Talmud - Mas. Kiddushin 2a

C H A P T E R I

MISHNAH. A WOMAN IS ACQUIRED [IN MARRIAGE] IN THREE WAYS AND ACQUIRES HER FREEDOM[1] IN TWO. SHE IS ACQUIRED BY MONEY, BY DEED, OR BY INTERCOURSE. 'BY MONEY': BETH SHAMMAI MAINTAIN, A DENAR[2] OR THE WORTH OF A DENAR; BETH HILLEL RULE, A PERUTAH OR THE WORTH OF A PERUTAH.[3] AND HOW MUCH IS A PERUTAH? AN EIGHTH OF AN ITALIAN ISSAR.[4] AND SHE ACQUIRES HER FREEDOM BY DIVORCE OR BY HER HUSBAND'S DEATH. A YEBAMAH[5] IS ACQUIRED BY INTERCOURSE, AND ACQUIRES HER FREEDOM BY HALIZAH[6] OR BY THE YABAM'S DEATH.[7]

GEMARA. A WOMAN IS ACQUIRED. Why does he [the Tanna] state here, 'A WOMAN IS ACQUIRED,' Whilst elsewhere[8] he teaches 'A man may betroth' [etc.]?[9] — Because he wishes to state 'MONEY'; and how do we know that money effects betrothal? By deriving the meaning of 'taking' from the field of Ephron:[10] Here it is written: If any man take a wife;[11] whilst there it is written: I will give thee money for the field: take it of me.[12] Moreover, 'taking' is designated acqui sition, for it is written, the field which Abraham acquired;[13]

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(1) Lit., 'acquires herself.'

(2) V. Glos.

(3) I.e., goods to its value.

(4) V. Glos. The ordinary issar = 1124th of a denar (denarius); the Italian issar = 1116th.

(5) v. Glos.

(6) V. Glos.

(7) v. Glos.

(8) At the beginning of Chapter II, infra 41a.

(9) Thus here too he should have stated: 'A woman is betrothed.' 'Betroth' in this sense, and as it is generally used in the Talmud, is the first stage of marriage. A betrothed woman could not be freed without a divorce, though cohabitation was still forbidden. V. Glos. s.v. erusin. As far as practicable in this translation, 'betrothed' is employed to denote this first stage, and 'marriage' to denote the second (nissu'in), after which the couple may live together.

(10) Lit., 'taking,' 'taking' is deduced from the field of Ephron. This method of exegesis is designated 'gezerah shawah,' whereby the use of the same word in two passages indicates that their laws or connotations are similar.

(11) Deut. XXII, 13.

(12) Gen. XXIII, 13. Just as 'take' in the latter verse refers to money, so in the former too: the wife is 'taken,' i.e., betrothed by money.

(13) Gen. XLIX, 30. The quotation is not exact in the Talmud.

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alternatively, men shall acquire fields for money;[1] therefore, he teaches: A WOMAN IS ACQUIRED. Then let him state there,[2] 'A man acquires'? — He [the Tanna] first employs Biblical phraseology, but subsequently, the Rabbinical idiom. Now what does the Rabbinical term connote?[3] — That he [the husband] interdicts her to all [men] as hekdesh.[4] But, why not teach here, 'A man acquires'?[5] — Because he desires to teach the second clause, AND ACQUIRES HER FREEDOM, which refers to her [the woman], he therefore teaches the first clause likewise with reference to her. Then let him state, 'A man acquires . . . and makes [her] acquire'?[6] — Because there is the husband's death where it is not he who frees her, but it is Heaven who confers [her freedom] on her.[7] Alternatively, were it taught 'he acquires.' I might have thought, even against her will, hence It is stated 'A WOMAN IS ACQUIRED,' implying only with her consent, but not without.[8] Now, why does he [the Tanna] choose to teach shalosh? Let him teach sheloshah?[9] — Because he desires to

state derek [way], which is feminine, as it is written, and thou shalt shew them the way wherein [bah] they must walk.[10] 'If so, when we learnt, a zab[11] is examined in seven [shiv'ah] ways [derakim.]':[12] let him [the Tanna] employ sheva'?[13] — Because he desires to state derek, which we find designated as masculine, as it is written, they shall come out against thee in one way [be-derek ehad], and flee before thee seven ways [shiv'ah derakim].[14] If so, the verses are contradictory, and the Mishnahs likewise? — The verses are not contradictory: here [the first verse quoted], the reference being to the Torah,[15] which is a feminine noun, as it is written: The law [torah] of the Lord is perfect [temimah], restoring [meshibath] the soul:[16] the feminine form is employed. There, however, the reference is to war, and it is the practice of man to wage war, not of woman — therefore the masculine is employed. The Mishnahs are [likewise] not contradictory: here, since the reference is to a woman, It is couched in the feminine form. There, the reference being to a man, since it is the nature of a man to be examined, but not of a woman, for a woman becomes unclean even through an accident,[17] the masculine form is employed.

Now, why does he employ shalosh? on account of derakim [ways]! Then let him teach debarim [things] and sheloshah?[18] — Because he wishes to mention INTERCOURSE, which is designated 'way', as it is written, and the way of a man with a maid. . . Such is the way of an adulterous woman.[19] Now, that answers for intercourse; but what can you say of MONEY AND DEED? — [They are] on account of INTERCOURSE.[20] And are two taught on account of one?[21] — These too are adjuncts of intercourse.[22]

Alternatively I can say: The author of this [Mishnah] is R. Simeon. For it was taught: R. Simeon said: Why did the Torah state, If any man take a wife,[23] and not 'if a woman be taken to a man'? Because it is the way of a man to go in search of a woman, but it is not the way of a woman to go in search of a man. This may be compared to a man who lost an article: who goes in search of whom? The loser goes in search of the lost article.[24] Now, as to what we learnt: 'a zab is examined in seven ways': let it state [seven] 'things'?[25] — There we are informed this: it is the nature [way] of excessive eating to cause gonorrhoea, and it is the nature [way] of excessive drinking to cause gonorrhoea. Further, as to what we learnt: 'The citron is comparable to a tree in three ways'[26] — let him state [in three] things? — Because he wishes to teach the second clause: and to vegetables in one way.[27] Then in the second clause too' let him state, [and to vegetables in one] 'thing'?

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(1) Jer. XXXII, 44.

(2) Infra 41a.

(3) The Heb. mekaddesh literally means 'consecrates.' Why is this employed by the Rabbis for betrothal?

(4) V. Glos.; hekdesh is forbidden for secular use.

(5) Granted that Biblical usage demands a verb of acquisition, yet just as the Mishnah on 41a states: 'a man betroths,' so here too it should have been, 'a man acquires.'

(6) Both clauses referring to his action.

(7) Hence this could not be referred to as his (voluntary) action.

