father or his mother he hath cursed:³ [his blood shall be upon him]. This means, even after death.⁴ For I would think, since he is liable for

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smiting and for cursing; so also for cursing. Moreover, an *ad majus* reasoning [would seem to prove the contrary]: If for smiting, where [a parent] 'not of thy people' is assimilated to one 'of thy people',⁵ there is nevertheless no punishment for doing so after his death; then cursing, where one 'not of thy people' is assimilated to 'of thy people', is surely not punishable if done after death! Therefore the Writ saith, He hath cursed his father or his mother. Now this accords with R. Jonathan, to whom the verse, His father or his mother, he hath cursed, is superfluous; but on R. Joshiah's view, what can be said? For it has been taught: For [ish ish] any man⁶ [that curseth his father or his mother shall surely be put to death].⁷ Now, Scripture could have said, A man [ish]; what is taught by 'any man' ['ish ish']? The inclusion of a daughter, a *tumtum*, and a hermaphrodite [as being subject to this law]. 'That curseth his father and his mother': from this I know only [that he is punished for cursing] his father and his mother: whence do I know [the same] if he cursed his father without his mother or his mother without his father? — From the passage, His father and his mother he hath cursed, implying, a man that cursed his father, a man that cursed his mother. This is R. Joshiah's opinion. R. Jonathan said: The [beginning of the] verse alone implies either the two together or each separately, unless the verse had explicitly stated 'together'.⁸ Whence then does he [R. Joshiah] learn [the law under discussion]?⁹ — He derives it from the verse, And he that curseth his father or his mother shall surely put to death.¹⁰ And the other?¹¹ — He utilizes it to include a daughter, a *tumtum*, and a hermaphrodite. But why not derive this from 'any man' [ish ish]? — The Torah employed human speech.¹² [Now, reverting to the Mishnah:] Should it not [also] teach: smiting is a graver offence than cursing, since with respect to the smiting 'not of thy people' is as 'of thy people', which is not the case with respect to cursing?¹³ — The [Tanna of the Mishnah]

maintains that smiting is assimilated to cursing.¹⁴

Shall we say that these Tannaim¹⁵ differ on the same lines as the following? Viz., One Baraitha was taught: As for a Cuthean, you are enjoined against smiting him, but not against cursing him. But another [Baraitha] taught: You are enjoined neither against smiting nor cursing him. Now, the hypothesis is that all agree that the Cutheans were true proselytes:¹⁶ hence presumably the grounds of their dispute are these. One Master holds that smiting is likened to cursing, and the other Master that it is not!¹⁷ — No! All agree that smiting is not likened to cursing, but this is the cause of their dispute: — The one Master maintains, Cutheans are true proselytes;¹⁸ the other Master holds that they are [sham] proselytes [driven to conversion through fear of] lions.¹⁹ If so, how can the [Baraitha] further state, But his ox is as one belonging to an Israelite?²⁰ Hence this proves that the dispute is in respect of the analogy.²¹ This proves it.

MISHNAH. 'HE WHO KIDNAPS A JEW'²² INCURS NO LIABILITY UNLESS HE BRINGS HIM INTO HIS OWN DOMAIN. R. JUDAH SAID: UNLESS HE BRINGS HIM INTO HIS OWN DOMAIN AND PUTS HIM TO SERVICE. FOR IT IS WRITTEN, [IF A MAN BE FOUND STEALING ANY OF HIS BRETHREN OF THE CHILDREN OF ISRAEL,] AND PUT HIM TO SERVICE, AND SELL HIM.²³ IF HE ABDUCTS HIS OWN SON. — R. ISHMAEL THE SON OF R. JOHANAN B. BEROKA DECLARED HIM LIABLE, BUT THE SAGES EXEMPTED HIM. IF HE KIDNAPPED A SEMI-SLAVE AND SEMI-FREEMAN,²⁴ — R. JUDAH DECLARES HIM LIABLE, BUT THE SAGES ACQUIT [HIM].

GEMARA. But does not the first Tanna require putting to service [as a condition of punishment]?²⁵ — R. Abba the son of Raba said: They differ in respect of service worth less than a *perutah*.²⁶

R. Jeremiah propounded: What if one kidnapped and sold a person asleep? What if

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one sold a [pregnant] woman for the expected child?²⁷ Is this a sort of service or not? But, [surely,] can this not be solved from the fact that there is no service at all? — It is necessary [to propound this] only if he [the kidnapper] leaned upon the sleeper, or, in the case of a [pregnant] woman, if she was placed in front of a wind:²⁸ now, does this constitute service or not? This problem remains unsolved.

Our Rabbis taught: If a man be found stealing any of his brethren of the children of Israel. From this I know [the law] only if a man abducted: whence do I know it of a woman? From the verse And one that stealeth a man.²⁹ From [these verses] I know [the law] only if a man kidnapped a man or a woman,³⁰ and of a woman who abducted a man.³¹ Whence do I know it if a woman abducted a woman? From the verse, Then that thief shall die:³² implying, in all cases [of theft].³³

Another [Baraita] taught: If a man be found stealing any of his brethren: whether a man, woman, proselyte, manumitted slave or minor be abducted, he is liable. If he stole him, but did not sell him, or if he sold him, but he is still in his [sc. the victim's] own house, he is exempt. If he sold him to his [sc. the victim's] father, brother, or to one of his relations, he is liable. He who steals slaves is exempt.

1. For if one curses his father even after death he is liable. So here too (v. Rashi).
2. Deut. XIII, 9.
3. Lev. XX, 9.
4. It is so interpreted because it is superfluous, since the beginning of the verse states, For everyone that curseth his father or his mother shall surely be put to death.
5. V. *supra*. Because in Ex. XXI, 15, dealing with this, no mention is made that the parents must be 'of thy people'.
6. [H] Lit., 'A man, a man',
7. Lev. XX, 9.
8. V. *supra* 66a for notes.
9. Since on his view it is not superfluous.
10. Ex. XXI, 17, which is superfluous in view of Lev. XX, 9.
11. R. Jonathan: how does he interpret this verse?

12. In which this repetition is common. Hence it has no special significance.
13. The difficulty is this: since the Mishnah teaches an aspect of the greater severity of cursing, it should also state the reverse.
14. So that they are alike in this respect.
15. Viz., those of the Mishnah and of the Baraita.
16. Originally, though in the course of time they had deteriorated.
17. Hence, on the former view, one is not forbidden to smite him, since he is not 'of thy people' as taught in the second Baraita, but on the latter, no distinction is drawn between him and an Israelite — as taught in the first Baraita.
18. Therefore they are as Jews.
19. V. II Kings XVII, 24-29. Therefore they are not Jews at all.
20. I.e., if his ox gored or was gored, the same law applies to it as to one of Jewish ownership, whereas an ox of non-Jewish ownership is differently treated, v. B.K. 38a. This proves that the Cuthean is regarded as a real Jew.
21. Whether 'smiting' is assimilated to 'cursing'.
22. Lit., 'a soul of Israel'.
23. Deut. XXIV, 7.
24. E.g., if he had belonged to two masters, one of whom had manumitted him.
25. Surely he must, since Scripture explicitly states it.
26. The first Tanna maintains that even the smallest service renders the kidnapper liable, and therefore does not mention it, whilst R. Judah holds that the service must be worth at least a *perutah*.
27. I.e., only the child, when born, but not the woman.
28. To act as a shield; since the stouter she is, the more effectively is this done, the fetus is actually put to use.
29. Ex. XXI, 16. The subject being unspecified, it applies to both sexes, although the verb is masculine.
30. Since the object of 'steal' in Deut. XXIV, 7, where the kidnapper is a man, is nefesh, a soul, applicable to both man and woman.
31. For Ex. XXI, 16 speaks of 'one' stealing a man.
32. Deut. Ibid.
33. Since thief is superfluous, being understood from the context.

Sanhedrin 86a

Now, a Tanna recited [this Baraita] before R. Shesheth. whereupon he observed: I learned. 'R. Simeon said, [if a man be found stealing a person] from his brethren, [implies

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that he is not liable unless he] withdraws him from the control of his brethren, [i.e., relations].' yet you say that he is liable!¹ Read [instead], 'He is exempt.' But what difficulty is this: perhaps the latter is R. Simeon's view [only]. and the former the Rabbis'? — You cannot think so, for R. Johanan said: [The author of] an anonymous Mishnah is R. Meir; of an anonymous Tosefta, N. Nehemiah; of an anonymous [dictum in the] Sifra, R. Judah; in the Sifre, R. Simeon;² and all are taught according to the views of R. Akiba.³

IF HE ABDUCTS HIS OWN SON, etc. What is the reason of the Rabbis? — Abaye answered, The Writ saith, If a man be found [stealing any of his brethren, etc.] thus excluding one [sc. the victim] who is [ever] to be found [with him].⁴ R. Papa said to Abaye: If so, [when Scripture saith,] If a man be found lying with a woman married to a husband,⁵ will you also interpret, 'If [a man] be found, as excluding [a woman] who is immediately accessible [i.e., 'found with him']': e.g., in the house of so and so,⁶ where [the women] are within easy reach,⁷ are they [their lovers] exempt? — He replied: I deduce it from [And he that stealeth a man, and selleth him,] and he be found in his hand.⁸ Raba said: Therefore, the instructors of children and teachers of students are [regarded] as having their charges ready to hand, and hence are not punished [for abducting them].

IF HE KIDNAPPED A SEMI-SLAVE AND SEMI-FREEMAN, etc. We learnt elsewhere: R. Judah said: Slaves have no claim for shame.⁹ What is R. Judah's reason? — The Writ saith, When men strive together, a man with his brother,¹⁰ teaching that this applies only to] one who has fraternal relationship, thus excluding a slave, who has no fraternal relationship.¹¹ But the Rabbis maintain: He [the slave] is his brother in [obligation to fulfill] the [Divine] precepts. Now, in this case [abduction], how is the verse interpreted? — R. Judah maintains, [If a man be found stealing any of his brethren of the children of

Israel:] of his brethren excludes slaves; the children of Israel excludes a semi-slave, and a semi-freeman; of the children of Israel¹² likewise excludes one who is a semi-slave and semi-freeman.¹³ Thus, one limitation follows another, which always indicates extension.¹⁴ But the Rabbis do not agree that of his brethren excludes slaves, since they are his brethren [in obligation to fulfill] the [Divine] precepts; [whilst as for the double limitation implied in] 'the children of Israel, and of the children of Israel, one excludes a slave, and the other excludes a semi-slave and semi-freeman.¹⁵

Whence do we learn a formal prohibition¹⁶ against abduction?¹⁷ — R. Josiah said: From Thou shalt not steal.¹⁸ R. Johanan said: From They shall not be sold as bondsmen.¹⁹ Now, there is no dispute: one Master states the prohibition for stealing [i.e., abduction], the other Master for selling [the kidnapped person].

Our Rabbis taught: Thou shalt not steal. — 20 Scripture refers to the stealing of human beings. You say, Scripture refers to the stealing of human beings; but perhaps it is not so, the theft of property [lit., 'money'] being meant? — I will tell you: Go forth and learn from the thirteen principles whereby the Torah is interpreted. [one of which is that] a law is interpreted by its general context: of what does the text speak? of [crimes involving] capital punishment: hence this too refers [to a crime involving] capital punishment.²¹

Another [Baraita] taught: Ye shall not steal.²² The Writ refers to theft of property. You say thus, but perhaps it is not so, Scripture referring to the theft of human beings? — I will tell you: Go forth and learn from the thirteen principles whereby the Torah is interpreted, [one of which is that] a law is interpreted by its general context. Of what does the text speak? of money matters;²³ therefore this too refuse to a money [theft].

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It has been stated: If the witnesses of the abduction or those of the sale of human being were proved *zomemim*,²⁴ — Hezekiah said: They are not executed; R. Johanan maintained that they are. Now Hezekiah's ruling agrees with the view of R. Akiba, viz., [At the mouth of two witnesses, or at the mouth of three witnesses, shall] the matter [be established]:²⁵ the whole matter, but not half of the matter;²⁶ whilst R. Johanan's view agrees with that of the Rabbis, viz., the matter implies even half the matter.²⁷ Yet Hezekiah admits in the case of a 'stubborn and rebellious' son, that if the last witnesses were contradicted, they are executed, since the first could say,

1. For selling him to his father, etc.
2. Rabbi (R. Judah ha-Nassi), in compiling the Mishnah, drew upon earlier collections, of which each Tanna possessed one. An anonymous Mishnah is based upon R. Meir's collection, though not necessarily reflecting R. Meir's views. For this interpretation. v. Weiss, Dor. Vol. II, pp. 51f; Strack, Introduction to Talmud and Midrash, p. 21, The Tosefta, as its name implies ('addition') is a further elaboration and development of Tannaitic teaching, closely allied to the Mishnah. The relation of the Mishnah to the Tosefta is a problem which has so far remained unsolved; v. Strack, *op. cit.*, pp. 74ff. The Sifra (also called [H]) is the traditional interpretation of Leviticus, to which is prefaced an exposition of the Thirteen Principles of Hermeneutics of the School of R. Ishmael. Though ascribed here to R. Judah b. Ila'i, our version contains many additions by later teachers, and its final compilation is generally assigned to R. Hiyya. It is also occasionally referred to as the Sifra debe Rab (of the College of Rab). Whether this is to indicate Rab's authorship is one of the literary problems, among others, which the Sifra presents. (V. Weiss, *op. cit.* pp. 193 seqq.) The Sifre contains the commentary on Num. V to the end of Deut. This too contains additions later than R. Simeon, to whom it is here ascribed, and is a composite work shaped by the School of Rab (v. Weiss, *op. cit.*), but in any case the Sifre now extant is not identical with the Talmudic Sifre.
3. Hence, since both are anonymous passages in the Sifre, R. Simeon is the author of both.
4. '(Shall) be found' [H] implies that the abductor goes out of his way and is thus 'found' where

he should not be; but he does not go out of his way in abducting his child, who is always to be found with him.

5. Ibid. XXII, 22.
6. R. Papa alluded to a definite house, but suppressed the name.
7. Lit., 'to be found with them.' A number of families lived there together, so that it would have been comparatively easy for a man to seduce his neighbor's wife.
8. [H] Ex. XXI, 16. This is redundant and therefore shows that the law applies only to a person who 'is found' in his (captor's) hand as a result of abduction, and not to one who was 'to be found' in his hand before too.
9. B.K. 87a. If one shamed a slave, there is no monetary liability.
10. Deut. XXV, 11. This treats of indecent assault in the course of a quarrel, and the compensation that must be made (v. 12 q.v.) is interpreted as meaning monetary damages for the humiliation sustained.
11. Rashi in B.K. 88a, explains: he has no fraternal relationship with a Jew, viz., he cannot marry into the Jewish fold. A marginal explanation given there is: he has no forbidden fraternal relationship, i.e., he may marry his fraternal sister and his brother's wife. Rashi's interpretation here is different, but Tosaf. refutes it.
12. 'Of' (Heb [H]) being partitive, implies limitation.
13. There being nothing else which it can exclude.
14. Just as in English a double negative denotes a positive, so it is one of the principles of Talmudic exegesis that the double exclusion of the same thing intimates that it is to be included.
15. Therefore, the double limitation applies to two different persons, not to one and the same person, and hence remains a limitation.
16. v. p. 364. n. 2, cf. also *supra* p. 382.
17. Since Deut. XXII, 7 and Ex. XXI, 16 merely state the punishment.
18. Ex. XX, 15. The object of the theft being unspecified, it applies to a human being too. So in general. But in the next passage it is shown that it refers particularly to abduction.
19. Lev. XXV, 42.
20. Ex. XX, 15.
21. The Decalogue, of which this is part, deals in general with capital offences, e.g., idolatry, the desecration of the Sabbath, murder. Hence this too must be similar, and abduction is the only theft so punished.
22. Lev. XIX, 11.
23. Cf. *ibid.*, 10-15.
24. V. [Glos.](#)

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25. Deut. XIX, 15.
26. I.e., the two witnesses must testify to the entire matter. If two, however, testify to one part, and two to another, their testimony is invalid. Here also, the abduction is only half an offence, likewise the sale in itself proves nothing, as the vendor might have sold his own slave. Therefore their testimony cannot convict the accused, and consequently they themselves, if proved *zomemim*, are not executed.
27. I.e., if two witnesses attested a portion of an act or an offence, and another two witnesses the rest, their evidence is combined and the accused punished. Consequently, if they are proved *zomemim*, they receive themselves the punishment they sought to impose.

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'We came [merely] to have him flogged', and therefore these last witnesses attest the whole offence [involving execution].¹ R. Papa objected: If so, the witnesses of the sale [of the abducted person] should likewise be executed, since those of abduction can say, 'We came [merely] to have him flogged':² nor could you answer³ that Hezekiah is of the opinion that [the abductor] is not flogged,² — since it has been stated: If the witnesses of abduction were proved *zomemim* — R. Johanan, and Hezekiah [differ]: one maintains that they are flagellated, the other that they are not. Whereon we observed, It may be shown that it was Hezekiah who ruled that they are flagellated, since he said that they are not executed.⁴ For were it R. Johanan, since however he maintains that they are executed, their injunction⁵ is one for which a warning of death at the hands of *Beth din* may be given,⁶ and for such there is no flagellation.⁷ But if he [the accused] is not flagellated, how can they [the false witnesses] be?⁸ But R. Papa said thus: All agree that the witnesses of the sale [who were proved *zomemim*] are slain; they differ only with respect to the witnesses of abduction: Hezekiah maintains that they are not executed, abduction being one offence, and selling another;⁹ whilst R. Johanan holds that they are executed, abduction being the first step towards selling.¹⁰ But R. Johanan admits that if the

first witnesses of a 'stubborn and rebellious' son are proved *zomemim*, they are not executed, since they can say, 'We came to have him flogged'.