(8) By referring it to her, the Tanna shews that the validity of acquisition is dependent on her consent.

(9) Shalosh (three) is used with fem. substantives; sheloshah with masc. ones, which is the more usual.

(10) Ex. XVIII, 20: bah is feminine (in her), the masc. being bo.

(11) V. Glos, cf. p. 3, n. 1.

(12) Pl. of derek.

(13) Shiv'ah with masc., sheva' with fem. substantives.

(14) Deut. XXVIII, 27: in both clauses the numerals are masculine.

(15) When Jethro said to Moses, and thou shalt shew them the way wherein they must walk, by 'way' he meant the Torah.

(16) Ps. XIX, 8; both the adjective and the participle are feminine.

(17) A man is unclean as a zab only if the discharge comes of itself, without being caused by external factors (technically called accidents); e.g., the eating of certain foods, physical overstrain, etc.; seven such factors might have caused the

discharge, and consequently he had to be examined in respect of these. But a woman is unclean even then; hence there is no purpose in examining her.

(18) A woman is acquired by three things; debarim is masc.

(19) Prov. XXX, 19 f.

(20) Since derek is required for cohabitation, it is also used for the others.

(21) Surely the idiom should be primarily adapted to the majority?

(22) They are not separate and complete acts, but preliminaries to cohabitation.

(23) Deut. XXII, 13.

(24) But the lost article does not seek the loser. Thus, man having lost his rib, he seeks to recover it. — Since R. Simeon says 'It is the way of a man, etc.' he also teaches: 'A WOMAN IS ACQUIRED IN THREE WAYS. 'Derek' (way) is applicable to something that happens in conformity with nature or normal practice.

(25) Because generally speaking the masculine is preferable.

(26) Viz., in respect of 'orlah (q.v. Glos.), fourth year fruits, and the year of release. The fruit gathered in the fourth year of a tree's planting was to be eaten in Jerusalem, like the second tithe (v. note 4). Special laws governed the produce of every seventh year (v. Lev, XXV, 1-7), but the definitions of 'seventh year' varied. In respect to trees it meant the fruit that grew in the seventh year, even if not harvested until the eighth; while in speaking of vegetables it applies to the time of gathering: the citron is assimilated to trees in this matter.

(27) Viz., in respect of tithing. In the first, second, fourth, and fifth years after the 'year of release', the first and second tithe were separated, the first being given to the Levite and the second eaten by its owners in Jerusalem; in the third and sixth years the first and third tithes were due, the latter being given to the poor. Here too, trees were determined by the time when their fruit grew; vegetables by their gathering; the citron was assimilated to vegetables in this matter.

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— There we are informed this: that the nature [way] of a citron is like that of vegetables. Just as it is the nature of vegetables to grow by means of all waters,[1] and its tithing is determined by the time when it is gathered;[2] so is it the nature of the citron to grow by means of all waters, and [therefore] its tithing is determined by its gathering.[3] Again, when we learnt: A koy[4] is, in some ways, similar to beasts of chase;[5] and in other ways to cattle; and [again], in some ways to both beasts of chase and cattle, and in other ways to neither beasts of chase nor cattle[6] — let it be taught, [in some] 'things'? Moreover, when we learnt: This is one of the ways wherein women's divorce deeds are similar to slaves' writs of liberation[7] — let him state, [this is one of the] 'things' etc.? — But [answer thus]: wherever a distinction is drawn, 'ways' is employed: wherever there is no distinction, 'things' [respects] is taught.[8] This may be proved too, for the second clause teaches: R. Eliezer maintained: The citron is equal to trees in all things.[9] This proves it.

What does the number of the first clause exclude, and what does the number of the second exclude?[10] — The number of the first clause excludes huppah.[11] But according to R. Huna, who maintained: Huppah [as an act of betrothal] acquires [a woman], by inferring it a minori,[12] what does it exclude? — It excludes barter.[13] I might have thought, since we learn the meaning of 'taking' from Ephron's field:[14] then just as a field may be acquired by barter, so may a woman too be acquired by barter: hence we are informed [otherwise]. And let us say: That indeed is so? — Barter is possible with less than a perutah's worth;[15] whilst a woman will not cede herself [in marriage] for less than a perutah's worth.[16]

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(1) I.e., artificial irrigation, which is normally impossible in the case of wheat and the vine.

(2) V. nn. 3 and 4.

(3) Thus by employing 'way,' the Tanna teaches the reason of its similarity in tithing, viz., because it is also similar in the nature (way) of its growth.

(4) [Generally taken as a cross between a goat and some species of gazelle; v. Lewysohn, Zoologie, p. 115.]

(5) Heb. hayyah, beast of chase, opposed to behemah, cattle. The Rabbis were uncertain whether the koy should be considered of the genus of cattle or a beast of chase.

(6) Its heleb (hindquarter fat) is forbidden like that of cattle, its blood must be covered after slaughter, like that of a beast of chase, it must be ritually killed before it is fit for food, like both, it must not be made to copulate with either. — Since its status is undetermined, we impose the stringencies of both beasts of chase and cattle.
(7) Viz., if one is brought from overseas, the messenger must declare, 'It was written and attested in my presence.'
(8) E.g., in some respects the citron is similar to trees; in others to vegetables: hence a distinction is drawn. The same applies to the other passages quoted. But if one thing is entirely like another, we employ 'things' (dabar).
(9) Thus 'way' is not used here, since no distinction is drawn.
(10) It is unnecessary to state, A WOMAN . . . THREE WAYS . . . TWO, since these are actually enumerated. The explicit statement of the number must therefore emphasize that only three ways are valid, not more.
(11) If a father delivers his daughter to huppah as an act of betrothal (kiddushin), it is not valid as such. (Rashi). [The word חופה from the root חפף , denotes the baldachin or canopy wherein the bridegroom received the bride at the nuptials. A good deal of uncertainty exists as to the signification of this ceremony; (v. Shulhan 'Aruk, Eben ha-'Ezer, I, XV, 1). Rashi, it appears, regards huppah as a mere symbol of traditio puellae, a handing over of the maiden by the father to the husband into whose control she now passes, (cf. Keth. 48a), in contradistinction to Maim., (Yad, Ishuth, X, 1), who saw in it a symbol of the marital union, copula carnalis, cf. Neubauer J. pp. 57 and 226ff.]
(12) V. infra 50.
(13) A woman cannot be bartered, i.e., become betrothed in exchange for an article. — On 'barter' v. infra 28a, Mishnah.
(14) V. supra 2a.
(15) V. B.M. 47a.
(16) Because it is derogatory to her dignity.