Abaye said: All agree in [one matter relating to] a 'stubborn and rebellious son'; and all agree in [a second relating to] a 'stubborn and rebellious son'; and there is a dispute [in the case of] a 'stubborn and rebellious' son. [Thus:] 'All agree in [one matter relating to] a "stubborn and rebellious" son, viz., with respect to the first witnesses [proved *zomemim*], that they are not slain, since they can plead, 'We came to have him flagellated.' 'And all agree in a second matter relating to a "stubborn and rebellious" son,' viz., with respect to the last witnesses, that they are executed, for since the first witnesses could plead, 'We came to have him flogged,' these attest the entire offence [involving death]. And there is a dispute in [the case of] a 'stubborn and rebellious son,' viz., when two testify that he stole, and two that he ate.¹¹

R. Assi said: If the witnesses of the sale of an [abducted] person are proved *zomemim*, they are not executed, since the [vendor] could plead, 'I sold my slave.'¹² R. Joseph said: With whom does this dictum of R. Assi agree? — With R. Akiba, who ruled 'the whole matter, but not half the matter.' Abaye said to him, For on the view of the Rabbis they would be executed? But he gives his reason, 'since, etc.'¹³ Hence it may agree even with the Rabbis, providing there were no witnesses of abduction. If so, why state it?¹⁴ — It is necessary [to state this] only if witnesses [of abduction] subsequently appeared.¹⁵ But even so, why state it? — This is necessary only when they made signs [to each other:]¹⁶ I might think that signaling is of consequence; therefore he [R. Assi] informs us that it is of no consequence.

MISHNAH. 'AN ELDER REBELLING AGAINST THE RULING OF BETH DIN' [IS STRANGLED],¹⁷ FOR IT IS WRITTEN IF THERE ARISE A MATTER TOO HARD FOR

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THEE FOR JUDGEMENT [etc.].¹⁸ THREE COURTS OF LAW WERE THERE,¹⁹ ONE SITUATE AT THE ENTRANCE TO THE TEMPLE MOUNT,²⁰ ANOTHER AT THE DOOR OF THE [TEMPLE] COURT,²¹ AND THE THIRD IN THE HALL OF HEWN STONES.²² THEY²³ [FIRST] WENT TO THE *BETH DIN* WHICH IS AT THE ENTRANCE TO THE TEMPLE MOUNT, AND HE [THE REBELLIOUS ELDER] STATED, THUS HAVE I EXPOUNDED AND THUS HAVE MY COLLEAGUES EXPOUNDED; THUS HAVE I TAUGHT, AND THUS HAVE MY COLLEAGUES TAUGHT. IF [THIS FIRST *BETH DIN*] HAD HEARD [A RULING ON THE MATTER], THEY STATE IT. IF NOT, THEY GO TO THE [SECOND *BETH DIN*] WHICH IS AT THE ENTRANCE OF THE TEMPLE COURT, AND HE DECLARES, THUS HAVE I EXPOUNDED AND THUS HAVE MY COLLEAGUES EXPOUNDED; THUS HAVE I TAUGHT AND THUS HAVE MY COLLEAGUES TAUGHT. IF [THIS SECOND *BETH DIN*] HAD HEARD [A RULING ON THE MATTER]. THEY STATE IT; IF NOT, THEY ALL PROCEED TO THE GREAT *BETH DIN* OF THE HALL OF HEWN STONES WHENCE INSTRUCTION ISSUED TO ALL ISRAEL, FOR IT IS WRITTEN, [WHICH THEY] OF THAT PLACE WHICH THE LORD SHALL CHOOSE [SHALL SHEW THEE].²⁴ IF HE RETURNED TO HIS TOWN AND TAUGHT AGAIN AS HERETOFORE, HE IS NOT LIABLE. BUT IF HE GAVE A PRACTICAL DECISION, HE IS GUILTY, FOR IT IS WRITTEN, AND THE MAN THAT WILL DO PRESUMPTUOUSLY,²⁵ [SHEWING] THAT HE IS LIABLE ONLY FOR A PRACTICAL RULING. BUT IF A DISCIPLE²⁶ GAVE A PRACTICAL DECISION [OPPOSED TO THE *BETH DIN*], HE IS EXEMPT:²⁷ THUS THE VERY STRINGENCY OF HIS [ORDINATION] IS [A SOURCE OF] LENIENCY FOR HIM.²⁸

GEMARA. Our Rabbis taught: If a thing be outstandingly difficult [yippale] for thee²⁹

flogged (on the testimony of two witnesses), and only if he offended again is he executed. The second offence too, of course, must be attested by two witnesses. Now, if these last two were proved *zomemim*, Hezekiah admits that they are executed, for their testimony is complete in itself, in so far as it imposes an additional punishment, as explained here.

2. For the mere 'stealing'.
3. Lit., 'and shouldst thou answer'.
4. I.e., if another two witnesses testified to the sale, and then the first two were proved false, they are not executed. The argument is concluded in the next passage.
5. Viz., Thou shalt not bear false witness against thy neighbor, Ex. XX, 16.
6. I.e., they could formally be warned against falsely testifying on the grounds that should they be proved *Zomemim* after another two witnesses had attested the sale, they would be executed.
7. Even if the death sentence is not imposed.
8. This concludes the proof that Hezekiah must hold that abduction alone is punished by lashes. For since it has been shown that in his opinion witnesses who testify falsely thereto are flogged, it follows that abduction itself is so punished, as it is a general rule, stated in Deut. XIX, 19, that the witnesses receive only the punishment they sought to impose.
9. And only the two together incur capital punishment: therefore the witnesses of abduction have not testified to a capital offence.
10. For, as above, abduction itself is not punished by flagellation; therefore it is part of a capital offence.
11. V. *supra* 71a. Thus each attested half an offence. Hence according to Hezekiah, who agrees with R. Akiba's dictum, 'the whole matter, but not half the matter', they are exempt; but in R. Johanan's view, based on that of the Rabbis, 'the matter, and even half the matter,' they are liable.
12. Hence he was not liable to death on their evidence, and therefore they in turn are also exempt.
13. I.e., that the purchaser can plead not guilty altogether, so that their testimony is not even 'half the matter'.
14. For it is obvious.
15. And on the combined testimonies the accused was convicted. Yet, if the first witnesses of the sale were falsified, they are not punished, since they can plead: 'we did not know that others would testify to the kidnapping.'
16. Either the intending witnesses of abduction to those of the sale that they were going to give

1. V. *supra* 71a. It is there stated that he was first warned in the presence of three, and then

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evidence, or the witnesses of the sale to two others in court, urging them to testify to the abduction.

17. I.e., in a matter not explicitly stated in the Torah but for which *Beth din* must give a ruling, either by Biblical interpretation or their own reasoning. This interpretation is borne out by the general context of the Mishnah. Cf. also R. Judah and R. Simeon's views on same (87a), and the while of the discussion in the Talmud as to the type of rulings in virtue of which one is adjudged a rebellious elder. Krauss, Sanhedrin-Makkot a.l. however points out that the verb [H] is constructed with [H] or [H] of the accusative of person, not [H]. Consequently he translates: The elder (who is declared) rebellious on account of a ruling of the (upper) *Beth din*. Cp. Rashi, on Mishnah, 84b.
18. Deut. XVII, 8. This proves that the reference is to a question not explicitly dealt with in the Torah, since it is 'too hard' for judgment.
19. In Jerusalem; cf. Then thou shalt arise, and get thee up into the place which the Lord thy God shall choose (ibid.).
20. (In the east gate of the Women's Court (Rashi).
21. Is the Court of the Israelites.
22. This was partly within and partly without the Temple (Yoma 25a).
23. The elder and the other members of the local *Beth din*, with whom he was in dispute.
24. Ibid. 10.
25. Ibid 12a name="86b_26"> I.e., one who is not ordained, and hence has no authority to give a ruling at all.
26. Because his ruling is not likely to be accepted.
27. It was exceedingly difficult to obtain ordination, none under the age of forty receiving it. This very difficulty protected him, since without being ordained he was not liable to the penalty of a rebellious elder.
28. [H] Ibid. 8.

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— the Writ refers to an 'outstanding' member, [mufla] of *Beth din*;¹ 'thee' refers to [a matter needing] a counsellor,² and thus it is said, There is one come out from thee, that imagineth evil against the Lord, a wicked counsellor;³ a thing refers to a [traditional] *halachah*,³ 'in judgment,' this means [a law deduced by] a *din*;⁴ between blood and blood, the blood of a *niddah*, childbirth, and gonorrhoea; 'between ruling and ruling,'

whether capital or civil cases, or cases involving flagellation; 'between [leprous] plague spots, and plague spots' — embracing leprosy in man, houses and garments; 'matters' refers to haramim,⁵ valuations,⁶ and sanctifications;⁷ 'contentions' refers to the water ordeal of a *sotah*,⁸ the beheading of the heifer⁹ and the purification of a leper;¹⁰ 'within thy gates' — this refers to the gleanings, forgotten [sheaves] and the corner [of the field];¹¹ 'then thou shalt arise', [that is,] from the sitting of *Beth din*,¹² 'and ascend' — this teaches that the Temple was higher than [the rest of] Palestine, and Palestine is [geographically] higher than all other countries' 'into the place', — this teaches that the place is the cause.¹³

Now, it is correct to say that the Temple was higher than [the rest of] Palestine, since it is written, and thou shalt ascend;¹⁴ but whence does he¹⁵ learn that Palestine is more elevated than all other countries?¹⁶ — From the passage, Therefore, behold the days come, saith the Lord, that they shall no more say, The Lord liveth, which brought up the children of Israel out of the land of Egypt,' But the Lord liveth, which brought up and which led the seed of the house of Israel out of the north country, and from all the countries whither I have driven them;¹⁴ and they shall dwell in their own land.¹⁷

Our Rabbis taught: A rebellious elder is liable only for a matter the deliberate transgression of which is punished by extinction, whilst the unwitting offence involves a sin offering.¹⁸ this is R. Meir's view. R. Judah said: For a matter of which the fundamental principle is Biblical, whilst its interpretation is by the Scribes.¹⁹ R. Simeon said: Even for a single detail arising out of the subtle interpretations of the Rabbis.²⁰

What is R. Meir's reason? — He draws an analogy from the use of *dabar* [matter] in two places: Here it is written, If there arise a *dabar* [matter] too hard for thee in judgment; and elsewhere it is written, [And if the whole

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congregation of Israel sin through ignorance,] the matter [dabar] being hidden from the eyes of the assembly:²¹ just as there [the reference is to] a provision which if deliberately transgressed is punished by extinction, whilst if unwittingly, involves a sin offering, so here too. And R. Judah?²² — [Scripture states:] According to the Torah which they shall teach thee,²³ intimating that both the Torah [i.e., the basic law] and their [sc. the Scribes,] teaching [i.e., the interpretation thereof] must be involved. Whilst R. Simeon's reason is: [And thou shalt do according to the sentence,] which they of that place shall show thee,²⁴ indicating even the smallest nicety.

R. Huna b. Hinena said to Raba, Explain me the above Baraitha²⁵ according to R. Meir.²⁶ Thereupon Raba said to R. Papa. Go forth and explain it to him. [Thus:] If a matter be outstandingly difficult [yippale]: the Writ refers to an outstanding member, [mufla] of *Beth din*; 'thee', to a [question needing a] counselor, who knows how to determine the intercalation of years and fixation of months.²⁷ [Now, the rebelliousness of the elder may be in respect of] what we learnt: They testified²⁸ that a leap year may be proclaimed during the whole month of Adar. [This testimony was necessary,] because they [i.e., the other Sages] maintained: Only until Purim. [Hence, if the elder flouted the ruling of the great *Beth din*] in either direction, he permitted leaven to be eaten on the Passover.²⁹

''A thing'' refers to a [traditional] *halachah*.' By this is meant the [traditional] halachahs³⁰ of the eleventh [day].³¹ For it has been stated: As for the tenth day. R. Johanan maintained that it is as the ninth, whilst R. Simeon b. Lakish ruled that it is as the eleventh. R. Johanan maintained that it is as the ninth: Just as [a blood discharge on] the ninth necessitates observation,³² so for an issue on the tenth too observation is required.³³ But Resh Lakish ruled that the tenth day is as the eleventh: just as [a blood discharge on] the eleventh does not necessitate observation,³⁴ so on the tenth too no observation is required.³⁵

''In judgment'', — this means [a law deduced by] a *din*.'

1. [H] Mufla generally means the instructing judge, 'a special expert assessor to whom questions of law are referred. (Jast.). Tosaf. *supra* 16b s.v. [H] states that the mufla was supernumary to the actual *Beth din*. In this case, however, mufla means 'ordained' (mumhe), in contradiction to *talmid*, an unordained disciple (Rashi and Tosaf. 16b, *ibid.*) Cf. Mishnah 86b.
2. This is explained below.
3. Nah. I, 11.
4. Argument based on verbal similarity, and thus the equivalent of *gezerah shawah*. Rashi points out that *din* cannot bear its usual meaning here, viz., 'a legal ruling', since that is expressly stated in the verse.
5. Herem, pl. *haramim*, anything devoted to the Lord (Lev. XXVII, 28).
6. V. Lev. XXVII, 2 et seqq.
7. Of animals, all these are the result of vows expressed by words and hence included in 'words', etc.
8. A woman suspected of infidelity (Num. V, 12ff.).
9. In expiation of a murder committed by a person unknown (Deut. XXI, 1-9).
10. These three are deduced from 'contentions', being the result of such. *Sotah* and murder obviously so, whilst leprosy, according to the Rabbis, is a punishment for slander, which generally gives rise to strife. — 'Ar. 15b.
11. All of which belonged to the poor, of whom it is written, If there be among you a poor man of one of thy brethren within any of thy gates (Deut. XV, 7; cf. also *ibid.* XIV, 29; XVI, 12). Thus the Baraitha teaches that the dispute between the rebellious elder and the *Beth din* was in respect of any of these laws enumerated. These are discussed below in detail. In nearly all cases cited these matters were disputed by the Rabbis themselves, but of course the minority had to submit to the majority. The crime of the rebellious elder, for which he was executed, consisted of his giving a practical decision opposed in the final ruling of one of the *Botte din* (plural of *Beth din*) in Jerusalem. (On the general question of the minority submitting to the majority. v. Halevy., *Doroth ha-Rishonim* I, 5 205 seq.)
12. Thou shalt arise implies that there was first a formal sitting, where these difficulties arose, viz., at the local *Beth din*.
13. Of the supreme authority of the Great Sanhedrin. The fact that it was situated in the Temple, the religious hub of the nation,

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- imparted to its decisions and powers a weightiness which it would otherwise have lacked.
14. Implying that wherever one was in Palestine, he had to ascend, in order to reach the Temple.
 15. The Tanna.
 16. Since the passage refers to Palestine only.
 17. Jer. XXIII, 7f. Thus the journey from all countries to Palestine is termed an ascent.
 18. I.e., if he gave a practical ruling on a matter in which these are involved.
 19. V. p. 572. n. 5.
 20. Lit., 'Scribes'.
 21. Lev. IV, 13.
 22. What is his reason?
 23. Deut. Ibid. 11.
 24. Ibid. 10.
 25. Which enumerates all the matters of dispute between the rebellious elder and his *Beth din*, and includes such things as valuations and haramim.
 26. I.e., how do all these matters involve extinction and sin offerings?
 27. V. *supra* 2a.
 28. R. Joshua and R. Pappias. ('Ed. VII, 7.) Owing to the development of the Mishnah, of which each Tanna had his own version, a great uncertainty arose as to the exact law. R. Gamaliel in consequence undertook a sifting of the various traditions with the purpose of declaring them authentic or otherwise. The scholars assembled at Jabneh, and attested their various teachings. The collection of these testimonies forms the tractate 'Eduyyoth (J.E. VII, 611).
 29. Thus: If the *Beth din* ruled after Purim that the year was to be prolonged by a month (called the second Adar), Passover would commence six weeks after the end of the first Adar. If he disregarded this and gave a practical decision that such intercalation was invalid, Passover would commence four weeks earlier and end three weeks before it even began according to the ruling of the *Beth din*. Hence those who followed his views would be eating leaven during the Passover fixed by the latter. The same would result if they ruled that a month was not to be intercalated, and he ruled that it was. The deliberate eating of leaven on Passover is punished by extinction, as are all the offences enumerated in the following passage.
 30. V. note 6 for the explanation of the plural here.
 31. According to Biblical law, a *niddah* can cleanse herself when seven days have passed from the beginning of her menstrual flow, provided it ceased on the seventh day before sunset ([H]) During the following eleven days, which are called the beginning days between the menses, she cannot become a *niddah* again, it being axiomatic that a discharge of blood in that period is not a sign of *niddah*, but may be symptomatic of gonorrhoea. A discharge on one or two days within the eleven days renders her unclean, and she is forbidden cohabitation until the evening of the following day (the full details of her position vis a vis her husband, and her uncleanness in general, are discussed in Nid. 71b ff.), and must wait for the third to see whether another discharge will follow, rendering her a *zabah*, or not. Should another discharge follow the third day, she becomes unclean as a *zabah*, and cannot become clean until seven days have passed without any issue at all. Should she, however, discharge on the tenth, eleventh, and twelfth days she is not a *zabah*, for the twelfth day commences a new period wherein the issue of blood may make her a *niddah*. (The foregoing is, as mentioned, on the basis of the ancient law, but already in the period of the Talmud itself the law was adopted whereby a single blood issue at any time imposes all the restrictions necessitating for cleanness a period of seven clean days.)
 32. On the tenth and eleventh days. Since discharges on those days following that of the ninth renders her a *zabah*.
 33. Though unable to become a *zabah*, she is subject to the law of a woman under observation.
 34. Both R. Johanan said Resh Lakish agree to this, on the basis of Beth Hillel's ruling in the Mishnah Nid. 72a.
 35. Thus, in R. Johanan's opinion, there is only one traditional *halachah* with respect to the eleventh day, viz., that a blood discharge thereon does not necessitate observation, and this is the only thing in which it differs from the preceding ten days. But if there was a discharge on the tenth, observation is necessary on the eleventh just as on the other days. But according to Resh Lakish it differs in two respects: (i) that a discharge thereon necessitate further observation, and (ii) that it does not become an observation day on account of the tenth day's discharge. Hence there were two *halachoth* for that day. This explains the use of the plural in this passage. Now to revert to the main subject, in the opinion of R. Johanan, if a woman had a discharge on the tenth, cohabitation on the eleventh is Biblically forbidden on pain of extinction, whilst according to Resh Lakish it is prohibited only by a Rabbinical ordinance, not by Biblical law; thus this too conforms to R. Meir's requirements.

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Viz., [incest with] one's daughter by an outraged woman. For Raba said, R. Isaac b. Abudimi said unto me: We learn identity of law from the fact that hennah ['they'] occurs in two related passages, and likewise zimmah ['wickedness'].¹

""Between blood and blood" — the blood of a *niddah*, childbirth, and gonorrhoea'. 'The blood of a *niddah*', — this enters into the dispute of Akabia b. Mahalalel and the Rabbis. For we learnt: A greenish [discharge of] blood: Akabia b. Mahalalel declares it unclean, and the Sages declare it clean.²

'The blood of childbirth,' — this depends on the dispute between Rab and Levi. For it has been stated: Rab said, It [all] issues from one and the same source,³ the Torah declaring it unclean [during the first fourteen days], and clean [the following sixty six days]. Levi said, It proceeds from two different sources: [at the end of fourteen days] the unclean [source] is closed and the clean one opened: [at the end of eighty days] the source of clean [blood] is closed and that of unclean [blood] opened.⁴

'And the blood of gonorrhoea [*zibah*].' — This enters into the dispute of R. Eliezer and R. Joshua. For we learnt: If a woman was in labor for three days within the eleven,⁵ then ceased for twenty four hours [lit., 'from time to time' — from an hour on one day to the same on the next]. and then gave birth, she is regarded as a woman bearing with a gonorrhoeic discharge: this is R. Eliezer's opinion. R. Joshua said, [The cessation must be] a night and a day, as the night and day of the Sabbath. The cessation referred to is cessation from labor, not from blood[-discharge].⁶

""Between ruling and ruling" — whether they be capital or civil cases, or cases involving flagellation.' Civil cases depend on the dispute between Samuel and R. Abbahu. For Samuel said, If two [judges] gave a [civil] ruling, their

action is valid, but that they are dubbed 'an impudent court', whilst R. Abbahu maintained: All agree that their decision is invalid.⁷

'Capital cases' — in this the dispute of Rabbi and the Rabbis is involved. For it has been taught: Rabbi said, Then thou shalt give life for life⁸ — this refers to monetary compensation. You say, monetary compensation: but perhaps this is not so, life being literally meant? — 'Giving' is stated below:⁹ It is also stated above:¹⁰ just as the latter refers to money, so the former too.¹¹

'Cases involving flagellation. — This is dependent on the dispute of R. Ishmael and the Rabbis. For we learnt: Flagellation [is imposed by [a court of] three. On the authority of R. Ishmael it was said, by twenty-three.¹²

""Between [leprous] plague spots and plague spots", including leprosy in man, houses, and garments. Leprosy in man depends on the dispute of R. Joshua and the Rabbis. For we learnt: If the bright spot preceded the white hair, he is unclean, If the reverse, he is clean.¹³ [If the order is] in doubt, he is unclean; R. Joshua said, It is as though darkened.¹⁴ What does this mean? — Raba¹⁵ said, [When the spot is] darkened, he is clean.¹⁶

'Leprosy in houses.' — This enters into the dispute of R. Eleazar, son of R. Simeon and the Rabbis. For we learnt: R. Eleazar, son of R. Simeon said: A house never becomes unclean unless a plague spot appears the size of two beans on two stones in two walls, and at the angle of the walls; it must be two beans in length and one in breadth.¹⁷ Why so? Because the Bible refers to the 'walls' [of the house]¹⁸ and also to the 'wall':¹⁹ where is one wall as two? At its angle.²⁰

'Leprosy in garments.' — This depends on the dispute of R. Nathan b. Abtolemos and the Rabbis. For it has been taught: R. Nathan b. Abtolemos said: Whence do we know

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1. V. *supra* 51b. From that *gezerah shawah* we learn that such incest is punishable by extinction, where capital punishment cannot be imposed. Since there is no dispute in this at all, it must be assumed that the rebellious elder denies the validity of this particular *gezerah shawah* (Tosaf.).
2. Nid. 19a. Now, if the rebellious elder rules as the former, he involves her in an offence of *niddah*, which is punished by extinction. E.g., if after two days of this greenish discharge there was a one-day normal red-blooded flow. Now a *niddah* had to wait a minimum of seven days from the beginning of her menstruous flow of blood (v. p. 577, n. 2). On the view of Akabiah b. Mahalalel, but not of the Rabbis, the greenish discharge is regarded as blood and the two days of greenish discharge are counted as part of the seven. Hence by following the former she becomes clean, and cohabits two days earlier than warranted by the latter, according to which she is still a *niddah*.
3. I.e., the blood discharge within eighty days after childbirth. V. Lev. XII, 1-5.
4. In Nid. 35b it is explained that they differ practically if there is a continuous issue from the end of the fourteenth into the beginning of the fifteenth, or from the eightieth into the eighty-first day. According to Rab, notwithstanding this, the blood of the fifteenth is clean, and that of the eighty first unclean. Since Levi however maintains that normally there are two different sources, there should be a definite break between the two, in the absence of which the blood of the fifteenth is unclean, whilst that of the eighty first is clean. Thus a rebellious elder, by flouting the ruling of the *Beth din* either way causes the injunction of *niddah* to be violated.
5. V. p. 577, n. 2.
6. Nid. 36b. As was stated on p. 577 n. 2, if a woman has blood discharges on three days within the eleven between the menses, she becomes a *zabah*. If however, this is caused by labor pangs, she is not a *zabah*, providing however, that her travail continues until giving birth. But if three days of labor and discharge are succeeded by one day free from pain, and then she gives birth, the interruption proves that the issue of the first three days was not the result of labor, but of gonorrhoea, and hence she is a *zabah*, and subject to the laws thereof, which supersede those of childbirth, the issue during the sixty-six days (v. p. 578) being considered unclean. Now, R. Eliezer and R. Joshua differ as to the meaning, of 'one day'. R. Eliezer maintains that it means a day of 24 hours; but R. Joshua holds that it is a calendar day. i.e., a night and a day. E.g., if she was free from pain from 12 noon on one day to 12 noon on the next, according to R. Eliezer she is a *zabah*. But on the view of R. Joshua, since she had suffered on the same day. viz., until 12 noon it is not a complete day of cessation, and hence she is not a *zabah*. As a *zabah*, cohabitation may be forbidden her on pain of extinction when for mere confinement it would be permitted.
7. Extinction may be involved therein in the following way: — If as a result of their decision money was withdrawn from A to B, on Samuel's view, it rightfully belongs to B: on R. Abbahu's, it does not. Now if B married a woman with this money as *kiddushin*, according to Samuel the marriage is valid, and cohabitation with another man is punishable by death or extinction in the absence of witnesses; but according to R. Abbahu, the *kiddushin* is invalid, for if one marries a woman with money or goods not belonging to him, his act is null. Hence, if the *Beth din* accepted Samuel's view, whilst the rebellious elder accepted R. Abbahu's, he declares a married woman free to others. Now further, if another man C also married the same woman, in Samuel's opinion the second marriage is invalid, and if B subsequently died, she is a free woman. But on R. Abbahu's view, this second marriage is valid, since the first was null. Hence, if the *Beth din* ruled as R. Abbahu, and the rebellious elder as Samuel, he declares her free from C, when in reality she is married to him.
8. Ex. XXI, 23.
9. Viz., in the verse under discussion.
10. Viz., If ... no mischief follow ... he shall pay (lit., 'give') as the judges determine, Ibid, 22.
11. V. *supra* 79a. If one intended killing one person but killed another instead, Rabbi maintains that he must make monetary compensation to the heirs, whilst the Rabbis rule that he is financially exempt. Hence, if the heirs seized the money, according to Rabbi, it belongs to them, according to the Sages it does not. — Extinction is then involved as explained p. 579. n. 3.
12. V. *supra* 2a. Hence, in his view, if a court of three had him flagellated, they acted ultra vires, and must compensate him. If he seized this compensation money, on R. Ishmael's view, it belongs to him, on the Rabbis', it does not. Extinction is then involved as in p. 579, n. 3.
13. V. Lev. XIII, 2ff.
14. Neg. IV, 11.
15. *Var. lec.* Rabbah.

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16. Thus R. Joshua maintains that if the order is doubtful, he is clean, and consequently permitted to enter the Sanctuary, whilst on the view of the Rabbis, he is forbidden on pain of extinction.
17. Neg. XII, 3.
18. Lev. XIV, 37, 39.
19. Ibid. 37.
20. But according to the Rabbis it is unclean even if the leprous outbreak is not at the angle, and renders anyone who enters unclean too. V. *supra* note 3.

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that a spreading outbreak [of leprosy] in garments [covering the whole] is clean? Baldness [of the back of the head — karahath] and baldness [of the front — gabahath] are mentioned in connection with human leprosy; and also in connection with leprosy of garments:¹ just as in the former, if [the plague] spread over the whole [skin], he is clean, so here too, if it spread over the whole [garment] it is clean.²

""Matters", — this refers to valuations, haramim and sanctifications'. 'Valuations' is dependent on the dispute of R. Meir and the Rabbis. For we learnt: If one dedicates the value of [an infant] less than a month old, R. Meir rules, he must render its value;³ The Sages maintain, his declaration is null.⁴

'Haramim' is involved in the dispute of R. Judah b. Bathyra and the Rabbis. For we learnt: R. Judah b. Bathyra said, Unspecified haramim are for the Temple use, as it is written, Every herem ['devoted thing'] is most holy unto the Lord.⁵ But the Sages say, Unspecified haramim belong to the priests, as it is written, [but the field, when it goeth out in Jubilee, shall be holy unto the Lord] as a field of herem, the possession thereof shall be the priests.⁶ If so, what is taught by, Every herem is most holy unto the Lord? That it [sc. the vow of herem] is legally binding in respect of objects of the highest or of ordinary sanctity.⁷

'Sanctifications' — this depends on the dispute of R. Eliezer b. Jacob and the Rabbis. For it has been taught: R. Eliezer b. Jacob said: Even a hook⁸ of hekdesch requires ten men for its redemption.⁹

'Contentions' refers to the water ordeal of a sotah, the beheading of the heifer, and the 'purification of a leper'. 'The water ordeal of a sotah, is involved in the dispute of R. Eliezer and R. Joshua. For we learnt: He who warns his wife [against infidelity] — R. Eliezer said: He must warn her in the presence of two witnesses,¹⁰ and can subject her to the water ordeal on the testimony of one witness, or on his own.¹¹ R. Joshua said: He must warn her in the presence of two, and cause her to drink on the testimony of two.¹²

'The beheading of the heifer' — this is dependent on the dispute of R. Eliezer and R. Akiba. For we learnt: Whence was the measurement taken?¹³ R. Eliezer said: From his [sc. the victim's] navel. R. Akiba said: From his nose. R. Eliezer b. Jacob said: From the place where he becomes a murdered corpse. Viz., the neck.¹⁴

'And the purification of a leper' — this depends on the dispute of R. Simeon and the Rabbis. For we learnt: If he [the leper] lacks the thumb of the right hand, the big toe of his right foot, and the right ear, he can never become clean.¹⁵ R. Eliezer said: It [sc. the blood and oil] is put upon the place thereof,¹⁶ and he thus fulfils the requirements of purification. R. Simeon said: It is placed upon his [corresponding] left [limbs] and he is acquitted [of his obligations].¹⁷

""Within thy gates" — this refers to the gleanings, forgotten [sheaves] and the corner of the field'. 'The gleanings,' even as we learnt: Two ears [that fell down] are gleanings [to be left for the poor], three are not. As to forgotten sheaves — two [forgotten] sheaves are [treated as] 'forgotten' [i.e., must be left for the poor]; three are not. And concerning all these Beth Shammai ruled: Three belong to the poor, four to the landowner.¹⁸

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'The corner of the field' — this is dependent on the dispute of R. Ishmael and the Rabbis. For it has been taught: The precept of *pe'ah* ['the corner'] applies [in the first instance] to the standing corn.¹⁹ If this was not done, a portion of the [harvested] sheaves should be given; if this was omitted, a part of the stack should be separated, providing it has not yet been evened. But once evened, it must [first] be tithed, and then [the poor man's portion] given to him.²⁰ On the authority of R. Ishmael it was said: It must be separated even from the dough.²¹

THREE COURTS OF LAW, etc. R. Kahana said: If he says, '[I base my ruling] on tradition,' and they say likewise, he is not executed; if he says, 'Thus it appears to use,' and they say, 'Thus it appears to us,' he is not executed; how much more so, if he says, '[I base it] on tradition,' and they say, 'Thus it appears to us'!

He is executed only when he says, 'Thus it appears to me,' whilst they say, 'We base [our ruling] on tradition', the proof being that Akabia b. Mahalalel was not executed.²² R. Eleazar said: Even if he says, '[I base my ruling] on tradition', and they say, 'Thus it appears to us,' he is executed, that strife may not spread in Israel; and if thou arguest, Why was Akabia b. Mahalalel not executed? Because he did not give a rule for practical guidance.

We learnt : HE STATED, THUS HAVE I EXPOUNDED, AND THUS HAVE MY COLLEAGUES EXPOUNDED, THUS HAVE I TAUGHT, AND THUS HAVE MY COLLEAGUES TAUGHT. Does it not [mean that] he said, '[I base it] on tradition', and they said, 'Thus it appears to us'? — No! He said, 'Thus it appears to me,' and they said, '[We base it] on tradition.'

Come and hear! R. Josiah said: Three things did Ze'ira, an inhabitant of Jerusalem, tell me: [i] If the husband renounced his warnings, they are null;²³

1. Leprosy in man: Lev. XIII, 42f; in garments: Ibid 55. In connection with garments, *karahath* denotes leprosy on the inside (right) of the cloth; *gabath* on the front or outside (reverse) thereof.
2. The Rabbis dispute this. Hence one who touches such a garment is clean according to R. Nathan R. Abtolemos, but unclean according to the Rabbis, v. note 3.
3. Based on its selling price as a slave. This is not provided for in Lev. XXVII, a month being the lowest age dealt with there. R. Meir maintains that he knew that his dedication was invalid as such, and therefore meant it as an ordinary vow.
4. Ar. 5a. Since there is no law of dedication for such an age. Now, extinction may result in the following two ways: — (i) If the Temple overseer took a pledge for the infant's value, in R. Meir's opinion this becomes *hekdesch* (consecrated), in the Rabbis', it does not. Hence according to the latter, if this pledge was used as *kiddushin*, it is valid; according to R. Meir, it is valid only if so used with the full knowledge that it was *hekdesch*, but not otherwise, as stated in Kid. 22b — v. p. 579 n. 3 (ii) Since according to R. Meir it is *hekdesch*, if unwittingly used, a trespass offering must be brought, which if eaten by an unclean person, involves the offender in extinction. But in the view of the Rabbis it is not *hekdesch*, and the use thereof does not necessitate an offering, and if one erroneously, believing himself to have incurred a liability thereto, brings a trespass offering, the sacrifice is invalid, and consequently the eating thereof by an unclean person does not entail extinction.
5. Lev. XXVII, 28.
6. Ibid. 21; Consequently the secular use thereof entails no offering; v. p. 581, n. 11 (ii)
7. I.e., if one declared an animal *herem*, which was already dedicated as a sacrifice, whether of the highest degree of sanctity, e.g., a burnt offering, or of the lighter degree of sanctity, e.g., a peace offering, the declaration is valid, and the value thereof must be given for the Temple.
8. Used for weaving gold (Rashi); v. *supra* 14b.
9. Nine Israelites and one priest must assess it for redemption. If less, the redemption is invalid and it remains *hekdesch*. The Rabbis hold that only three are necessary for the assessment, and after redemption it loses its sacred character; v. p. 551. n. 11 (ii).
10. Sotah 2a. The form of the warning was 'Thou shalt not closet thyself with so and so'. If she disregarded the warning, she became forbidden to her husband, unless tried by the

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water ordeal. But if the warning was not given in the presence of two witnesses, and was disregarded, she remained permitted to him, and he could not compel her to be tried by the 'bitter waters'.