Talmud - Mas. Kiddushin 3b

The number of the second clause excludes halizah.[1] For I might have thought, this may be inferred a minori from a yebamah: if a yebamah, who is not freed by divorce, is freed by halizah; then this one [a married woman], who is freed by divorce, is surely freed by halizah. Therefore we are informed [otherwise]. And let us say: That indeed is so? — Scripture states, [then he shall write her] a writ of divorcement:[2] Thus, a 'writ' may divorce her, but nothing else may divorce her.

BY MONEY. Whence do we know this? Moreover, when we learned, A father has a privilege over his daughter [if a minor] in respect of her kiddushin[3] by money, deed, or intercourse:[4] How do we know that she can be acquired by money and that the money belongs to her father? — Said Rab Judah in Rab's name, Because Scripture saith, then she shall go out for nothing, without money:[5] no money is due to this master [when she leaves his control], but money is due to another master, viz., her father.[6] Yet perhaps it belongs to her?[7] — How now! her father receives her kiddushin [on her behalf], for it is written, [and the damsel's father shall say. . .] I gave my daughter unto this man;[8] shall she take the money? [Surely not!] But perhaps this applies only to a minor [ketannah], who has no power to accept kiddushin; but as for a na'arah,[9] who is empowered to accept kiddushin — let her betroth herself and take the money![10] — The Writ saith, in her youth[11] in her father's house:[12] teaching, all the profit of youth belongs to her father.

If so, when R. Huna said in Rab's name: Whence do we know that a daughter's labour belongs to her father? — From the verse: And if a man shall sell his daughter to be a maidservant:[13] just as a maidservant's labour belongs to her master, so does a daughter's labour belong to her father; learn it rather from, 'in her youth, in her father's house'? But [you must answer], that refers to the annulment of vows.[14] So here too, [you must admit] that it is written in reference to annulment of vows![15] And should you argue, We may learn therefrom[16] — but civil law[17] cannot be deduced from ritual law.[18] And should you say, we may learn it from kenas[19] — but civil law cannot be deduced from kenas?[20] And should you say: We may learn it from [the indemnity payable for her] shame and depreciation[21] — yet shame and depreciation are different, since her father has an interest therein.[22] — But [answer thus:] it is logical that when a limitation is made,

(1) V. Glos. The marriage bond cannot be dissolved by halizah.
(2) Deut. XXIV, 1.
(3) V. Glos.
(4) He can accept money or a deed as her kiddushin, the former belonging to him, or deliver her to intercourse, v. Keth. 46b.
(5) Ex. XXI, 11: this refers to a Hebrew maidservant.
(6) When she leaves him on marriage. Hence her father has a right to the money given as kiddushin.
(7) The verse merely implying that no money is payable when she leaves this master, but it is when she leaves another master, viz., her father. But nothing shews that the money belongs to her father, which would follow only if Scripture had written: 'without money to him'.
(8) Deut. XXII, 16; thus shewing that the privilege rests entirely with him.
(9) V. Glos.
(10) A minor cannot enter into a legal contract; hence it is but equitable that her father has full power over her in respect to marriage. But a na'arah can make valid transactions and acquire property; the father therefore should have no rights in respect to her kiddushin. — Though the verse quoted, dealing with the slandering of a woman's honour, explicitly refers to a na'arah — Then shall the father of the na'arah (E.V. damsel) etc., — she may have been betrothed while a minor.
(11) I.e., when a na'arah, to which the Heb. term bi-ne'ureha corresponds.
(12) Num. XXX, 17.
(13) Ex. XXI, 7.
(14) Teaching that the father can annul his unmarried daughter's vows, if a na'arah; but it has no bearing on her labour.
(15) Not kiddushin.
(16) Just as a father can annul his daughter's vows, so has he a title to her betrothal money.
(17) Lit., 'money'.
(18) Lit., 'prohibition'. The title to betrothal money is purely a question of civil law, whereas the binding character of vows and their annulment belong to ritual law.
(19) Lit., 'fine'; v. Glos. If a man seduces, violates, or slanders a na'arah, he must pay a fixed fine to her father: Ex. XXII, 15f; Deut. XXII, 13-19; 28f. Hence in the case of kiddushin too the money belongs to her father.
(20) This is a general principle. Kenas is not regarded as equitable indemnification for loss sustained, for then the amounts would vary, but as a Biblical decree. As such, it stands in a category by itself, and ordinary civil law cannot be compared with it.
(21) Besides the fixed kenas, the seducer must pay her father for the shame she sustained and her loss in social standing, which has a monetary value. These are ordinary payments for injury inflicted and therefore provide a basis for analogy.
(22) For her father could inflict these on her by marrying her to a man suffering from repulsive disfigurement.

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it applies to an analogous going forth.[1] But the one departure is dissimilar to the other: there [sc. a maidservant] she passes from her master's authority completely; whereas here she yet wants being given over for huppah?[2] — Nevertheless, she passes out of his control in respect of annulment of vows; for we learnt: A betrothed maiden — her father and husband [together] may annul her vows.[3]

Now, this verse: 'and she shall go out for nothing' — does it come to teach this? Surely it is needed for what was taught, viz., 'And she shall go out for nothing' — this refers to the days of bagruth;[4] without money — to the days of na'aruth![5] — Said Rabina: If so, Scripture should have written, en kesef [without money]; why write, eyn kesef[6] — [To teach:] no money is due to this master, but money is due to another, viz., her father.[6] And how do you know that such exegesis is permissible?[7] — Because it was taught: [If a priest's daughter also be married unto a stranger, she may not eat of an offering of the holy things. But if the priest's daughter be a widow, or divorced,] and have no [eyn] child [. . . she shall eat of her father's meat].[8] I only know [that] her own child [disqualifies her]; whence do I know [the same of] her child's child?[9] From the verse: 'and have no [eyn] child', [teaching] examine her [for issue].[10] Again, I only know [that] legitimate seed

[disqualifies her]: whence do I know it of illegitimate [pasul] seed?[11] From the verse, and have no [eyn] child: examine her [for any issue whatsoever]. But you have employed this for her child's child? — For her child's child no verse is required, because grand-children are as children;[12] [hence] the verse is required only for her illegitimate seed.

Now, how does the Tanna[13] himself know that such exegesis is permissible? — I will tell you. It is written: Baalam doth not consent [me'en],[14] and my husband's brother doth not consent [me'en][15] neither of which contain a yod, whereas here [in the verses under discussion] a yod is written:[16] this proves that it [sc. the yod] comes for exegesis. Now, it is necessary to state that in the case of a na'arah, both her kiddushin and her labour belong to her father.[17] For had Scripture written that her kiddushin belongs to her father, I might have thought, That is because she takes no pains with it; but her labour, for which she toils, I would say is her own. And if we were told about her labour, that is because she lives thereby;[18] but her kiddushin, which comes from elsewhere, I would think is hers: thus both are necessary.