11. I.e., if one witness or the husband himself testified that she had flouted the warning duly administered in the presence of two witnesses, she had to be tried by the water ordeal.
12. Now, instead of submitting to the water ordeal, she could demand a divorce, but without the *kethubah* (marriage settlement). Hence, if there are no witnesses or only one witness and she demands her divorce, in the opinion of R. Eliezer, she is not entitled to the *kethubah*, whilst in that of R. Joshua she is. Consequently, if she sold the rights in her *kethubah* to another man, and the latter seizes the amount involved from the husband, it does not belong to the purchaser, according to R. Eliezer, but does according to R. Joshua; v. p. 579, n. 3.
13. In fulfillment of Deut. XXI, 2.
14. Sotah 45b. The easiest form of murder is by slitting the throat. Now, if one gives this heifer as *kiddushin*, it is invalid. Consequently, if of two towns one is nearest the victim's navel, and the other to his nose, and each assigned a heifer (one of which of course is invalid), one is fit for *kiddushin*, and the other is not; v. p. 579, n. 3.
15. Since the Torah directs that these shall be anointed Lev. XIV, 14.
16. I.e., where these limbs would be.
17. In Neg. IV, 9 the reading is: If it is placed upon his left limbs, etc. Hence what renders him clean according to one leaves him unclean according to another Tanna: v. p. 581, n. 3.
18. Hence, if three fell down, and embroiled the rebellious elder and the *Beth Din* in a dispute, the question of ownership involves the validity of *kiddushin*, as explained on p. 579, n. 3.
19. 3 I.e., a corner of the field should be left unreaped.
20. But if not given even then, and the wheat was milled, the poor lose their rights.
21. V. Mak. 16b. Therefore the question of ownership is involved here too, which has a further bearing on *kiddushin*.
22. Akabia maintained his view, which he based on the traditions of his teachers, against the Rabbis in the chamber of Hewn Stones ('Ed. V. 6).
23. V. p. 583. n. 1. If after giving his wife a formal warning he withdrew it, it is null, and hence if she did closet herself with her suspected lover, she is not forbidden to her husband.

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[ii] if the father and mother wished to pardon a 'stubborn and rebellious son',¹ they may do so, and [iii] the [local] *Beth din* may pardon a rebellious elder, if they desire it. But when I went to my colleagues of the South,² they agreed to the [first] two but not to the rebellious elder, that contention might not increase in Israel.³ This is all [unanswerable] refutation.

It has been taught; R. Jose said; Originally there were not many disputes in Israel, but one *Beth din* of seventy-one members sat in the Hall of Hewn Stones, and two courts of twenty-three sat, one at the entrance of the Temple Mount and one at the door of the [Temple] Court, and other courts of twenty-three sat in all Jewish cities. If a matter of inquiry arose, the local *Beth din* was consulted. If they had a tradition [thereon] they stated it; if not, they went to the nearest *Beth din*. If they had a tradition thereon, they stated it, if not, they went to the *Beth din* situated at the entrance to the Temple Mount; if they had a tradition, they stated it; if not, they went to the one situated at the entrance of the Court, and he [who differed from his colleagues] declared, 'Thus have I expounded, and thus have my colleagues expounded; thus have I taught, and thus have they taught.' If they had a tradition thereon, they stated it, and if not, they all proceeded to the Hall of Hewn Stones, where they [i.e., the Great Sanhedrin] sat from the morning tamid⁴ until the evening talmid; on Sabbaths and festivals they sat within the hel.⁵ The question was then put before them: if they had a tradition thereon, they stated it; if not, they took a vote: if the majority voted 'unclean' they declared it so; if 'clean' they ruled even so. But when the disciples of Shammai and Hillel, who [sc. the disciples] had insufficiently studied, increased [in number], disputes multiplied in Israel, and the Torah became as two Torah.⁶ From there [the Hall of Hewn Stones] documents were written and sent to all Israel, appointing men of wisdom and humility⁷ and who were

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esteemed by their fellowmen as local judges. From there [sc. the local *Beth din*] they were promoted to [the *Beth din* of] the Temple Mount,⁸ thence to the Court, and thence to the Hall of Hewn Stones.

They sent word from there,² Who is destined for the world to come? He who is meek, humble, stooping on entering and on going out, and a constant student of the Torah without claiming merit therefore. [Thereupon] the Rabbis cast their eyes upon R. 'Ulla b. Abba [as endowed with all these qualities].

IF HE RETURNED TO HIS TOWN AND TAUGHT AGAIN, etc. Our Rabbis taught: He is not liable unless he [himself] acts upon his ruling, or states his ruling to others, who act thereon. Now, as for stating his ruling to others, who act upon it, it is well: before [receiving the decision of the Great *Beth din*] he was not liable to death, [since he personally committed no wrong] whilst now he is [for flouting its authority]. But [as for the proviso that] he himself must act upon his ruling — even before [the decision was rendered in the Hall of Hewn Stones] he was liable to death! Now, there is no difficulty if his ruling referred to forbidden fat and blood, since before he was not liable to death,¹⁰ whilst now he is. But if he ruled on a matter involving the death penalty at the hands of *Beth din*, he would have been liable to death even before! — Before, he needed a formal warning;¹¹ now he does not.¹² But what of a mesith, for whom no warning is required?¹³ — Before, had he stated a reason [excusing or justifying his action], it might have been accepted; but now, even if he stated a reason, it would not be accepted.

MISHNAH. THERE IS GREATER STRINGENCY IN RESPECT TO THE TEACHINGS OF THE SCRIBES THAN IN RESPECT TO THE TORAH. [THUS,] IF ONE [A REBELLIOUS ELDER] SAYS, THERE IS NO PRECEPT OF TEFILLIN, SO THAT A BIBLICAL LAW MAY BE TRANSGRESSED,

HE IS EXEMPT,¹⁴ [BUT IF HE RULES THAT THE TEFILLIN MUST CONTAIN] FIVE COMPARTMENTS, THUS ADDING TO THE WORDS OF THE SCRIBES,¹⁵ HE IS LIABLE.

GEMARA. R. Eleazar said in R. Oshaia's name: He is liable only for a matter of which the fundamental law is Biblical, whilst its interpretation is of the Scribes, and in which there is room for addition, which addition, however, is the equivalent of subtraction. Now, the only precept [fulfilling these conditions] is that of tefillin.¹⁶ Now, this statement was made according to R. Judah.¹⁷ But is there not the lulab,¹⁸ the fundamental law of which is Biblical.¹⁹ the interpretation Rabbinical,²⁰ there being room for addition,²¹ which addition amounts to subtraction?²² — Now, what is our opinion? If we hold that the lulab need not be bound [with the other two species],²³ each stands apart.²⁴ Whilst if we maintain that the lulab needs binding, it is defective from the very outset.²⁵ But is there not the law of fringes, the basic precept of which is Biblical,²⁶ the interpretation Rabbinical, there is room for addition,²⁷ whilst such addition amounts to subtraction?²⁸ — What is our opinion? If we maintain that the upper knot is not required by Biblical law, they are separate from each other;²⁹ whilst if we hold

1. Even after all the necessary warnings had been given.
2. [I.e., R. Meir, R. Judah and R. Jose among others, v. Halevy, *op. cit.*, II, p. 180].
3. Since this is the reason, it proves that he is executed even if he based his ruling on tradition and they on reason.
4. The daily continual burnt offering.
5. A place within the fortification of the Temple (Jast.). They changed their locale, lest they should appear to be giving judgments, which is forbidden on these days.
6. Pl. of Torah. There being many conflicting rulings.
7. Lit., 'of lowly knee.'
8. When a vacancy occurred through death.
9. Palestine. This expression always refers to R. Eleazar b. Pedath (*supra* 17b).
10. An offence in connection with these does not involve capital punishment.

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11. Cf. *supra* pp. 494-5.
12. Since he is punished not for actually committing the offence, but for flouting *Beth din*.
13. If he acted as an inciter to idolatry, but maintained that his words did not purport thus, and the Great *Beth din* ruled that they did, it is shown that he was liable to death even before and without a warning, which is unnecessary for a mesith.
14. Since all know that the Bible commands the wearing of tefillin, the words of the elder will be ineffective.
15. Who required only four in the head-tefillin.
16. The fundamental law of wearing tefillin is Biblical. By Rabbinic interpretation, the head-tefillin must contain four compartments, with inscriptions in each. Hence it is possible to rule that it should consist of a greater number. But if this is done, the tefillin is unfit, so that the addition amounts to subtraction of its fitness.
17. V. *supra* 87a. where R. Meir, R. Judah, and R. Simeon are in dispute.
18. The palm branch, which was to be taken with other species of plant life on the Festival of Tabernacles.
19. Lev. XXIII, 40.
20. I.e., that it must be taken together with three other species, viz., the citron, myrtle, and willow.
21. I.e., more than three species can be added.
22. For if there are more than three species in all, the combination is invalid for the fulfillment of the precept.
23. The citron, though taken together with the other species, is not bound with them.
24. So that the combination is quite valid.
25. I.e., as soon as more than the three species are bound together, the combination is invalid. But in the case of phylacteries, when four compartments are made, the head-tefillin is valid; when a fifth is added, it becomes invalid.
26. Num. XV, 38f.
27. By placing more than the requisite number of threads.
28. Since the fringes become invalid thereby.
29. The fringes are inserted through a hole and knotted near the edge of the garment. It is disputed whether this is really necessary by Biblical law. If not, then even when made the fringes are regarded as hanging apart and distinct. Consequently, if five instead of four were inserted and knotted, four fulfill the precept, whilst the fifth may be disregarded entirely, without rendering the rest invalid.

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it necessary, it is defective from the very outset. If so, in the case of tefillin too, if one [first] made four compartments [for the four inscriptions], and then a fifth was placed at their side, each stands separately. Whilst if one made five compartments,¹ it is defective from the very outset, for R. Zera said: If one compartment is open to the next, it is unfit.² — This must be taught only in the case of one who made a frontlet of four compartments, and then added a fifth thereto and joined it. [By this addition the original is impaired.] Even as Raba said: If the outer compartment does not look upon space, it is invalid.³

MISHNAH. HE [THE REBELLIOUS ELDER] WAS EXECUTED NEITHER BY HIS LOCAL *BETH DIN* NOR BY THE *BETH DIN* AT JABNEH,⁴ BUT WAS TAKEN TO THE GREAT *BETH DIN* IN JERUSALEM AND KEPT THERE UNTIL THE [NEXT] FESTIVAL⁵ AND EXECUTED THEREON, FOR IT IS WRITTEN, 'AND ALL THE PEOPLE SHALL HEAR AND FEAR, AND DO NO MORE PRESUMPTUOUSLY:'⁶ THIS IS R. AKIBA'S OPINION. R. JUDAH SAID: HIS JUDGMENT MUST NOT BE DELAYED, BUT HE IS EXECUTED IMMEDIATELY, WHILST PROCLAMATIONS ARE INDITED AND SENT BY MESSENGERS TO ALL PLACES, 'SO AND SO HAS BEEN SENTENCED TO DEATH AT *BETH DIN*.'

GEMARA. Our Rabbis taught: He was executed neither by his local *Beth din* nor by the *Beth din* at Jabneh, but taken to the great *Beth din* in Jerusalem and kept there until the [next] Festival and executed thereon, for it is written, And all the people shall hear and fear: this is R. Akiba's opinion. But R. Judah said to him: Is it then stated, 'shall see and fear'? Only 'shall hear and fear' is stated, why then delay his sentence? But he is executed immediately, and a proclamation is written and sent to all places: 'So and so has been sentenced to death at *Beth din*.'

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Our Rabbis taught: Public announcements must be made for four [malefactors]: a mesith, a 'stubborn and rebellious' son, a rebellious elder, and witnesses who were proved *zomemim*.² In the case of all [others]³ it is written, And all the people, or, and all Israel; but in the case of witnesses proved *zomemim* it is written, And those which remain [shall hear and fear],² since not all are eligible to be witnesses.¹⁰

MISHNAH. 'A FALSE PROPHET'; HE WHO PROPHESES WHAT HE HAS NOT HEARD, OR WHAT WAS NOT TOLD TO HIM,¹¹ IS EXECUTED BY MAN. BUT HE WHO SUPPRESSES HIS PROPHECY, OR DISREGARDS THE WORDS OF A PROPHET, OR A PROPHET WHO TRANSGRESSES HIS OWN WORD¹¹, — HIS DEATH IS AT THE HANDS OF HEAVEN. FOR IT IS WRITTEN, [AND IT SHALL COME TO PASS, THAT WHOSOEVER WILL NOT HEARKEN UNTO MY WORDS WHICH THE PROPHET SHALL SPEAK IN MY NAME.] I WILL REQUIRE IT OF HIM.¹² HE WHO PROPHESES IN THE NAME OF AN IDOL, SAYING, 'THUS HATH THE IDOL DECLARED. EVEN IF HE CHANCED UPON THE RIGHT *HALACHAH*, DECLARING THE UNCLEAN, UNCLEAN, OR THE CLEAN, CLEAN; OR HE WHO WAS INTIMATE WITH A MARRIED WOMAN AFTER HER ENTRY INTO HER HUSBAND'S HOME FOR NESU'IN,¹³ THOUGH THE MARRIAGE WAS NOT CONSUMMATED — HE IS STRANGLLED; LIKEWISE [WITNESSES PROVED *ZOMEMIM* [IN A CHARGE OF ADULTERY AGAINST] A PRIEST'S DAUGHTER, AND HER PARAMOUR [ARE STRANGLLED]. FOR ALL *ZOMEMIM* ARE LED FORTH TO MEET THE SELF-SAME DEATH [WHICH THEY SOUGHT TO IMPOSE,] SAVE *ZOMEMIM* IN A CHARGE AGAINST A PRIEST'S DAUGHTER — AND HER PARAMOUR.¹⁴

GEMARA. Our Rabbis taught; Three are slain by man, and three by heaven; He who prophesies what he has not heard or what has not been told him, and he who prophesies in the name of an idol are slain by man. But he

who suppresses his prophecy, or disregards the words of a prophet, and a prophet who transgresses his own words are slain by Heaven.

Whence do we know all this? — Rab Judah said in Rab's name: From the verse, But the prophet, which shall presume to speak a word in my name:¹⁵ this applies to one who prophesies what he has not heard;¹⁶ which I have not commanded him to speak,¹⁷ implying but which I did command his neighbor, hence means one who prophesies what was not told to him personally; or that shall speak in the name of other gods,¹⁸ this connotes prophesying in the name of idols. And then it is written, Even that prophet shall die,' and by every unspecified death sentence decreed in the Torah strangulation is meant. But he who suppresses his prophecy, or disregards the words of a prophet, or a prophet who transgresses his own words is slain by Heaven, for it is written, All it shall come to pass, that whosoever will not hearken [yishma']:¹⁹ now this may be understood²⁰ [as implying] to proclaim²¹ and 'hearkening himself'²² unto my words;²³ and the verse concludes, I will require it of him, i.e., [he shall be slain] by Heaven.

HE WHO PROPHESES WHAT HE HAS NOT HEARD. E.g., Zedekiah the son of Chenaanah, as it is written, And Zedekiah the son of Chenaanah had made him horns of iron.²⁴ But what [else] could he have done, seeing that the spirit of Naboth had deceived him, it is written, And the Lord said, Who shall persuade Ahab, that he may go up and fall at Ramoth-gilead? ... And there came forth a spirit and stood before the Lord, and said, I will persuade him ... And he [the Lord] said, Thou shalt persuade him and prevail also; go forth and do so?²⁵ Rab Judah said: What is meant by 'Go forth'? 'Go forth' from My precincts.²⁶ What 'spirit' is meant? — R. Johanan said: The spirit of Naboth the Jezreelite)?²⁷ — He should have scrutinized [the forecasts of the assembled prophets]. even as R. Isaac said; viz.: The same

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communication²⁸ is revealed to many prophets, yet no two prophets prophecy in the identical phraseology. [Thus,] Obadiah said, The pride of thine heart hath deceived thee;²⁹ whilst Jeremiah said, Thy terribleness hath deceived thee, and the pride of thine heart.³⁰ But since all these prophets³¹ employed [exactly] the same expression,³² it proved that they had nothing [really divinely inspired]. But perhaps he did not know of this [criterion laid down by] R. Isaac? — Jehoshopat was there and warned them thereof, as it is written, And Jehoshopat said, Is there not here a prophet of the Lord besides, that we may enquire of him?³³ Thereupon he [Ahab] exclaimed, 'But behold all these!' 'I have a tradition from my grandfather's house that the same communication is revealed to many prophets, but no two prophesy in the identical phraseology,' replied Jehosophat.