The [above] text [says:] 'And she shall go out for nothing — this refers to the days of bagruth; without money — to the days of na'aruth.' Then Scripture should have written na'aruth, which renders bagruth superfluous?[19] — Said Rabbah: One comes and illumines the other.[20] For this may be compared to the case of toshab and sakir,[21] as was taught: Toshab means one [a Hebrew slave] acquired in perpetuity;[22] sakir, one purchased for a period of [six] years.[23] Now, let toshab be stated, but not sakir, and I would reason: if one acquired in perpetuity may not eat, how much more so one purchased only for a period of [six] years?[24] Were it so, I would say, toshab is one purchased for a limited period, but one acquired in perpetuity may eat. Therefore sakir comes and illumines [the meaning of] toshab, [teaching] that though he is purchased for ever, he may not eat. Said Abaye to him: How compare! There they are two persons, and even had Scripture [explicitly] written, a toshab whose ear was bored,[25] and then added the other, sakir would be something which might be inferred a minori; and a thing which is derived a minori Scripture [often] takes the trouble to write. But here [in the case of a maidservant] she is only one person: having departed in na'aruth, what business has she with him in bagruth? — But, said Abaye, it is necessary only for the majority of a [constitutionally] barren woman:[26] I might have thought, she [a Hebrew maidservant] is freed only by na'aruth, but not by bagruth: hence we are informed [otherwise]. Mar, son of R. Ashi, demurred: But does this not follow a minori? If symptoms [of na'aruth], which do not free her from parental authority,[27] free her from her master's authority: then bagruth, which liberates from parental authority, surely liberates her from her master's authority! — But, said Mar, son of R. Ashi: This is necessary only in respect of the sale itself of a barren woman:[28] I might have thought, with one who will [subsequently] produce evidence of na'aruth, the sale is valid: but with one who will not produce such evidence[29] the sale is altogether invalid:

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(1) After all, the matter is deduced from 'and she shall go out for nothing' without money, the reasoning being as follows: The verse teaches that only for a maidservant is no payment due for gaining her freedom. Now, if it were due, it would obviously be her master's; hence when we learn that elsewhere, sc. marriage, payment is due, it is likewise due to the master whom she leaves, viz., her father.

(2) Before which her father is still entitled to her labour, and acts as her heir.

(3) But the father no longer enjoys undivided control.

(4) V. Glos.

(5) V. Glos. Thus the verse merely teaches that something else, not money, frees her, but implies no other exclusion.

(6) Rabina assumes that 'without money' could be written, אן (en); the inserted yod י (אין eyn) is superfluous, so expresses a further limitation.

(7) I.e., that the yod (י) may be regarded as superfluous?

(8) Lev. XXII, 12f.

(9) Her own being dead.

(10) [עיין לה , a play on the word אין or an interchange of the א with the ע, as is frequent in Semitic languages].

See if she has any descendants. This is deduced from the superfluous yod.

(11) 'Illegitimate' not in the modern sense, but e.g., a child born of adultery.

(12) This is deduced in Yeb. 62b.

(13) V. Glos.

(14) Num. XXII, 14.

(15) Deut. XXV, 7.

(16) It is assumed that me'en is derived from en.

(17) These were deduced from two separate verses on 3b.

(18) She must work for her keep, hence her earnings belong to her father, who keeps her. — Tosaf. in Git. 47b s.v. יוולביתך

(19) If she is freed at na'aruth, which is earlier, surely she is freed at bagruth!

(20) The two phrases must refer to two ages, na'aruth and bagruth. But if only one were written — and she shall go out for nothing — I would apply it to bagruth only.

(21) The reference is to Lev. XXII, 10: a toshab (E.V. sojourner) of the priest, or a sakir (E.V. hired servant), shall not eat of the holy thing.

(22) I.e., until Jubilee; v. Ex. XXI, 5f.

(23) V. ibid. 2.

(24) For the former is more of the priest's chattel (v. Lev. XXII, 11) than the latter.

(25) V. Ex. ibid.

(26) She has no symptoms of na'aruth, and attains her majority (bagruth) at the age of twenty.

(27) V. p. 7.

(28) I.e., a minor who shews symptoms of constitutional barrenness.

(29) V. n. 5.

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therefore the verse: 'and she shall go out for nothing etc.', teaches us [otherwise]. Now, according to Mar, son of R. Ashi, who objected, does this not follow a minori, but we have said: Scripture takes pains to write something which could be inferred a minori? — That is only if no other answer is possible; but if it is, we answer.[1]

But this Tanna adduces it[2] from the following. For it was taught: When a man taketh a wife, and hath intercourse with her, then it shall be, if she find no favour in his eyes, because he hath found some unseemly thing in her, etc.;[3] 'taking' is only by means of money, and thus it is written: I will give the money for the field: take it of me.[4] But does this not follow a minori: if a Hebrew maidservant, who cannot be acquired by intercourse, can be acquired by money; this one [a wife], who may be acquired [in marriage] by intercourse, can surely be acquired by money? Let a yebamah prove [the contrary:] she may be acquired by intercourse, yet she is not acquired by money. As for a yebamah, that may be because she cannot be acquired by deed: will you say the same of this one [a wife], who can be acquired by deed? Therefore Scripture teaches: 'when a man taketh, etc.'[5] But what need of a verse for this: it has been inferred![6] — Said R. Ashi: Because one can argue, The deduction is vitiated ab initio:[7] whence do you adduce it? From a Hebrew maidservant! As for a Hebrew maidservant, that [her acquisition is by money] is because she is freed by money: will you say the same of this one [a wife], who is not freed by money? Therefore Scripture teaches: 'when a man taketh a wife'.

Now, both 'and she shall go out for nothing'[8] and 'when a man taketh' must be written. For had Scripture written: 'when a man taketh', I would have thought, the kiddushin given to her by the husband is her own: therefore Scripture [also] writes, 'and she shall go out for nothing.' And had Scripture written: 'and she shall go out for nothing,' I would have thought, if she [the wife] gives him [the husband] money and betroths him,[9] it is valid kiddushin:[10] therefore Scripture wrote, 'when a man taketh', but not, 'when a woman taketh'.[11] 'And hath intercourse with her': this teaches that

she may be acquired by intercourse. But does this not follow a minori? If a yebamah, who cannot be acquired by money, is acquired by intercourse; then this one [a wife], who is acquired by money, can surely be acquired by intercourse! — Let a Hebrew maidservant prove [the contrary], for she may be acquired by money, yet she is not acquired by intercourse. As for a Hebrew maidservant, that is because her acquisition is not for conjugal purposes; will you say the same of this one, who is acquired for conjugal purposes? Therefore it is stated: 'and has intercourse with her'. But what need of a verse: it has been inferred? — Said R. Ashi: Because one can argue, the deduction is vitiated ab initio: whence do you adduce it? From a yebamah! As for a yebamah, that is because she already stands tied;[12] can you say [the same] of this one, who does not stand tied? Therefore it is taught: 'and hath intercourse with her'.

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(1) By making the verse apply to something else.

(2) Sc. that kiddushin is effected by money.

(3) Deut. XXIV, 1.

(4) Gen. XXIII, 13.

(5) That 'taking' means by money.

(6) A minori, the refutation from yebamah being refuted itself.

(7) Without referring to a yebamah.

(8) V. supra 3b and 4a.

(9) Saying to him, 'I am betrothed unto thee in virtue of the money I give thee.'

(10) Since that verse does not shew who must give the money.

(11) Hence he must give the money.

(12) To the yabam (q.v. Glos.), on account of her deceased husband, hence cohabitation merely completes the bond.

Talmud - Mas. Kiddushin 5a

And whence do we know that [a woman may be acquired] by deed too? But may it not be inferred a minori: if money, which cannot free, effects betrothal;[1] then deed, which frees,[2] can surely tie? — [No.] As for money, that is because hekdesh and second tithe[3] can be redeemed therewith;[4] can you say likewise of a deed, by which hekdesh and second tithe cannot be redeemed, for it is written, [and if he that sanctified the field will in any wise redeem it,] then he shall add the fifth part of the money of thy estimation, and it shall be assured to him.[5] Therefore Scripture saith, And when she is departed [out of his house, she may go] and be [another man's wife]:[6] thus 'be — coming' [betrothed] is assimilated to 'departure' [divorce]; just as the 'departure' is by deed, so is 'becoming' too. Then let 'departure be assimilated to 'becoming': just as the 'becoming' may be by money, so the 'departure' too may be effected by money? — Abaye replied: Then it will be said: Money unites and money sunders:[7] shall the defender become the prosecutor![8] If so, of deed too it will be said: Deed sunders and deed unites: shall the prosecutor become the defender! — The contents[9] of each deed are distinct.[10] Then here too, [the purpose of] this money is distinct and that of the other is distinct? — Nevertheless, the impress [of the coin] is the same.

Raba said: Scripture saith, then he shall write her [a writ of divorcement]:[11] [hence], she can be divorced by writing, not by money. Say rather, she can be divorced by 'writing', but not betrothed by writing? — But it is written, and when she is departed, she may go and be, etc., assimilating etc.[12] And why do you choose thus?[13] — It is logical: when treating of divorce, one excludes [a particular method of] divorce; but when dealing with divorce, shall one exclude [a form of] marriage? [Surely not!]

Now, according to R. Jose the Galilean, who utilises this verse ['then he shall write, etc.'], for a different purpose,[14] how do we know that she cannot be divorced by money? — The Writ saith, 'a writ of divorcement' — a deed can divorce her, but nothing else can divorce her. Now, how do the Rabbis employ this word 'divorcement'?[15] — They employ it [to shew] that it must be an instrument

which [completely] sunders them from each other. Even as it was taught: [If the husband says,] 'Behold, here is your divorce, on condition that you drink no wine or do not visit your father's house for ever,' that is no 'divorcement':[16] 'for thirty days,' that is a 'divorcement'.[17] And R. Jose the Galilean?[18] — He deduces it from the use of kerithuth instead of koreth.[19] And the Rabbis?[20] — In their opinion, the use of kerithuth instead of koreth has no particular significance.

Now, one could not be inferred from another; yet let one be inferred from two others?[21] — Which could be inferred: should Scripture omit deed, that it might be inferred from the others? But as for the others, that is because their pleasure is great![22] Should Scripture omit intercourse, that it might be inferred from the others? But as for the others, that is because their powers of acquisition are great![23] Should Scripture omit money, that it might be inferred from the others? But as for the others, that is because they have compulsory powers![24] And should you argue, money too has compulsory powers over a Hebrew maidservant[25] — nevertheless, we do not find this in respect to conjugal relationship.[26] R. Huna said: Huppah acquires [a woman], a minori. If money, which does not authorize one to eat terumah,[27] effects possession;[28] then huppah, which authorizes one to eat terumah, surely effects possession![29] Yet does not money authorize the eating [of terumah]? But 'Ulla said: By Biblical law, an arusah[30] may eat of terumah, for it is said: And if a priest acquire any soul, the purchase of his money, [he shall eat out],[31] and this one [a betrothed woman] too is the purchase of his money. Why then did they [the Sages] say that she may not eat [thereof]? For fear lest a cup [of wine of terumah] be mixed for her[32] in her father's house,[33] and she give it to drink to her brothers and sisters. But argue thus: if money, which does not complete [marriage],[34] acquires [in marriage],[35] then huppah, which completes [marriage], surely acquires! As for money, [it may be asked,] that is because hekdeshoth[36] and second tithe are redeemed therewith![37] Let then intercourse prove it.[38] As for intercourse, that is because it acquires in the case of a yebamah! Then let money prove it.[39] And thus the argument revolves: the distinguishing feature of one is not that of the other, nor is the distinguishing of this one that of the other; the feature common to both is that they acquire elsewhere, and acquire here [in marriage]; so do I adduce huppah, which acquires elsewhere[40] and acquires here too.[41] [No.]

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(1) Lit., 'brings in' — a woman, into the bond of matrimony.

(2) I.e., the deed of divorce, which frees a woman from marriage.

(3) v. p. 4, n. 4.

(4) When an article of hekdesh cannot itself be used in the Temple service, it is redeemed, reverts to a secular status, and the redemption money is dedicated to the Temple. Similarly, if the second tithe cannot be carried to Jerusalem, it is redeemed, becomes secular, and the redemption money is consumed in Jerusalem. — Since then money is potent in respect of these, it may also effect marriage.

(5) Lev. XXVII, 19. The text gives only a paraphrase of this, then he shall give the money and it shall be assured to him; v. Tosaf. Shab. 128a s.v. ונתן also p. 276, n. 4.

(6) Deut. XXIV, 2.

(7) Lit., 'money leads in and money leads out.'

(8) It is illogical that the same thing should have two opposing effects.

(9) Lit., 'words'.

(10) Hence it is not the same instrument in both cases.

(11) Deut. XXIV, 1.

(12) Supra, proving that she can be married by writing.

(13) To exclude money for divorce and include deed for marriage; perhaps one should reverse it?

(14) Git. 21b.

(15) Lit., 'cutting off.

(16) Since she remains bound in a particular respect to her husband all her life.

(17) Fur after that she is completely cut off from him.

(18) How does he know this?