HE WHO PROPHESES WHAT WAS NOT TOLD HIM. E.g., Hananiah the son of Azur. Now Jeremiah stood in the upper market place, and said, Thus saith the Lord of Hosts, Behold, I will break the bow of Elam.³⁴ Thereupon, Hananiah the son of Azur drew an a minori conclusion; If Elam, which only came to assist Babylon, yet the Holy one, blessed be He, said, Behold, I will break the law of Elam; then how much more so the Chaldeans [i.e., Babylonians] themselves! So he went to the lower market place and proclaimed, Thus speaketh the Lord of hosts, the God of Israel saying, I have broken the yoke of the kingdom of Babylon.³⁵ R. Papa asked Abaye; But this was not told even to his colleagues [viz., Jeremiah]? He answered: Since the a minori reasoning has been given for [Biblical] exegesis, it is as though it had been told to him [Jeremiah]; hence only to Hananiah was it not revealed.³⁶

HE WHO PROPHESES IN THE NAME OF AN IDOL. E.g., the prophets of Baal. HE WHO SUPPRESSES HIS PROPHECY. E.g., Jonah the son of Amittai.³⁷ OR WHO DISREGARDS THE WORDS OF A PROPHET. E.g., the colleague of Micah

1. One of which opened out to the other.
2. I.e., not having been made according to rule, which requires that each compartment shall be entirely shut off from the next, it is not a case of tefillin having been rendered unfit, but of something that was never tefillin.
3. [Hence the tefillin were fit in the first place, and rendered unfit through addition, but for a reason which cannot apply to the lulab or zizith. This rendering follows the reading in the MS. M.v.D.S a.l., which is that of R. Hananel and the Aruch.
4. The great Sanhedrin was removed from the Hall of Hewn Stones and set up at Jabneh. If this took place between the sentence and the time fixed for the execution, the sentence was remitted (Rashi). Weiss, Dor. ii p. 37, assumes that the Great Sanhedrin at Jabneh was instituted by R. Johanan b. Zakkai shortly after the fall of Jerusalem in 70 C.E., although he made it into a seat of learning even before. Derenbourg, Essai, p. 288, however, quotes the present passage to prove that it existed, for some time at least, side by side with the Great Sanhedrin at Jerusalem.
5. [H], denotes one of the three pilgrimage festivals, Passover, Weeks, or Tabernacles.
6. Deut. XVII, 13. Hence they had to wait till then, when all Israel assembled in Jerusalem, that the publicity of his death should serve as a deterrent.
7. V. [Glos.](#)
8. I.e., the first three.
9. Deut. XIX, 20.
10. Thieves, usurers, etc. being ineligible; hence the warning is not to all Israel.
11. Even though it had been revealed to another.
12. Deut. XVIII, 19.
13. V. [Glos.](#)
14. I.e., he also affords an exception. Whereas all men who commit incest (including adultery) are executed with the same death as the women, the paramour of a priest's daughter is strangled, whilst she is burnt (Rashi). [Now, if the accusation was against both the priest's daughter and her paramour, and they were proved false, they are strangled, in accordance with the death they sought to impose upon the paramour. But if they brought an accusation merely against the priest's daughter, but not against her paramour, e.g., declaring that they did not know who he was, and subsequently proved *zomemim*, they are burnt, since that was the death they sought to impose. That is the meaning of the Mishnah save witnesses proved *zomemim*, in a charge against both a priest's daughter and her paramour, that is, both having been accused (so Tosaf. Yom Tob

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a.l.). Others take the words and her paramour as a mere incidental repetition of the phrase as it occurs earlier.]

15. Deut. XVI, 20.
16. That is the connotation of 'presume'.
17. Ibid.
18. Ibid.
19. Ibid. 19.
20. Lit., 'read'.
21. Yashmia, [H].
22. Yishamea' [H] the Nif'al, as reflexive.
23. Hence all three are included in the verse, [which, in addition to the usual translation, will accordingly be rendered thus: and the man (i.e., the prophet) who will nor hearken unto my words which he has to speak in my name (namely he refuses to proclaim it.) For he (himself) will not hearken unto my words which he shall speak in my name (v. Meklenburg, a.l.).]
24. I Kings XXII, 11; II Chron. XVIII, 10.
25. I Kings XXII, 20ff.
26. V. Shabb. 149b. Two possible reasons are suggested there for the spirit's expulsion from the sacred precincts, viz., either because one who is the means whereby another is punished must not come into the immediate neighborhood of God, or because God cannot abide falsehood. Though in this case God himself sought to lure Ahab to his doom, He desired that this should nevertheless be done by arguments drawn from true facts (Maharsha).
27. This is deduced from the use of the def. art. in the Heb. 'And the spirit came forth', implying a particular one, viz., that of Naboth the Jezreelite, whom Ahab had turned from a living human being into a spirit — by judicial murder; v. ibid. ch. XXI. Now, returning to the main point: what else could Zedekiah have done: how was he to know that a false spirit was leading all those prophets astray?
28. Lit., 'watchword', 'signal'.
29. Obad. I, 3.
30. Jer. XLIX, 16. Thus, though the thought is the same in both (both referred to Edom), the wording differs.
31. The four hundred prophets of Ahab, v. I Kings XXII, 6.
32. V. ibid. 12
33. I Kings XXII, 7.
34. Jer. XLIX, 35.
35. Ibid. XXVIII, 2.
36. To the logical implications of the prophecy as deduced by the *a minori* reasoning, and which was true, viz., that the power of Babylon should be broken, Hananiah added on his own authority that this would take place within two

years (ibid. 3). This was entirely false (Maharsha). In any case, only Jeremiah was permitted to draw an *a minori* conclusion from the prophecy revealed to him alone.

37. Jonah I, 1-3.

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[i.e., Micaiah, the son of Imlah] as it is written, And a certain man of the son of the prophets said unto his neighbor in the word of the Lord, Smite me I pray thee. And the man refused to smite him.¹ And it is further written, And he said unto him, Because thou has not obeyed [the voice of the Lord, behold as soon as thou art departed from me, a lion shall slay thee, etc.]²

OR A PROPHET WHO TRANSGRESSES HIS OWN WORDS. E.g., Iddo the prophet, as instanced by the following verses, [i] For so it was charged me by the word of the Lord [saying, Eat no bread, nor drink water, nor turn again by the same way that thou camest].³ [ii] And he [the self-styled prophet] said unto him, I am a prophet also as thou art [and an angel spake unto me by the word of the Lord, saying, Bring him back with thee into thine house that he may eat bread, and drink water].⁴ [iii] So he went back with him; [iv] And when he was gone, a lion met him [by the way, and slew him].⁵

A Tanna recited before R. Hisda; He who suppresses his prophecy is flogged. To which he retorted, 'One who eats dates out of a sieve is flogged!'⁶ Who then warned him?⁷ Abaye answered; His fellow prophets, Whence do they know? — Said Abaye; For it is written, Surely the Lord will do nothing but that he revealeth his secret [unto his servants the prophets].⁸ But perhaps they [sc. the Heavenly Court] repented thereof?⁹ — Had they repented, all prophets would have been informed. But in the case of Jonah they did repent, yet Jonah himself was not informed! — Jonah was originally told that Nineveh would be turned, but did not know whether for good or for evil.¹⁰

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HE WHO DISREGARDS THE WORDS OF A PROPHET. But how does he know [that he is a true prophet], that he should be punished? — If he gives him a sign. But Micah did not give a sign, yet he [i.e., his colleague] was punished!¹¹ — If he was well established [as a prophet], it is different. For should you not admit this, how could Isaac listen to Abraham at Mount Moriah,¹² or the people hearken to Elijah at Mount Carmel and sacrifice without [the Temple]?¹³ Hence the case, where the prophet is well established is different.

And it came to pass after these words, that God did tempt Abraham.¹⁴ What is meant by 'after'? — R. Johanan said on the authority of R. Jose b. Zimra: After 'the words of Satan, as it is written, And the child grew, and was weaned: [and Abraham made a great feast the same day that Isaac was weaned].¹⁵ Thereupon Satan said to the Almighty; 'Sovereign of the Universe! To this old man Thou didst graciously vouchsafe the fruit of the womb at the age of a hundred, yet of all that banquet which he prepared, he did not have one turtle-dove or pigeon to sacrifice before thee! Hath he done aught but in honor of his son!' Replied He, 'Yet were I to say to him, "Sacrifice thy son before Me", he would do so without hesitation.' Straightway, God did tempt Abraham ... And he said, Take, I pray thee [na]¹⁶ thy son.¹⁷ R. Simeon b. Abba said; 'na' can only denote entreaty. This may be compared to a king of flesh and blood who was confronted by many wars, which he won by the aid of a great warrior. Subsequently he was faced with a severe battle. Thereupon he said to him, 'I pray thee, assist me in battle, that people may not say, there was no reality in the earlier ones.' So also did the Holy One, blessed be He, say unto Abraham, 'I have tested thee with many trials and thou didst withstand all. Now, be firm, for My sake in this trial, that men may not say, there was no reality in the earlier ones.

Thy son. [But] I have two sons!

Thine only one. Each is the only one of his mother!

Whom thou lovest. I love them both!

Isaac!

And why all this [circumlocution]?¹⁸ — That his mind should not reel [under the sudden shock].

On the way Satan came towards him and said to him. 'If we assay to commune with thee, wilt thou be grieved? ... Behold, thou hast instructed many, and thou hast strengthened the weak hands. Thy words have upholden him that was falling, and thou hast strengthened the feeble knees. But now it is come upon thee, and thou faintest.'¹⁹ He replied, 'I will walk in mine integrity.'²⁰ 'But', said [Satan] to him, 'should not thy fear be thy confidence?'²¹ 'Remember', he retorted, 'I pray thee, whoever perished, being innocent?'²² Seeing that he would not listen to him, he said to him, 'Now' a thing was secretly brought to me:²³ thus have I heard from behind the Curtain.²⁴ 'the lamb, for a burnt-offering²⁵ but not Isaac for a burnt-offering.'²⁵ He replied, 'It is the penalty of a liar, that should he even tell the truth, he is not listened to.'

R. Levi said [in explanation of 'after these words']; After Ishmael's words to Isaac. Ishmael said to Isaac: 'I am more virtuous²⁶ than thee in good deeds, for thou wast circumcised at eight days, [and so couldst not prevent it], but I at thirteen years'. 'On account of one limb wouldst thou incense me!' he replied: 'Were the Holy One, blessed be He, to say unto me, Sacrifice thyself before Me, I would obey', Straightway, God did tempt Abraham.

Our Rabbis taught; A prophet who seduced [people to idolatry] is stoned; R. Simeon said; He is strangled. The seducers of a seduced city are stoned; R. Simeon said: They are strangled. 'A prophet who seduced is stoned'. What is the reason of the Rabbis? —

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Similarity of law is learnt from the employment of 'seduction' here and in the case of a mesith:²⁷ just as there execution is by stoning, so here too. But R. Simeon maintained: [Simple] death is provided for in this case,²⁸ and by every unspecified death sentence in the Torah strangulation is meant.

'The seducers of a seduced city are executed by stoning'. What is the reason of the Rabbis? — Similarity of law is learnt from the employment of 'seduction' here and in the case of either a mesith or a prophet who seduced.²⁹ But R. Simeon maintained: similarity of law is learned from the employment of 'seduction' here and in the case of a prophet who seduced.³⁰ But let us rather deduce it from mesith?³¹ — An analogy is drawn between two who incite a multitude, and not between one who incites a multitude and another who seduces an individual.³² On the contrary, should not an analogy be drawn between two laymen, rather than between a layman and a prophet? — R Simeon maintains, since he seduced, no man is more of a layman than he.³³

R. Hisda said:

1. I Kings XX, 35.
2. Ibid. 36. According to the Rabbis, the prophet here referred to was Micaiah the son of Imlah (v. ibid. XXII, 9 *et seq.*).
3. Ibid. XIII, 9.
4. Ibid. 18.
5. Ibid. 24. It is nowhere stated that this was Iddo; possibly the Talmud had a tradition to that effect (Maharsha). Kimhi (Ibid. 1) however observes that Iddo was a contemporary of Jeroboam and prophesied against him, as is mentioned in II Chron. IX, 29.
6. I.e., just as that would be absurd, so is the statement.
7. For how can anyone know that he suppressed a prophecy?
8. Amos III, 7.
9. When a prophecy of doom was revealed to a prophet, as in the case of Jonah, it might subsequently have been withdrawn and therefore the prophecy was suppressed. How then can that prophet be flogged?

10. I.e., whether 'turned' meant 'overturned', or 'turned to repentance'.
11. V. p. 593.
12. To permit himself to be sacrificed.
13. This being normally forbidden.
14. Gen. XXII, 1. The sacrifice of Isaac having been mentioned, the Talmud proceeds to discuss it.
15. Ibid. XXI, 8.
16. [H].
17. Ibid. 2.
18. Why not say, 'Take Isaac'?
19. Job. IV, 2-5; he taunted him upon being unable to withstand his great trial, or perhaps suggested it to him. Rashi explains and translates: Should One (sc. God) have so assayed to speak to thee (putting thee to such severe trial) that thou shouldst faint, i.e., lose thy seed.
20. Ps XXVI, 2.
21. Job. IV, 6, i.e., through fearing God, you should be entirely safe, instead of which you are about to sacrifice your son! So Tosaf. in B.M. 58b, s.v. [H].
22. Ibid. 6. Thus he reasserted his faith in God.
23. Ibid. 12.
24. I.e., from the most intimate secrets of God.
25. Cp. ibid. 7.
26. Lit., 'greater'.
27. Prophet: Because he hath spoken ...to seduce thee from the way which thy Lord thy God commanded thee to walk in (Deut. XIII, 6); mesith: because he hath sought to seduce thee from the Lord thy God (Ibid. 11).
28. Ibid. 6: And that prophet ... shall be put to death.
29. Here: and have seduced the inhabitants of their city. Ibid. 13, the other two: ibid. 6 and 11. V. p. 596. n. 9 for quotations.
30. And as the latter is strangled, in his opinion so are the former too.
31. Where stoning is distinctly stated (ibid. 11).
32. The maddiah and the false prophet seduce a community, the mesith an individual (or individuals).
33. V. p. 557, n. 5.

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They¹ differ only in respect of one who uproots the fundamental [prohibition] of idolatry,² or who partially confirms and partially annuls [the prohibition] of idolatry,³ since the Divine Law said, [...to seduce thee] from [min] the way [which the Lord thy God commanded thee to walk in],⁴ implying even

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part of the way.⁵ But if one [a false prophet] fundamentally uproots any other precept,⁶ all agree that he is strangled;⁷ whilst if he partially annuls and partially confirms any other precept, all agree that he is exempt.

R. Hamnuna objected; [It has been taught] *[Because he hath spoken...to seduce thee from the way which the Lord thy God commanded thee] to walk*; this refers to positive commands;⁸ *therein [bah]*: to negative commands.⁹ But should you say that this refers to idolatry, — how is a positive command conceivable in respect of idolatry? — R. Hisda explained it [as referring to], And ye shall overthrow their altars.¹⁰

R. Hamnuna said; They¹¹ differ in respect of one who uproots the fundamental injunction, whether of idolatry or other precepts, or who partially annuls and partially confirms [the prohibition of] idolatry, since the Torah said, from the way, implying even part of the way;¹² but if he partly confirms and partly annuls any other precept, all agree that he is exempt.

Our Rabbis taught: If one prophesies so as to eradicate a law of the Torah, he is liable [to death]; partially to confirm and partially to annul it. — R. Simeon exempts him. But as for idolatry, even if he said, 'Serve it to-day and destroy it to-morrow,'¹³ all declare him liable. Now, Abaye agrees with R. Hisda,¹⁴ and reconciles this with him; Raba holds with R. Hamnuna, and explains it according to his views. 'Abaye, agrees with R. Hisda, and reconciles it with him.' [Thus:] If one prophesies so as to uproot a law of the Torah, all agree that he is strangled; partially to confirm and partially to annul it, — R. Simeon exempts him, and the Rabbis likewise.¹⁵ But as for idolatry, even if he said, 'Serve it to-day and destroy it to-morrow', he is liable — each according to his views.¹⁶ 'Raba holds with R. Hamnuna, and explains it according to his opinion'; If one prophesies to uproot an injunction of the Torah, whether

idolatry or any other precept, he is liable, — each according to his views. Partially to confirm and partially to annul it. R. Simeon declares him exempt, and also the Rabbis.¹⁷ But as for idolatry, even if he said, 'Serve it to-day and destroy it to-morrow,' he is liable — each according to his views.

R. Abbahu said in R. Johanan's name; In every matter, if a prophet tells you to transgress the commands of the Torah, obey him,¹⁸ with the exception of idolatry; should he even cause the sun to stand still in the middle of the heavens for you [as proof of Divine inspiration], do not hearken to him.