(19) He regards the longer form as more emphatic; hence it teaches that the cutting apart must be absolute, as in the

Baraitha.
(20) Why state the whole phrase, when the word keritkuth itself is sufficient?
(21) It was proved above that no one method of acquisition may be inferred from another a minori, hence a verse is necessary for each. Now the Talmud asks, Only two are required then the third follows by analogy: just as the two are methods of acquisition elsewhere, and also in marriage, so is the third. For each effects possession elsewhere, money and deed in ordinary purchases, and cohabitation in the case of a yebamah.
(22) Both money and cohabitation confer pleasure upon the recipient, but a deed does not.
(23) Both give a title to land and slaves, which cohabitation does not.
(24) Cohabitation acquires a yebamah even against her will, and a deed divorces a woman likewise even against her desire.
(25) A father can sell his daughter, the transaction being effected by money, against her will (Rashi). Tosaf.: Having bought a Hebrew maidservant, her master can declare that the money paid was for betrothal, even against her will and that of her father.
(26) According to Rashi's interpretation, the sense is obvious. Tosaf.: Money has no power of matrimonial compulsion at the outset, for in the first place the money is given for a maidservant, not a wife.
(27) V. Glos. If a priest betroths an Israelite's daughter with money, she may not eat terumah until the huppah.
(28) Of a woman in marriage, and she becomes an arusah (q.v. Glos.).
(29) To make a woman an arusah.
(30) V. Glos.
(31) Lev. XXII, 11.
(32) Wine was diluted before drinking.
(33) Cohabitation being forbidden until huppah, the arusah naturally lived in her father's house until then.
(34) The money makes her an arusah only, and her father is still her heir, and entitled to her labour; v. supra.
(35) Effecting betrothal, which is marriage in so far as divorce is required to free her.
(36) V. Glos. hekdesh, pi. hekdeshoth.
(37) V. p. 12, n. 5.
(38) Which acquires a woman though lacking this power.
(39) Which cannot acquire a yebamah, yet effects betrothal.
(40) After betrothal.
(41) I.e., it can effect the first stage of marriage, sc. betrothal.

Talmud - Mas. Kiddushin 5b

The feature common to both is that they confer much pleasure![1] Let deed then prove it.[2] As for deed, that is because it frees an Israelitish daughter![3] Then let money and cohabitation prove it. And thus the argument revolves: the distinguishing feature of one is not that of another, nor is the distinguishing feature of this one that of the other:[4] the feature common to all is that they acquire in general and here too; so do I adduce huppah, that it acquires in general and here too. [No.] As for the common feature, it is that they have powers of compulsion.[5] And R. Huna?[6] — Money at least has no compulsory powers in matrimonial relationships.

Raba said: There are two refutations of the matter:[7] firstly, we learnt THREE, not ‘four’; and secondly, can then huppah complete [marriage] but through [prior] kiddushin; are we then to deduce huppah, when not as a result of kiddushin, from the same when preceded by kiddushin? — Abaye answered him: As for your objection, we learnt THREE, not ‘four’: [only] what is explicitly stated [in Scripture] is taught, but not what is not explicitly stated.[8] And as to your objection; can then huppah complete [marriage] but through [prior] kiddushin — that indeed is R. Huna's argument: if money_ which cannot complete [marriage] after money,[9] nevertheless acquires; then huppah, which completes [marriage] after money, can surely acquire.[10]

Our Rabbis taught: How [is a woman acquired] by money? If a man gives her [a woman] money or its equivalent and declares to her, ‘Behold, thou art consecrated unto me,’ [or] ‘thou art betrothed

unto me', [or] 'Behold, thou art a wife unto me' — then she is betrothed.[11] But if she gives him [money or its equivalent] and says 'Behold, I am consecrated unto thee,' 'I am betrothed unto thee,' 'I am a wife unto thee,' she is not betrothed. R. Papa demurred: Thus it is only when he both gives [the money] and makes the declaration [that the betrothal is valid]; but if he gives [it] and she speaks, she is not betrothed. Then consider the second clause: But if she gives [it] to him, and she makes the declaration, the kiddushin is not valid. [Hence,] it is only when she both gives [the money] and speaks, but if he gives the money and she speaks, the kiddushin is valid? — The first clause is exact, while the second is mentioned incidentally.[12] But may a statement be made in the second clause contradictory to the first?[13] — But this is its meaning: If he gives [the money] and he speaks, the kiddushin is obviously valid; [but] if he gives, and she speaks, it is accounted as though she both gives and speaks, so that the kiddushin is not valid. Alternatively, if he gives and speaks, she is betrothed; if she gives and speaks, she is [certainly] not betrothed; but if he gives and she speaks, it is doubtful, and as a Rabbinical measure we fear [the validity of the kiddushin].[14]

Samuel said: In respect to kiddushin, if he gave her money or its equivalent and declares, 'Behold, thou art consecrated,' 'Behold, thou art betrothed,'[or] 'Behold, thou art a wife,' — then she is betrothed. [If he declares,] 'Behold, I am thy husband,' 'Behold, I am thy master,'[15] 'Behold, I am thy arus,'[16] — there are no grounds for fear.[17] The same applies to divorce: If he gives her [the document of divorce] and declares, 'Behold, thou art sent forth,' 'Behold, thou art divorced,'[18] [or] 'Thou art [henceforth] permitted to any man, — then she is divorced. [But if he declares,] 'I am not thy husband,' 'I am not thy master,' 'I am not thy arus,' there are no grounds for fear.[19]

R. Papa said to Abaye: Shall we say that in Samuel's opinion inexplicit abbreviations are [valid] abbreviations?[20] But we learnt: If one declares, 'I will be,' he becomes a nazir. Now we pondered thereon: but perhaps he meant, 'I will fast'?[21] And Samuel answer — ed: That is only if a nazir was passing before him.[22] Thus, it is only because a nazir was passing before him, but not otherwise.[23] — The circumstances here are that he said 'unto me.' If so, what does he inform us?[24] — His teaching is with respect to these

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(1) Cf. p. 14, n. 5; no pleasure however, is derived from huppah.

(2) Which gives us pleasure, yet effects betrothal.

(3) I.e., it effects divorce.

(4) Regarding money and cohabitation as one proposition, and deed as another.

(5) V. supra p. 14, nn. 7, 8.

(6) How does he dispose of this?

(7) Sc. R. Huna's statement.

(8) Money and deed, though deduced by exegesis, are regarded as explicit, since they are intimated in Scripture. But huppah is only inferred a minori.

(9) I.e., when betrothal (erusin) is effected by money, the marriage cannot he completed by giving money a second time.

(10) A woman in the first stage of marriage — kiddushin.

(11) Lit., 'consecrated,' i.e., she becomes an arusah.

(12) In contrast to the first, but its implication is not to be stressed.

(13) Even if mentioned incidentally, it must be essentially, and in its implications, correct.

(14) She is neither married nor unmarried, and if another man betroths her she must be divorced by both, since we do not know her rightful husband.

(15) Heb. בעל = husband.

(16) V. Glos.

(17) It is definitely not valid betrothal, as below. Consequently, if another betroths her, the second kiddushin is valid.