It has been taught: R. Jose the Galilean said: The Torah understood the extreme depths [of depravity inherent in] idolatry,¹⁹ therefore the Torah gave him [the false prophet] power therein, that should he even cause the sun to stand still in the middle of the heavens, thou must not hearken to him.²⁰ R. Akiba said; God forbid that the Almighty should cause the sun to stand still at the behest of those who transgressed His will, but [the Torah refers to one] as Hananiah the son of Azur, who was originally a true prophet and [only] subsequently became a false prophet.²¹

LIKEWISE [WITNESSES, PROVED] ZOMEMIM, [IN AN ACCUSATION OF ADULTERY AGAINST] A PRIEST'S DAUGHTER, — AND HER PARAMOUR. Whence do we know this? — R. Abba the son of R. Ika said; For it has been taught: R. Jose said; Why does Scripture state, Then shall ye do unto him, as he had thought to have done unto his brother?²² For all falsified witnesses²³ [spoken of] in the Torah, — the *zomemim* and the paramours are assimilated to them;²⁴ but in the case of a priest's daughter. 'She [profaneth]' teaches, 'She' is executed by burning, but not her paramour. Hence, I do not know whether the *zomemim* are likened to him or to her:²⁵ but when the Writ saith ... 'to have done unto his brother',

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it teaches, to his 'brother,' but not to his sister.²⁶

CHAPTER XI²⁷

MISHNAH. ALL ISRAEL²⁸ HAVE A PORTION IN THE WORLD TO COME,²⁹ FOR IT IS WRITTEN, THY PEOPLE ARE ALL RIGHTEOUS; THEY SHALL INHERIT THE LAND FOR EVER, THE BRANCH OF MY PLANTING, THE WORK OF MY HANDS, THAT I MAY BE GLORIFIED.³⁰ BUT THE FOLLOWING HAVE NO PORTION THEREIN: HE WHO MAINTAINS THAT RESURRECTION IS NOT A BIBLICAL DOCTRINE,³¹ THE TORAH WAS NOT DIVINELY REVEALED, AND AN EPIKOROS.³² R. AKIBA ADDED: ONE WHO READS UNCANONICAL BOOKS,³³ ALSO ONE WHO WHISPERS [A CHARM] OVER A WOUND AND SAYS, I WILL BRING NONE OF THESE DISEASES UPON THEE WHICH I BROUGHT UPON THE EGYPTIANS: FOR I AM THE LORD THAT HEALETH THEE.³⁴ ABBA SAUL SAYS: ALSO ONE WHO PRONOUNCES THE DIVINE NAME AS IT IS SPELT.³⁵

THREE KINGS AND FOUR COMMONERS HAVE NO PORTION IN THE WORLD TO COME: THE THREE KINGS ARE JEROBOAM, AHAB, AND MANASSEH.³⁶ R. JUDAH SAID: MANASSEH HATH A PORTION THEREIN, FOR IT IS WRITTEN, 'AND HE PRAYED UNTO HIM, AND WAS INTREATED OF HIM, AND HE HEARKENED TO HIS SUPPLICATION AND THEY RESTORED HIM TO JERUSALEM, TO HIS KINGDOM.'³⁷ THEY [THE SAGES] ANSWERED HIM: THEY RESTORED HIM TO HIS KINGDOM, BUT NOT TO [HIS PORTION IN] THE WORLD TO COME. FOUR COMMONERS, VIZ., BALAAM, DOEG, AHITOPHEL, AND GEHAZI.³⁸

GEMARA. And why such [severity]? — A Tanna taught: Since he denied the resurrection of the dead, therefore he shall not share in that resurrection, for in all the measures [of punishment or reward] taken by the Holy One, blessed be He, the Divine act befits the [human] deed.³⁹ As it is written,

Then Elisha said, Hear ye the word of the Lord; Thus saith the Lord, To-morrow about this time shall a measure of fine flour be sold for a *shekel*, and two measures of barley for a *shekel*, in the gates of Samaria.⁴⁰ And it is written, Then a lord on whose hand the king leaned answered the man of God, and said, Behold, if the Lord made windows in heaven, might this thing be? And he said, Behold, thou shalt see it with thine eyes, but shalt not eat thereof.⁴¹

1. R. Simeon and the Rabbis, whether the seducing prophet is stoned or strangled.
2. Stating in the name of God that idolatry is permissible, or even meritorious, as it is written ... *saying, let us go after other gods.* Deut. XIII, 3.
3. V. *infra*.
4. Ibid. 6.
5. Since *min* ([H]), is partitive and denotes limitation. The verses adduced by the Rabbis and R. Simeon refer to these cases.
6. E.g., stating as a Divine communication that the Sabbath was no longer to be kept holy.
7. Because this is prohibited in Deut. XVIII, 20: But the prophet, which shall presume to speak a word in my name, which I have not commanded him to speak ... shall die. Unspecified death means strangulation.
8. 'To walk' implies to do, not to abstain from doing.
9. This is deduced in the Sifre by *gezerah shawah*.
10. Ibid. XII, 3.
11. V. p. 597, n. 7.
12. He regards the deduction of 'to walk', which refers to positive commands, as applying to all precepts.
13. That is partial annulment.
14. Missing footnote.
15. R. Simeon is mentioned for this reason; According to him, the death from which he is exempt is obviously strangulation. Consequently the first clause, teaching that he is liable, must mean to strangulation, and R. Simeon not being mentioned there, that is the general opinion. Had the second clause simply stated that he is exempt, it would imply from stoning or strangulation, according to either the Rabbis or R. Simeon, and hence the liability of the first clause would be the same.
16. I.e., In the opinion of the Rabbis, to stoning; of R. Simeon, to strangulation.
17. In R. Hammuna's view, R. Simeon is particularly mentioned to show that he is exempt even from strangulation, a more

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- lenient death than stoning; hence certainly from stoning.
18. E.g., as in the case of Elijah, who ordered sacrifices to be offered on Mount Carmel.
 19. Or, the wiles by which idolatry attracts.
 20. Since Scripture says, and giveth thee a sign or a wonder, it follows that the false prophet must have been endowed with such powers.
 21. The 'sign' being given during his first phase, and he supported himself thereon in his second.
 22. Deut. XIX, 19: 'unto his brother' is redundant.
 23. [In cases of incest including adultery Lec. var. who are sentenced to death.]
 24. [I.e., the *zomemim*, to the death they sought to impose on the women, and the paramours, to that of the women he had dishonored.]
 25. V. p. 347. n. 2.
 26. I.e., he is executed by her paramour's death, not her own.
 27. In the Jerusalem Talmud this is the tenth chapter, whilst 'These are strangled', which in the Babylonian version is the tenth, is there the eleventh. H. Danby, Sanhedrin, Introduction VIII, 2, defends the order of the Bab. Tal. as correct. Rashi likewise states: 'Having first dealt with those who are executed by *Beth din* by one of the four modes of execution, the Mishnah proceeds to enumerate those who have no portion in the world to come.' Maimonides in his commentary places this as the tenth chapter (v. also his Introduction to Seder Zera'im), and Asheri does likewise. This order is adopted in the printed editions of the Mishnah and in the Jerusalem Talmud (cp. also Mak. 2a).
 28. This is not a dogmatic assertion that only Israel has a portion in the world to come, but is closely connected with the preceding chapters, and asserts that even those who were executed by *Beth din* are not shut out from the future world, as is stated in VI, 2.
 29. The conception of what is to be understood by the future world is rather vague in the Talmud. In general, it is the opposite of [H], this world. In Ber. I, 5, 'this world' is opposed to the days of the Messiah. Whether the Messianic era is thus identical with the future world, and these again with the period of resurrection, is a moot point (v. *infra*, 91b). The following quotation from G. Moore, 'Judaism' (Vol. 2, p. 389) is apposite: 'Any attempt to systematize the Jewish notions of the hereafter imposes upon them an order and consistency which does not exist in them.'
 30. Isa. LX, 22.
 31. Lit., 'that resurrection is not intimated in the Torah.' The doctrine of resurrection was denied by the Sadducees and the Samaritans. It was to oppose these that the doctrine was emphatically asserted in the second of the Eighteen Benedictions (v. W.O. Oesterley. The Jewish Background of Christian Liturgy, Oxford, 1925, 60ff.). According to the present text, however, the reference is not to one who denies the fact of resurrection, but that it is intimated in the Torah. (On the importance of conceding the Biblical origin of this tenet, v. p. 604, n. 12.) But D.S. omits the phrase as interpolated, and he is supported by the Tosef. XIII, 5.
 32. In the first place, the word denotes an adherent of the Epicurean philosophy, and then, one who lives a licentious and dissolute life. The word has also been derived from [H] (cf. [H]) to be unbridled, and it is frequently used as a synonym of *min* (q.v. p. 604, n. 12), heretic. The Gemara defines it as one who speaks disparagingly of the Bible and its disciples.
 33. Lit., 'the external books'. Graetz, Gesch. IV, p. 99, regards this as referring to un-Jewish, particularly Gnostic literature. Weiss takes a similar view. The pernicious influence of Gnosticism, particularly as it impaired the pure monotheism of Judaism, made the Rabbis very anxious to stem its spread, and hence R. Akiba's dictum. (Weiss maintains that Elisha b. Abuia's revolt against the Rabbis was in some measure occasioned by the influence of Gnosticism.) On this view, ordinary reading is referred to. There are indications, however, that something more is meant. The J. Tal. a.l. adds: 'E.g.. the books of Ben Sira and Ben La'anah. But the reading of *Homer* and all subsequent books is as the reading of a letter.' In spite of the fact that the Bab. Tal. forbids the books of Ben Sira, it is evident from the discussion that all its contents were well-known, and Sira's wisdom is frequently quoted by the Talmudists. It is also difficult to see why greater exception should be taken to Sira than to *Homer*. To obviate these difficulties the

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theory has been put forward that the prohibition is against reading these uncanonical works publicly, treating them as the Scripture and expounding them to the community. Private reading, however, would on this theory not come within the ban. (V. Krochmal *More Nebuche ha-Zeman*, XI, 5.)

34. Ex. XV, 26.
35. Lit., 'according to its letters'.
36. Jeroboam, the son of Nebat, who is frequently stigmatized in the Bible as having 'sinned and caused Israel to sin'. Ahab, the son of Omri, a later King; v. I Kings. XXI, 21. Manasseh, the son of Hezekiah, King of Judah; v. II Kings. XXI.
37. II Chron. XXXIII, 13.
38. Balaam: v. Num. XXXI. 8, 16; Doeg the Edomite: v. I Sam. XXI, 22; Ahitophel: v. II Sam. XV; Gehazi: v. II Kings V, 20.
39. Lit., 'Measure for measure'.
40. II Kings VII, 1.
41. Ibid. 2.

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And it is [further] written, And so it fell unto him: for the people trod upon him in the gate, and he died.¹ But perhaps this was the result of Elisha's curse, for Rab Judah said in Rab's name: The curse of a Sage, even if unmerited, is fulfilled? — If so, Scripture should have written, they trod upon him and he died. Why, trod upon him in the gate? — [To show that it was] on account of matters pertaining to the gate.²

How is resurrection derived from the Torah? — As it is written, And ye shall give thereof the Lord's heave offering to Aaron the priest.³ But would Aaron live forever; he did not even enter Palestine, that *terumah*⁴ should be given him?⁵ But it teaches that he would be resurrected, and Israel give him *terumah*. Thus resurrection is derived from the Torah. The school of R. Ishmael taught: To Aaron [means to one] like Aaron: just as Aaron was a haber,⁶ so his sons must be haberim.⁷ R. Samuel b. Nahmani said in R. Jonathan's name: Whence do we know that *terumah* must not be given to a priest and 'am ha-arez?⁸ From the verse, Moreover he commanded the people that

dwelt in Jerusalem to give the portion of the Levites, that they might hold fast to the law of the Lord:⁹ [thus,] whoever holds fast to the law of the Lord, has a portion; whoever does not, has no portion. R. Aha b. Adda said in Rab Judah's name: One who gives *terumah* to an ignorant priest is as though he had placed it before a lion: just as a lion may possibly tear his prey and eat it and possibly not,¹⁰ so is an ignorant priest — he may possibly eat it undefiled and possibly defiled. R. Johanan said: He even causes his [sc. the ignorant priest's] death, for it is written, and die therefore, if they profane it.¹¹ The School of R. Eliezer b. Jacob taught: He also embroils him in a sin of general trespass,¹² for it is written, Or suffer them to bear the iniquity of trespass when they eat their holy things.¹³

It has been taught: R. Simai said: Whence do we learn resurrection from the Torah? — From the verse, And I also have established my covenant with them, [sc. the Patriarchs] to give them the land of Canaan:¹⁴ '[to give] you' is not said, but 'to give them' [personally]; thus resurrection is proved from the Torah.¹⁵

(Mnemonic: *ZeDeK, GaM, GeSHeM, KaM*.)¹⁶ Sectarrians [*minim*]¹⁷ asked Rabban Gamaliel: Whence do we know that the Holy One, blessed be He, will resurrect the dead? He answered them from the Torah, the Prophets, and the Hagiographa, yet they did not accept it [as conclusive proof]. 'From the Torah': for it is written, And the Lord said unto Moses, Behold, thou shalt sleep with thy fathers and rise up [again].¹⁸ 'But perhaps,' said they to him, '[the verse reads], and the people will rise up?' 'From the prophets': as it is written, Thy dead men shall live, together with my dead body shall they arise. Awake and sing, ye that dwell in the dust: for thy dew is as the dew of herbs, and the earth shall cast out its dead.¹⁹ But perhaps this refers to the dead whom Ezekiel resurrected?²⁰ 'From the Hagiographa': as it is written, And the roof of thy mouth, like the best wine of my beloved, that goeth down sweetly, causing the lips of those that are asleep to speak.²¹ But perhaps

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it means merely that their lips will move, even as R. Johanan said: If a *halachah* is said in any person's name in this world, his lips speak in the grave, as it is written, causing the lips of those that are asleep to speak? [Thus he did not satisfy them] until he quoted this verse, which the Lord sware unto your fathers to give to them;²² not to you, but to them is said; hence resurrection is derived from the Torah. Others say that he proved it from this verse, But ye that did cleave unto the Lord your God are alive every one of you this day;²³ just as you are all alive to-day, so shall you all live again in the world to come.²⁴

The Romans asked R. Joshua b. Hananiah: Whence do we know that the Holy One, blessed be He, will resurrect the dead and knows the future? — He replied: Both are deduced from this verse, And the Lord said unto Moses, Behold thou shalt sleep with thy fathers, and rise up again; and this people shall go a whoring, etc.²⁵ But perhaps 'will rise up, and go a whoring'? — He replied: Then at least you have the answer to half, viz., that He knows the future. It has been stated likewise: R. Johanan said on the authority of R. Simeon b. Yohai: Whence do we know that the Holy One, blessed be He, will resurrect the dead and knoweth the future? From, Behold, Thou shalt sleep with thy fathers, and ... rise again, etc.

It has been taught: R. Eliezer, son of R. Jose, said: In this matter I refuted the books of the sectarians,²⁶ who maintained that resurrection is not deducible from the Torah. I said to them: You have falsified your Torah,²⁷ yet it has availed you nothing. For ye maintain that resurrection is not a Biblical doctrine, but it is written, [Because he hath despised the word of the Lord, and hath broken his commandment], that soul shall utterly be cut off²⁸ [Heb. *hikkareth tikkareth*]; his iniquity shall be upon him.²⁹ Now, [seeing that] he shall utterly be cut off in this world, when shall his iniquity be upon him? surely in the next world.³⁰ R. Papa said to Abaye: Could he not have deduced both

[this world, and the next] from he shall be utterly cut off?³¹ — They would have replied: The Torah employed human phraseology.

This is disputed by Tannaim: That soul shall utterly be cut off [*hikkareth*] he shall be cut off in this world and [*tikkareth*] in the next: this is R. Akiba's view. R. Ishmael said: But the verse has previously stated, he reproacheth the Lord, and that soul shall be cut off are there then three worlds? But [interpret thus]: and [that soul] shall be cut off — in this world: *hikkareth*, he is to be cut off — in the next; whilst as for [the repetition] *tikkareth*, that is because the Torah employs human phraseology.³² How do both R. Ishmael and R. Akiba utilize his iniquity shall be upon him? — For that which has been taught: I might think that [this is so] even if he repented: therefore Scripture saith, his iniquity is upon him: I decreed [that he shall be cut off] only if his iniquity is still in him.

Queen Cleopatra³³ asked R. Meir, 'I know that the dead will revive, for it is written, And they [sc. the righteous] shall [in the distant future] blossom forth out of the city [Jerusalem] like the grass of the earth.³⁴ But when they arise, shall they arise nude or in their garments?' — He replied, 'Thou mayest deduce by an *a fortiori* argument [the answer] from a wheat grain: if a grain of wheat, which is buried naked, sprouteth forth in many robes, how much more so the righteous, who are buried in their raiment!'

An emperor said to Rabban Gamaliel: 'Ye maintain that the dead will revive; but they turn to dust, and can dust come to life?'

1. Ibid. 20.
2. I.e., Elisha had prophesied that wheat and barley would be sold cheaply at the gate of Samaria, and he denied it.
3. Num. XVIII, 28.
4. V. [Glos.](#)
5. The priestly dues were rendered only in Palestine.
6. V. [Glos.](#)

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7. Hence this verse is to teach that the priestly dues are not to be rendered to an ignoramus, and affords no basis for resurrection.
8. Lit., 'people of the earth,' peasants, and then denoting the ignorant and irreligious in general.
9. II Chron. XXXI, 4.
10. I.e., when a lion steals an animal and mauls it, we do not know whether it was to appease his hunger, or merely to satisfy his blood lust.
11. Lev. XXII, 9.
12. I.e., a sin which leads to guilt in a number of ways.
13. Ibid. 16.
14. Ex. VI, 4.
15. The promise could be literally fulfilled only by the Patriarchs' resurrection.
16. An apt mnemonic, meaning lit., 'As to the Righteous, also the Body Riseth.'
17. Term used generally as a designation for **Judeo-Christians**. Herford, Christianity in the Talmud, pp. 232-4, conjectures that this discussion took place in Rome, whither R. Gamaliel journeyed in 95 C.E., since this is followed by 'The Romans asked R. Joshua.' He maintains that both sides accepted the fact of resurrection of the dead, the dispute being whether it is intimated in the Torah. The importance of the debate lay in the fact that the Christians maintained that the resurrection of the dead was consequent upon the resurrection of Christ this doctrine of course would be weakened if it could be shown that resurrection was already taught in the Torah.
18. Deut. XXXI, 16.
19. Isa. XXVI, 19.
20. V. Ezek. XXVII.
21. Cant. VII, 9. As the entire Song is interpreted by the Rabbis as a dialogue between God and Israel, the last phrase is understood to refer to the dead, whom God will cause to speak again.
22. Deut. XI, 21.
23. Ibid. IV, 4.
24. This is deduced from 'this day', which is superfluous.
25. Deut. XXXI, 16.
26. Herford, *op. cit.* states that [H] is an error for [H] Cutheans, Samaritans, as is proved by parallel passages in the Sif.; cf. 87a, and D.S.
27. [The words 'to them', from which R. Gamaliel (p. 605) deduced the resurrection are left out in the Samaritan text.]
28. [H].
29. Num. XV, 31.
30. I.e., at the resurrection.
31. V. next passage in text.
32. V. *supra* 64b.
33. [Not of 'Anthony and Cleopatra' fame. Bacher, *Agada der Tanaiten*, I, 68, n. 2, regards [H] (Cleopatra, the Queen) as a corruption of [H] the Patriarch of the Samaritans (v. Gen. Rab. XCIV, 6). Cp. Koh. Rab. V, 12, where the disputant of the belief of the resurrection of the dead with R. Meir is a Samaritan, [H].]
34. Ps. LXXII, 16: the bracketed addition gives the sense according to Rabbinic interpretation; v. Keth. 111a.