(18) The Heb. verb גרש, garesh, literally means 'to expel', 'drive forth'.

(19) The divorce is definitely invalid.

(20) Lit., 'handles'. In the above, the formulas are abbreviations, since he declares 'Behold, thou art betrothed,' omitting 'unto me. Moreover, their purport is not explicit and beyond doubt, for he may have been speaking and acting on another

man's behalf, yet Samuel rules that since he was the speaker, she is betrothed to him, thus shewing that he holds these to be valid.

(21) Lit., 'I will be in a fast'.

(22) Then it is obvious that he meant, 'I will be like him.'

(23) Which proves that Samuel holds that abbreviations must be beyond doubt.

(24) It is obvious.

Talmud - Mas. Kiddushin 6a

latter expressions.[1] [For] here it is written, when any man taketh [a woman],[2] but not that he taketh himself [as a husband], and there it is written, and when he send her away,[3] but not that he sends himself away.

Our Rabbis taught: [if one declares,] 'Behold, thou art my wife,' 'Behold, thou art my arusah,' 'Behold, thou art acquired to me,' she is betrothed; 'Behold, thou art mine,' 'Behold, thou art under my authority,' 'Thou art tied unto me,' she is betrothed. Then let them all be combined and taught in one clause?[4] — The tanna[5] heard each three separately, and memorized them [in that order]. The scholars propounded: [What if one declares,] 'Thou art singled out for me,'[6] 'Thou art designated unto me,'[7] 'Thou art my help,'[8] 'Thou art meet for me,'[9] 'Thou art gathered in to me,' 'Thou art my rib,'[10] 'Thou art closed in to me,'[11] 'Thou art my replacement,'[12] 'Thou art kept [seized] unto me,' [or,] 'Thou art taken by me'? — One at least you may solve. For it was taught: If one declares, 'Thou art taken by me,' she is betrothed, for it is written, when a man taketh a wife.[13]

The Scholars propounded: What of 'Thou art my harufah [betrothed]?[14] — Come and hear: For it was taught: If a man declares, 'Be thou my harufah,' she is betrothed,for in Judea an arusah is called harufah. Is Judea then the greater part of the world?[15] — It is meant thus: If he declares, 'Be thou my harufah,' she is betrothed, for it is said: 'that is a bondmaid, neherefeth [betrothed] to a man'; moreover, in Judea an arusah is called harufah. Is [the practice in] Judea to support Scripture![16] — But it means thus: If he says in Judea, 'Be thou my harufah,' she is betrothed, because in Judea an arusah is called harufah.

What are the circumstances:[17] shall we say, that he was not speaking to her about her divorce or kiddushin,[18] how does she know what he means?[19] But if he was speaking to her about her divorce or kiddushin, then even if he said nothing at all [but gave her money], she is also [betrothed]. For we learnt: If a man was speaking to a woman on matters concerning her divorce or betrothal, and gave her her divorce or kiddushin, but made no explicit declaration — R. Jose said: It is sufficient; R. Judah maintained: He must make an explicit declaration. Whereon R. Huna said in Samuel's name: The halachah[20] agrees with R. Jose! — I will tell you: after all, it refers to a case where he was speaking to her about her divorce or betrothal; now, had he given her [the money or the deed of divorce] and remained silent, that indeed would be so.[21] But the circumstances here are that he gave [them] to her and made one of these declarations. And this is the problem: did he employ these expressions in the sense of kiddushin, or perhaps he meant them in reference to work?[22] The questions stand over.

The [above] text [stated]: 'If a man was speaking to a woman on matters concerning her divorce or betrothal, and gave her her divorce or kiddushin, but made no explicit declaration — R. Jose said: It is sufficient; R. Judah maintained: He must make an explicit declaration'. Said Rab Judah in Samuel's name: Providing that they were engaged on that topic [when the divorce or kiddushin was given]. R. Eliezer said likewise in R. Oshaia's name: Providing that they were engaged on that topic.[23]

This is disputed by Tannaim; Rabbi said: Providing that they were engaged on that topic; R.

Eleazar son of R. Simeon said: Even if they were not engaged on that topic. But if they were not engaged on that topic, how does she know what he meant? — Abaye answered: [They travelled] from one matter to another in the same topic.[24] R. Huna said in Samuel's name: The halachah agrees with R. Jose. R. Yemar asked R. Ashi: Then when Rab Judah said in Samuel's name: He who does not know the peculiar nature of divorce and betrothal[25] should have no business with them[26] — [does it hold good] even if he is ignorant of this ruling of R. Huna in Samuel's name? — Even so, he replied.

'The same applies to divorce: If he gives her [the document of divorce,] and declares, "Behold, thou art sent forth," "Behold, thou art divorced," [or] "Thou art permitted to any man," — then she is divorced.'[27] Now it is obvious, if he gives a divorce to his wife and says to her, 'Behold, thou art a free woman,'

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(1) Sc. 'I am thy husband,' etc., that these are certainly invalid.
(2) Deut. XXIV, 5.
(3) Ibid. 2.
(4) Instead of stating 'she is betrothed' twice.
(5) V. Glos. s.v. (b.).
(6) Rashi translates: 'Thou art one with me'; cf. Gen. II, 24: and they shall be one flesh.
(7) Heb. מיועדת. meyu'edeth, cf. Ex. XXI, 8: if she please not her master who hath designated her (ye'adah, E.V. betrothed her) for himself
(8) Cf. Gen. II, 18; It is not good that man should be alone; I will make him an help meet for (נגד, neged) him.
(9) נגדתי, negdathi from neged; preceding note. [Or, 'my counterpart' — another possible rendering of neged (against), v. Yeb. 63a.]
(10) Cf. Gen. II, 21: and he took one of his ribs.
(11) סגורתי Cf. ibid.: . . . and closed up the flesh ויסגור.
(12) תחתי, tahti; cf. ibid.: instead thereof תחתינה.
(13) Deut. XXIV, 1.
(14) Cf. Lev. XIX, 20: That is a bondmaid, betrothed (נחרפת neherefeth=harufah); this really applies to a bondmaid designated for her master.
(15) Surely local practice cannot settle the law for all places.
(16) Its validity being derived from Scripture, surely no local practice is required as further proof!
(17) Of the above expressions, concerning which the scholars were in doubt.
(18) ['Divorce' is mentioned here merely incidentally as part of a current phrase 'ashggarath lashon'. The text of Tosaf. Ri did not seem to have it.]
(19) Even if these terms imply kiddushin, she may not know that he intends them in that sense: consequently her consent is lacking.
(20) V. Glos.
(21) She would certainly be betrothed or divorced.
(22) E.g., 'thou art one with me,' to cooperate with me in work; similarly the rest.
(23) But if they had passed on to some other topic, all agree that she is not betrothed or divorced. [Although the woman's consent is not necessary by law in the case of divorce, she must nevertheless be aware of the character of the document that is being given to her, Tosaf. Ri; v. Git.78a.]
(24) E.g., they were no longer speaking of marriage, but about dowry, means of livelihood, etc.
(25) I.e., the laws by which they are governed.
(26) To celebrate a marriage or function as a Rabbi in divorce proceedings.
(27) Supra 5b; Samuel's dictum.