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Thereupon his [the emperor's] daughter said to him [the Rabbi]: 'Let me answer him: In our town there are two potters; one fashions [his products] from water, and the other from clay: who is the more praiseworthy?' 'He who fashions them from water, he replied.¹ 'If he can fashion [man] from water,² surely he can do so from clay!'³

The School of R. Ishmael taught: It can be deduced from glassware: if glassware, which, though made by the breath of human beings,⁴ can yet be repaired when broken;⁵ then how much more so man, created by the breath of the Holy One, blessed be He.

A sectarian [*min*]⁶ said to R. Ammi: 'Ye maintain that the dead will revive; but they turn to dust, and can dust come to life?' — He replied: I will tell thee a parable. This may be compared to a human king who commanded his servants to build him a great palace in a place where there was no water or earth [for making bricks]. So they went and built it. But after some time it collapsed, so he commanded them to rebuild it in a place where water and earth was to be found; but they replied, 'We cannot'. Thereupon he became angry with them and said, 'If ye could build in a place containing no water or earth, surely ye can where there is!'⁷ 'Yet,' [continued R. Ammi], 'If thou dost not believe, go forth in to the field and see a mouse, which to-day is but part flesh and part dust,⁸ and yet by to-morrow has developed and become all flesh. And shouldst thou say, 'That takes a long time,'⁹ go up to the mountains, where thou wilt see

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but one snail, whilst by to-morrow the rain has descended and it is covered with snails.¹⁰

A sectarian [*min*] said to Gebiha b. Pesisa, 'Woe to you, ye wicked, who maintain that the dead will revive; if even the living die, shall the dead live!' He replied, 'Woe to you, ye wicked, who maintain that the dead will not revive: if what was not,[now] lives, — surely what has lived, will live again!' 'Thou hast called me wicked,' said he, 'If I stood up I could kick thee and strip thee of thy hump!¹¹ 'If thou couldst do that,' he retorted, 'thou wouldst be called a great doctor, and command large fees.'

Our Rabbis taught: On the twenty-fourth of Nisan¹² the revenue farmers¹³ were removed from Judah and Jerusalem. For when the Africans¹⁴ came to plead against the Jews before Alexander of Macedon, they said, 'Canaan belongs to us, as it is written, The land of Canaan with the coasts thereof;¹⁵ and Canaan was the ancestor of these people [i.e., ourselves].' Thereupon Gebiha b. Pesisa¹⁶ said to the Sages, 'Authorize me to go and plead against them before Alexander of Macedon: should they defeat me, then say, "ye have defeated but an ignorant man of us;" whilst if I defeat them, then say to them thus: "The Law of Moses has defeated you."' So they authorized him, and he went and pleaded against them. 'Whence do ye adduce your proof?' asked he. 'From the Torah,' they replied. 'I too,' said he, 'will bring you proof only from the Torah, for it is written, And he said, Cursed be Canaan; a servant of servants shall he be unto his brethren.¹⁷ Now if a slave acquires property, to whom does he belong, and whose is the property?¹⁸ Moreover, it is now many years that ye have not served us.'¹⁹ Then Alexander said to them, 'Answer him!' 'Give us three days' time,' they pleaded. So he gave them a respite; they sought but found no answer. Immediately thereon they fled, leaving behind their sown fields and their planted vineyards. And that year was a Sabbatical year.

On another occasion the Egyptians came in a lawsuit against the Jews before Alexander of Macedon. They pleaded thus: 'Is it not written, *And the Lord gave the people favor in the sight of the Egyptians, and they lent them [gold and precious stones, etc.]*²⁰ Then return us the gold and silver which ye took!' Thereupon Gebiha b. Pesisa said to the Sages, 'Give me permission to go and plead against them before Alexander of Macedon: should they defeat me, then say, "Ye have merely defeated an ignorant man amongst us;" whilst if I defeat them then say, "The Law of Moses has defeated you."' So they gave him permission, and he went and pleaded against them. 'Whence do ye adduce your proof?' asked he, 'From the Torah,' they replied. 'Then I too,' said he, 'will bring you proof only from the Torah, for it is written, *Now the sojourning of the children of Israel, who dwelt in Egypt, was four hundred and thirty years.*²¹ Pay us for the toil of six hundred thousand men whom ye enslaved for four hundred thirty years.' Then King Alexander said to them, 'Answer him!' 'Give us three days' time,' they begged. So he gave them a respite; they sought but found no answer. Straightway they fled, leaving behind their sown fields and planted vineyards. And that year was a Sabbatical year.²²

On another occasion the Ishmaelites and the Keturians²³ came for a lawsuit against the Jews before Alexander of Macedon. They pleaded thus: 'Canaan belongs jointly to all of us, for it is written, *Now these are the generations of Ishmael, Abraham's son;*²⁴ and it is [further] written, *And these are the generations of Isaac, Abraham's son.*²⁵ Thereupon Gebiha b. Pesisa said to the Sages: 'Give me permission to go and plead against them before Alexander of Macedon. Should they defeat me then say, "Ye have defeated one of our ignorant men;" whilst if I defeat them, say, "The Law of Moses has defeated you."' So they gave him permission, and he went and pleaded against them. 'Whence do ye adduce your proof?' asked he. 'From the Torah,' they replied. 'Then I too,' said he,

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'will bring you proof only from the Torah, for it is written, And Abraham gave all that he had unto Isaac. But unto the sons of the concubines which Abraham had, Abraham gave gifts:²⁶ if a father made a bequest to his children in his lifetime and sent them away from each other, has one any claim upon the other? [Obviously not.]'

What gifts [did he give them]? — R. Jeremiah b. Abba said: This teaches that he imparted to them [the secrets of] the unhallowed arts.²⁷

Antoninus²⁸ said to Rabbi: 'The body and the soul can both free themselves from judgment. Thus, the body can plead: The soul has sinned, [the proof being] that from the day it left me I lie like a dumb stone in the grave [powerless to do aught]. Whilst the soul can say: The body has sinned, [the proof being] that from the day I departed from it I fly about in the air like a bird [and commit no sin].' He replied, 'I will tell thee a parable. To what may this be compared? To a human king who owned a beautiful orchard which contained

1. This being far more difficult.
2. Vis., the sperm.
3. I.e., the dust into which the dead are turned.
4. A reference to the blowing of glass.
5. By being melted down again.
6. V. Herford, *op. cit.* p. 281. In R. Ammi's time (end of the third and beginning of the fourth centuries) there was no class of heretic which denied resurrection. The Sadducees no longer existed, whilst the Gnostics did not deny it. Herford therefore suggests that R. Ammi's opponent was really a heathen.
7. Thus if God can make man without these, surely He will be able to resuscitate their dust.
8. I.e., only partly formed, it being believed that there is a species of mice developing from the earth. Maim. on Hullin IX, 6 states that many people have claimed to have seen a mouse, part earth and part clay.
9. Whereas resurrection must happen in a moment.
10. Thus proving that God can create life with great speed.
11. He was hunchbacked.
12. The first month of the Jewish calendar.

13. [[H] [G] = publican; Graetz, *Geschichte*, III, 2, pp. 573-4. connects this celebration with the defeat and retreat of Florus from Jerusalem, when the people ceased to pay tribute to Caesar (v. Josephus, Wars, II, 16, 5). For other views, v. HUCA, VII-VIII, 302ff.]
14. The Phoenicians, the descendants of Ham through Canaan (v. Gen. X, 15) and who ruled over a large part of N. Africa (Carthage).
15. Num. XXXIV, 2.
16. [A legendary character traditionally contemporary with Alexander the Great.]
17. Gen. IX, 25.
18. Obviously to his owner. Therefore, even if the land was given to the Canaanites, it belongs to their masters, the Jews, descendants of Shem.
19. So that you owe us your toil too for all that time.
20. Ex. XII, 36.
21. Ibid. 40.
22. [On the dispute between the Egyptians and Jews, v. Levi, REJ. LXIII, 211ff.]
23. V. Gen. XXV, 1-4.
24. Ibid. 12.
25. Ibid. 19. Hence, both being sons of Abraham, they had equal claims upon the land. For the same reason the Ketureans too made a claim.
26. Ibid. 5f.
27. I.e., the knowledge of sorcery, demons, etc.
28. Antoninus has been variously identified: with Marcus Aurelius (Rapport); Severus (Graetz, who, however, assumes that it was the second R. Judah the Prince who was the friend of Antoninus); Caracalla (Jast. and N. Krochmal), and others; v. 'A. Z. 10a, and J. E. I, 656.

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splendid figs. Now, he appointed two watchmen therein, one lame and the other blind. [One day] the lame man said to the blind, "I see beautiful figs in the orchard. Come and take me upon thy shoulder, that we may procure and eat them." So the lame bestrode the blind, procured and ate them. Sometime after, the owner of the orchard came and inquired of them, "Where are those beautiful figs?" The lame man replied, "Have I then feet to walk with?" The blind man replied, "Have I then eyes to see with?" What did he do? He placed the lame upon the blind and judged them together. So will the Holy One, blessed be He, bring the soul, [re]place it

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in the body, and judge them together, as it is written, He shall call to the heavens from above, and to the earth, that he may judge his people:¹ He shall call to the heavens from above-this refers to the soul; and to the earth, that he may judge his people-to the body.'

Antoninus said to Rabbi, 'Why does the sun rise in the east and set in the west?' He replied, 'Were it reversed, thou wouldst ask the same question.' 'This is my question,' said he, 'why set in the west?'² He answered, 'In order to salute its Maker, as it is written, And the host of the heavens make obeisance to thee.'³ 'Then,' said he to him, 'it should go only as far as mid-heaven, pay homage, and then re-ascend?'⁴ — 'On account of the workers and wayfarers.'⁵

Antoninus also said to Rabbi, 'When is the soul placed in man; as soon as it is decreed [that the sperm shall be male or female, etc.], or when [the embryo] is actually formed?' He replied, 'From the moment of formation.' He objected: 'Can a piece of meat be unsalted for three days without becoming putrid?'⁶ But it must be from the moment that [God] decrees [its destiny].' Rabbi said: This thing Antoninus taught me, and Scripture supports him, for it is written, And thy decree hath preserved my spirit [i.e., my soul].⁷

Antoninus also enquired of Rabbi, 'From what time does the Evil Tempter hold sway over man; from the formation [of the embryo], or from [its] issuing forth [into the light of the world]?! — 'From the formation,' he replied. 'If so,' he objected, 'it would rebel in its mother's womb and go forth. But it is from when it issues.' Rabbi said: This thing Antoninus taught me, and Scripture supports him, for it is said, At the door [i.e., where the babe emerges] sin lieth in wait.⁸

Resh Lakish opposed [two verses to each other]. It is written, [I will gather them ...] with the blind and the lame, the woman with child and her that travaileth with child together;⁹ whilst it is also written, Then shall the lame man leap as an hart, and the tongue

of the dumb sing, for in the wilderness shall waters break out, and streams in the desert.¹⁰ How so?¹¹ — They shall rise with their defects and then be healed.

'Ulla opposed [two verses]. It is written, He will destroy death for ever, and the Lord God will wipe away tears from all faces;¹² whilst elsewhere it is written, For the child shall die an hundred years old ... there shall be no more thence an infant of days!¹³ — It is no difficulty: the one refers to Jews, the other to heathens. But what business have heathens there?¹⁴ — [The reference is to] those of whom it is written, and strangers shall stand and feed your flocks, and the sons of the alien shall be your plowmen and your vinedressers.¹⁵

R. Hisda opposed [two verses]. It is written, Then the moon shall be confounded, and the sun ashamed, when the Lord of Hosts shall reign;¹⁶ whilst [elsewhere] it is written, Moreover the light of the moon shall be as the light of the sun, and the light of the sun shall be sevenfold, as the light of seven days.¹⁷ — It is no difficulty: the latter refers to the Messianic era, the former to the world to come.¹⁸ And according to Samuel, who maintained, This world differs from the Messianic era only in respect of the servitude of the Diaspora, it is still no difficulty: the latter refers to the camp of the righteous, the former to the camp of the Divine Presence.¹⁹

Raba opposed [two verses]: It is written, I kill, and I make alive;²⁰ whilst it is also written, I wound, and I heal!²¹ — The Holy One, blessed be He, said, What I slay, I resurrect [i.e., in the same state], and then, what I wound, I heal [after their revival].

Our Rabbis taught: I kill, and I make alive. I might interpret, I kill one person and give life to another, as the world goes on:²² therefore the Writ states, I wound, and I heal. Just as the wounding and healing [obviously] refer to the same person, so putting to death and bringing to life refer to the same person. This

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refutes those who maintain that resurrection is not intimated in the Torah.

It has been taught: R. Meir said, Whence do we know resurrection from the Torah? From the verse, Then shall Moses and the children of Israel sing this song unto the Lord:²³ not sang but shall sing²⁴ is written: thus resurrection is taught in the Torah.²⁵ Likewise thou readest, Then shall Joshua build an altar unto the Lord God of Israel:²⁶ not 'built', but shall build is written: thus resurrection is intimated in the Torah. If so, Then did Solomon build an high place for Chemosh, the abomination of Moab:²⁷ does that too mean that he shall build?²⁸ But [there] the Writ regards him as though he had built.²⁹

R. Joshua b. Levi said: Whence is resurrection derived from the Torah? From the verse, Blessed are they that dwell in thy house: they shall ever praise thee. Selah.³⁰ Not 'praised thee,' but they shall praise thee is stated: thus resurrection is taught in the Torah.

R. Joshua b. Levi also said: Whoever uttereth song [of praise to God] in this world shall be privileged to do so in the next world too, as it is written, Blessed are they that dwell in thy house: they shall ever praise thee. Selah.

R. Hiyya b. Abba said in R. Johanan's name: Whence do we learn resurrection from the Torah? — From the verse, Thy watchmen shall lift up the voice; with the voice together shall they sing.³¹ Not 'sang,' but shall sing is written: thus resurrection is derived from the Torah.

Rab Judah said in Rab's name: Whoever withholdeth a *halachah* from his disciple is as though he had robbed him of his ancestral heritage, as it is written, Moses commanded us a law, even the inheritance of the congregation of Jacob:³² it is an inheritance destined for all Israel from the six days of Creation. R. Hanah b. Bizna said in the name of R. Simeon the Pious: Whoever withholdeth a

halachah from a disciple, even the embryo in its mother's womb curses him, as it is written, *He that withholdeth bar [corn] yikkebuhu le'om*:³³

1. Ps. L, 4.
2. I.e., rising in any quarter, it should return to the same for setting-a question possible, of course, since the earth was assumed to be flat.
3. Neh. IX. 6. Thus, the sun having reached the west, where the Divine Presence is, sinks down in homage, and therefore does not return to the east to set.
4. Because it is not etiquette to go right up to one in saluting him.
5. Were the sun to set suddenly in mid-heaven, i.e., at midday, they would have no sign when to cease work or halt.
6. Likewise, if the sperm-cell is not immediately endowed with a soul, it would become putrid, and then could not fertilize the ovum.
7. Job X, 12.
8. Gen. IV, 7.
9. Jer. XXXI, 8; implying that they shall retain their defects at the resurrection.
10. Isa. XXXV, 6.
11. I.e., how reconcile these verses?
12. Ibid. XXV, 9.
13. Isa. LXV, 20. The order of the phrases has been reversed here.
14. I.e., in the re-established state after the resurrection.
15. Ibid. LXI, 5.
16. Ibid. XXIV, 23.
17. Ibid. XXX, 26.
18. Then the sun and the moon shall be ashamed, i.e., fade into insignificance — because of the light radiating from the righteous (Rashi).
19. Both verses referring to the world to come.
20. Deut. XXXII, 39. This implies, I resurrect him just as he was at death: if one died with a blemish, he is resurrected with it too.
21. Ibid. This implies that at the resurrection all wounds, i.e., blemishes, are healed.
22. People dying and others being born.
23. Ex. XV, I.
24. Lit. rendering of [H] yashir.
25. For the verse implies that they shall sing in the future. As they did not sing a second time in this life, it must mean after their resurrection.
26. Josh. VIII, 30.
27. I Kings XI, 7.
28. In the three quotations the imperfect tense is used, which generally, though not always, connotes the future in Heb.
29. The imperfect there denotes that he merely wished to build, but so heinous is even the

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mere intention, that he is stigmatized as having actually done so. But in the first two verses the imperfect cannot bear that meaning, since Moses did sing, and Joshua did build. Therefore the future meaning must be complementary to the past, and the imperfect implies that as they sang once, so will they again.

30. Ps. LXXXIV, 5.

31. Isa. LII, 8.

32. Deut. XXXIII, 4.

33. [H] translated in the versions, *the people shall curse him*. Prov. XI, 26.

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'le'om¹ can only mean 'embryo,' as it is written, *And one le'om shall be stronger than the other people;*² and 'yikkebuhu' can only denote cursing, as it is written, *how shall I curse [ekkob]³ whom God hath not cursed?*⁴ and 'bar' can refer to nothing but the Torah, as it is written, *Nourish yourselves bar*⁵ [on the Torah] lest he be angry.⁶ 'Ulla b. Ishmael said: He is riddled with holes like a sieve:⁷ here is written, 'the people yikkebuhu;' whilst elsewhere is written, *wa-yikkob* [and he bored] a hole in the lid of it.⁸ Abaye said: Like a fuller's trough.⁹ But if he teaches him, what is his reward? — Raba said in the name of R. Shesheth: He will receive blessings like Joseph's, as it is written, but blessing shall be upon the head of mashbir [him who selleth it]:¹⁰ 'mashbir' can only refer to Joseph, as it is said, *And Joseph was the Governor over the land, and it was he ha-mashbir* [that sold] to all the people of the land.¹¹

R. Shesheth said: Whoever teaches the Torah in this world will be privileged to teach it in the next, as it is written, *And he that watereth shall water again too.*¹²

Raba said: Whence is resurrection derived from the Torah? From the verse, *Let Reuben live, and not die:*¹³ meaning, let Reuben live, in this world, and not die, in the next.¹⁴ Rabina said, [it is derived] from this verse, *And many of them that sleep in the dust of the earth shall awake, some to everlasting life, and some to shame and everlasting*

contempt.¹⁵ R. Ashi said: From this verse, *But go thou thy way till the end be; for thou shalt rest and stand in thy lot at the end of the days.*¹⁶

R. Eleazar said: Every leader who leads the community with mildness will be privileged to lead them in the next world [too], as it is written, *for he that hath mercy on them shall lead them; even by the springs of water shall he guide them.*¹⁷

R. Eleazar also said: Great is knowledge,¹⁸ since it was placed between two Letters,¹⁹ as it is written, *For a God of knowledge is the Lord.*²⁰ R. Eleazar also said: Great is the Sanctuary, since it was placed between two Letters, as it is written, *Thou hast made for thee, O Lord, a Sanctuary: O Lord, thy hands have established it.*²¹ R. Adda Karhina demurred: If so, then great is vengeance, since it was placed between two Letters, as it is written, *O God of vengeance, O Lord: O God of vengeance, manifest thyself!*²² — He replied: For its purposes it is so indeed. Even as 'Ulla said: Why these two manifestations?²³ One as a measure of reward [for the righteous] and the other as a measure of punishment [for the wicked].

R. Eleazar also said: Whenever one has knowledge, it is as though the Temple was built in his days, since each [sc. knowledge and the Temple] was placed between two letters.

R. Eleazar also said: Whoever has knowledge will eventually be wealthy, as it is written, *And by knowledge shall the chambers be filled with all precious and pleasant riches.*²⁴

R. Eleazar also said: Whosoever lacks knowledge, one may have no mercy upon him, as it is written, *For it is a people of no understanding: therefore he that made them will not have mercy upon them, and he that formed them will show them no favour.*²⁵

R. Eleazar also said: Whoever gives of his bread to one who lacks knowledge will be assailed by suffering, as it is written, *They*

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that eat thy bread have laid mazor [a wound]²⁶ under thee: there is no understanding in him;²⁷ 'mazor' can refer only to suffering, as it is written, When Ephraim saw his sickness, and Judah his mezero [suffering].²⁸

R. Eleazar also said: Whoever lacks knowledge will ultimately be exiled, for it is written, Therefore my people are gone into exile, because they have no knowledge.²⁹

R. Eleazar also said: The house in which the words of the Torah are not heard at night shall be consumed by fire, as it is written, All darkness is hid in his secret places: a fire not blown shall consume him; he grudgeth [sarid]³⁰ him that is left in his tabernacle:³¹ now, 'sarid' can refer only to the scholar, as it is written, And in those left [u-base-ridim]³² whom the Lord shall call.³³

R. Eleazar also said: Whoever does not benefit a scholar with his goods will never see a sign of blessing, as it is written, There be none ['sarid'] that remaineth to eat it; therefore shall he not hope for prosperity.³⁴ now 'sarid' refers to none but the scholar, as it is written, And in those left whom the Lord shall call.³⁵

R. Eleazar also said: He who leaves no bread on the table [at the end of his meal] will never see a sign of blessing, as it is written, There be none of his meat left; therefore shall he not hope for his prosperity.³⁶ But did not R. Eleazar say: He who leaves crumbs on his table is as though he engaged in idol worship, for it is written, That prepare a table for Gad, and that furnish the drink offering unto Meni?³⁷ — It is no difficulty: in the latter case a whole loaf is left therewith [i.e., with the pieces],³⁸ but in the former there is no whole loaf left therewith.³⁹

R. Eleazar also said: Whoever dissembles in his speech is as though he had engaged in idolatry: here it is written, And I shall seem to him as a deceiver,⁴⁰ and elsewhere it is said, They are vanity, and the work of deceivers.⁴¹

R. Eleazar also said: Whoever gazes upon one's shame,⁴² his virility shall be emptied,⁴³ for it is written, Shame shall empty thy bow [i.e., strength].⁴⁴

R. Eleazar also said: Be always humble:⁴⁵ so shalt thou endure. R. Zera said: We have learned likewise. The windows of a dark house may not be opened to examine its leprosy.⁴⁶ This proves it.

R. Tabi said in R. Josia's name: What is meant by, The grave; and the barren womb; and the earth that is not filled by water:⁴⁷ now, what connection has the grave with the womb? But it is to teach thee: just as the womb receives and brings forth,⁴⁸ so does the grave too receive and bring forth.⁴⁹ Now, does this not furnish us with an *a fortiori* argument? If the womb, which receives in silence, yet brings forth amid great cries [of jubilation]; then the grave, which receives the dead amid cries [of grief], will much more so bring them forth amid great cries [of joy]! This refutes those who maintain that resurrection is not intimated in the Torah. [The] Tanna debe Eliyyahu [states]: The righteous, whom the Holy One, blessed be He, will resurrect, will not revert to dust,⁵⁰ for it is said, And it shall come to pass. that he that is left in Zion and he that remaineth in Jerusalem, shall be called holy, even every one that is written among the living in Jerusalem:⁵¹ just as the Holy One endures forever, so shall they endure forever.

1. [H] translated in the versions, the people shall curse him. Prov. XI, 26.
2. Gen. XXV, 23: as Jacob and Esau were not yet born, it must refer to them in their embryonic state.
3. [H].
4. Num. XXIII, 8.
5. [H] *nashku*, translated, 'do homage' (A.J.V.) or 'kiss' (A.V.) is here connected with [H] and by thy command shall my people be provided for (Gen. XLI, 40).
6. Ps. II, 12.
7. I.e., with ridicule and curses. According to Maharsha it denotes that all his knowledge will escape him as corn through a sieve, or water through a fuller's trough.

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8. II Kings XII, 10.
9. Upon which the washing is placed for the water to drain off; hence it is perforated.
10. [H] Prov. XI, 26.
11. Gen. XLII, 6.
12. Prov. XI, 25. Having watered i.e., taught, in this world, he will do so in the next too.
13. Deut. XXXIII, 6.
14. But rise at the resurrection: it is so interpreted on account of its redundancy.
15. Dan. XII, 2.
16. Ibid. 13.
17. Isa. XLIX, 10.
18. Knowledge in the sense of moral discernment.
19. I.e., two Divine Names.
20. I Sam. II, 3.
21. Ex. XV, 17.
22. Ps. XCIV, 1.
23. The verse being divided into two stichs, 'manifest thyself' is applied to each separately.
24. Prov. XXIV, 4.
25. Isa. XXVII, 11
26. [H]
27. Obad. I, 7.
28. [H] Hos. V, 13.
29. Isa. V, 13.
30. [H]
31. Job XX, 26.
32. [H]
33. Joel III, 5: the first part of the verse, all darkness is hid, etc., is interpreted as, 'his secret places are not illumined by the study of the law;' the last part, he grudgeth, etc., as 'he looks with disfavor upon any student who enters his house for a meal.'
34. Job XX, 21.
35. Joel III, 5.
36. Job XX, 21.
37. Isa. LXV, 11. Gad and Meni are the names of two idols; v. p. 432, n. 4.
38. Then it appears to have been set specially for these deities.
39. So that the pieces appear to have been left for the poor.
40. Gen. XXVII, 12.
41. Jer. X, 15. The reference is to idols.
42. Either the pudenda, or metaphorically, whoever lusts after a married woman.
43. I.e., he will lose the power to beget children.
44. Hab. III, 9.
45. Lit., 'obscure'.
46. If leprosy breaks out in the walls of a house and the priest, coming to examine it, (v. Lev. XIV, 36) finds the house too dark for a proper survey, the windows must not be opened to allow the light to enter, as it must be examined by its usual light. Thus its darkness protects it, since in the absence of a proper examination it

cannot be pronounced unclean. Similarly, the darkness in which a man wraps himself, i.e., obscurity and humility, protects his life.

47. Prov. XXX, 16.
48. The child.
49. The dead are laid there, and will be taken out at the resurrection.
50. In the interval between the Messianic era and the time of the world to come; but their flesh will remain intact upon them until they live again in the future.
51. Isa. IV, 3.

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And should you ask, in those years during which the Almighty will renew his world, as it is written, **And the Lord alone shall be exalted in that day,¹ what will the righteous do?² — The Lord will make them wings like eagles', and they will fly above the water, as it is written, **Therefore we will not fear when the earth be removed and the mountains be carried into the midst of the sea.³ And should you imagine that they will suffer pain — therefore Scripture saith, But they that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles; they shall run and not be weary; and they shall walk and not faint.⁴ But should we not deduce [the reverse] from the dead whom Ezekiel resurrected?⁵ — He accepts the view that in the truth [the story of the resurrection of the dry bones] was [but] a parable.⁶ For it was taught: R. Eliezer said: The dead whom Ezekiel resurrected stood up, uttered song, and [immediately] died. What song did they utter? — The Lord slayeth in righteousness and reviveth in mercy.⁷ R. Joshua said: They sang thus, The Lord killeth and maketh alive: he bringeth down to the grave, and bringeth up.⁸ R. Judah said: It was truth; it was a parable. R. Nehemiah said to him: If truth, why a parable; and if a parable, why truth? — But [say thus]: In the truth there was but a parable.⁹****

R. Eliezer the son of R. Jose the Galilean said: The dead whom Ezekiel revived went up to Palestine, married wives and begat sons and daughters. R. Judah b. Bathyra rose up and

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said: I am one of their descendants, and these are the tefillin¹⁰ which my grandfather left me [as an heirloom] from them.

Now, who were they whom Ezekiel revived? — Rab said: They were the Ephraimites, who counted [the years] to the end [of the Egyptian bondage], but erred therein,¹¹ as it is written, And the sons of Ephraim; Shuthelah, and Bared his son, and Tahath his son, and Eladah his son, and Tahath his son. And Zabad his son, and Shuthelah his son, and Ezzer, and Elead, whom the men of Gath that were born in that land slew.¹² And it is written, And Ephraim their father mourned many days, and his brethren came to comfort him.¹³

Samuel said: They were those who denied resurrection, as it is written, Then he said unto me, Son of man, these bones are the whole house of Israel; behold, they say, Our bones are dried, and our hope is lost: we are cut off for our parts.¹⁴

R. Jeremiah b. Abba said: They were the men who lacked the [vitalizing] sap of good deeds, as it is written, O ye dry bones, head the word of the Lord.¹⁵

R. Isaac Nappaha said: They were the men who covered the whole Temple with abominations and creeping things, as it is written, So I went in and saw; and behold every form of creeping things, and abominable beasts, and all the idols of the house of Israel, portrayed upon the wall round about:¹⁶ whilst there [in the case of the dry bones] it is written, And caused me to pass by them round about.¹⁷

R. Johanan said: They were the dead of the plain of Dura.¹⁸ R. Johanan also said: The plain of Dura extends from the river Eshel to Rabbath. Amongst the Israelites whom Nebuchadnezzar drove into exile there were young men who shamed the sun by their beauty. The Chaldean women, looking upon them, were inflamed with passion. Their husbands, being informed thereof, reported it

to the king, who ordered the execution of these exiles; yet they still burned with desire:¹⁹ so by royal command they were trampled [out of recognition].

Our Rabbis taught: When the wicked Nebuchadnezzar threw Hananiah, Mishael and Azariah into the fiery furnace, the Holy One, blessed be He, said to Ezekiel: 'Go and resurrect the dead in the plain of Dura.' This being done, the bones came and smote the wicked man upon his face. 'What kind of bones are these!' he exclaimed. They [his courtiers] answered him, 'Their companion²⁰ is resurrecting the dead in the plain of Dura.' Thereupon he broke into utterance, How great are His signs, and how mighty are His wonders! His kingdom is an everlasting kingdom, and His dominion is from generation to generation!²¹ R. Isaac said: May molten gold be poured into the mouth of that wicked man [sc. Nebuchadnezzar]! Had not an angel come and struck him upon his mouth he would have eclipsed²² all the songs and praises uttered by David in the Book of Psalms.²³

Our Rabbis taught: Six miracles were wrought on that day, viz.: [i] The furnace floated upward;²⁴ [ii] its walls [partly] fell in;²⁵ [iii] its foundations crumbled [with the heat];²⁵ [iv] the image [which Nebuchadnezzar had set up to be worshipped] was overthrown upon its face; [v] four royal suites were burned;²⁶ [vi] Ezekiel resurrected the dead in the valley of Dura. All these are [known by] tradition, but [that pertaining to] the four royal suites is Scriptural, for it is written, Then Nebuchadnezzar the king sent to gather together the princes, the governors, and the captains, the judges, the treasurers, the counselors, the sheriffs, and all the rulers of the provinces, [to come to the dedication of the image, etc.];²⁷ and it is further written, There are certain Jews [...serve not thy god, etc.];²⁸ also, And the princes, governors and captains, and the king's counselors, being gathered together, saw these men, upon whom the fire had no power.²⁹

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The School of R. Eliezer b. Jacob taught: Even in times of danger one should not lay aside his insignia of office, for it is written, Then these men were bound in their coats, their hosen, and their hats, and their other garments, etc.³⁰

R. Johanan said:

1. Isa. II, 11, i.e., during this era of change the universe will be totally destroyed.
2. [Where will they be in this period of complete desolation?]
3. Ps. XLIV, 3.
4. Isa. XL, 31. [For parallel passages in the book as we have it, v. Friedmann's edition, Introduction, p. 46.]
5. Just as they died again, so will the righteous whom God will resurrect also return to dust.
6. I.e., a symbol of the revival of the Jewish State.
7. Cp. I Sam. II, 6.
8. Ibid.
9. I.e., their resurrection did in fact take place, and that was a foreshadowing of the renaissance of the Jewish people.
10. Phylacteries, v. [Glos.](#)
11. They counted the four hundred years foretold by God to Abraham (Gen. XV, 13) as commencing there and then, whereas in reality they dated from Isaac's birth, which according to tradition took place thirty years later. As a result, they left Egypt thirty years before the rest of Israel.
12. I Chron. VII, 20f.
13. Ibid. 22.
14. Ezek. XXXVII, 11. Though they personally were not entitled to resurrection, since they denied it (v. *supra* 90a), yet the miracle was wrought for them that the belief might become established for Israel.
15. Ibid. 4. Though lacking good deeds to their credit, they were resurrected to show that the wicked, provided they deny not resurrection, after undergoing their punishment, will participate therein (Maharsha).
16. Ibid. VIII, 10. The identification is based on the use of 'round about' in both narratives. In his view even those who in their despair surrender themselves to abominable worship are not excluded from the bliss of resurrection. (Adapted from Maharsha.)
17. Ibid. XXXVII, 2.
18. [Dan. III, 1. The plain of Dura has not yet been identified. Obermeyer, *op. cit.* 310, suggests a locality near Nahr Dura, a small river which flows into the Euphrates, some six miles south of Babylon.]
19. Lit., 'discharged issue'.
20. Lit., 'The companion of these', (viz., of Hananiah, Mishael and Azariah).
21. Dan. III, 23.
22. Lit., 'shamed'.
23. On seeing the great miracle performed for Hananiah, Mishael and Azariah. This being praiseworthy, R. Isaac expressed his curse euphemistically.
24. It was originally built in the earth, but floated upwards, that all might see the miracle.
25. For the same reason.
26. Other versions, based on different readings: his (Nebuchadnezzar's) pride crumbled, (he confessed his wrong); the lime in it melted and burned those who cast them in (v. Rashi).
27. I.e., four kings and their retainers, who had assisted Nebuchadnezzar in casting them into the furnace.
28. Ibid. 2.
29. Ibid. 27. Those who are omitted in this verse from the enumeration of v. 2 were burned.
30. Ibid. 21. These were garments specially worn by men in their exalted position, and they did not doff them, though cast into the furnace.