Talmud - Mas. Kiddushin 6b

his words are null.[1] If he says to his female slave, 'Thou art permitted to all men,' his words are [likewise] null.[2] [But] what if he says to his wife, 'Behold, thou art for thyself,' do we say, he meant

it in respect of labour; or perhaps he meant it absolutely?[3] — Said Rabina to R. Ashi: Come and hear: For we learnt: The essential part of a deed of manumission is, 'Behold, thou art a free man,' 'Behold, thou art for thyself.' Now if a heathen[4] slave, whose body belongs to him [his master], yet when he says to him, 'Behold, thou art for thyself,' he means it absolutely; how much more so in the case of a wife, who does not belong bodily to him.

Rabina asked R. Ashi: What if he says to his slave, 'I have no concern with you'? Do we say, he means, 'I have absolutely no concern with you;'[5] or perhaps he says it to him in reference to work? — R. Nahman observed to R. Ashi-others state, R. Huna of Hoza'ah[6] to R. Ashi: Come and hear: If one sells his [heathen] slave to a heathen, he is emancipated,[7] and requires a deed of manumission from his first master.[8] Said R. Simeon b. R. Gamaliel: When does this hold good? If he [the vendor] did not make out for him an oni;[9] but if he did, that is his [deed of] emancipation.[10] What is meant by 'oni'? — Said R. Shesheth: If he wrote for him, 'When you escape from him [the heathen buyer], I have no concern with you.'[11]

Abaye said: If a man betroths [a woman] with a debt,[12] she is not betrothed;[13] with the benefit of a debt,[14] she is betrothed; yet this may not be done, as it constitutes an evasion of usury.[15] This 'benefit of a debt,' how is it meant? Shall we say, that he fixed [the interest] as a loan, he having said, [I am lending you] four [zuz] for five.[16] — but that is real usury![17] Moreover, it is, in point of fact, a debt![18] — This holds good only if he extended the term [for repayment].[19] Raba said: [If he says,] 'Take this maneh[20] on condition that you return it to me,' — in respect to purchase, he acquires no title;[21] in the case of a woman,[22] she is not betrothed; in the matter of a redemption of the firstborn,[23] the firstborn is not redeemed: in respect of terumah,[24] he fulfils the duty of 'giving', yet it is forbidden to act thus, as it looks like a priest who assists in the threshing floor.[25] What is Raba's opinion: if he holds that a gift on condition that it be returned is a valid gift, then even the others too [are valid]; whilst if he holds that it is not a valid gift, then even in the case of terumah it is not [valid]? Furthermore, It was Raba who ruled: A gift on condition that it is returned is valid. For Raba said: [If one says to another,] 'Here you have this citron, on condition that you return it to me,' if [the other] takes and [then] returns it, he fulfils his duty; if not, he does not fulfil [it]![26] — But said R. Ashi: in the case of all it [the conditional gift] is valid, with the exception in that of a woman, because a woman cannot be acquired by barter.[27] R. Huna Mar, son of R. Nehemiah, said to R. Ashi: We teach in Raba's name even as you [have stated].

Raba said: [If a woman says,] 'Give a maneh to So-and-so,

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(1) Because this expression applies only to liberation from bondage.

(2) Because this applies to divorce.

(3) In the sense of divorce.

(4) Lit., 'Canaanite.'

(5) I.e., you are free.

(6) [Be Hozai, the modern Khusiztan, S.W. of Bagdad. V. Git. (Sonc. ed.) p. 413, n. 1.]

(7) A Gentile slave in a Jewish household was practically a semi-Jew, being obliged to fulfil those precepts which are incumbent on women. The master who sold him to a Gentile, thus freeing him from that obligation, was punished by being forced to buy him back, even at a greatly enhanced price, and the slave then became free.

(8) To be accounted a free man and a Jew — as a slave he was circumcised-that he might marry a free Jewess.

(9) Prob. = Gr. '**.

(10) And nothing else is needed.

(11) This proves that the expression connotes freedom.

(12) Saying, 'Thou art betrothed unto me by the debt you owe me.

(13) Because something must be actually given as kiddushin or betrothal, whereas money formerly lent had already passed into her possession before then.

(14) The meaning of this is discussed below.

(15) Since the lender thereby benefits from the loan.
(16) And he now offers the remission of the fifth zuz for kiddushin.
(17) Not merely an evasion.
(18) [Since she owes him the zuz which he offers to remit as kiddushin.]
(19) Rashi and others: If the creditor extended the period of repayment to the woman, and said to her, 'You might have given money to a third party, or to myself, to persuade me to this extension; hence by this extension I, on my own accord, am saving you this expenditure and thus confer a financial benefit upon you here and now, and by that benefit I betroth you.' Similarly, if he remits the entire debt and says to her, 'I betroth you by the benefit that has now accrued to you by this remission,' his declaration is valid. But when he betroths her with money owing, he is offering a past benefit, hence the betrothal is invalid. R. Tam: If a woman owes money, and a third party gives the creditor a sum of money for an extension, and betroths her with that benefit which he has conferred upon her, for which he has actually given something.
(20) V. Glos.
(21) V. infra 26a; real estate is acquired by money, but not if it is stipulated that the money shall be returned.
(22) If it was offered as kiddushin.
(23) Lit., 'son,' v. Ex. XIII, 13.
(24) V. Glos. If terumah is given to the priest on this condition.
(25) Of an Israelite, in order to receive the terumah. The Rabbis considered this undignified, and enacted that such a priest should not receive terumah. Now, if a priest accepts terumah on this condition, he offers an inducement to the Israelite to give it to him in the future too, and therefore Raba forbade the practice, though valid if done.
(26) The reference is to Lev. XXIII, 40: And ye shall take you on the first day (of the Feast of Tabernacles) the fruit of goodly trees (interpreted by the Rabbis as referring to the citron), branches of palm trees etc. The Rabbis ruled that this 'taking' requires one's own fruit, and to this Raba alludes. If the recipient carries out the stipulation, it was his for the period of 'taking', and so he fulfils his duty; otherwise, it was not his even then, and his duty is not fulfilled. Thus Raba holds a conditional gift valid.
(27) V. infra 28a; the article given as barter was generally returned, and so when money is thus given as kiddushin, it looks like barter.

Talmud - Mas. Kiddushin 7a

and I will become betrothed to thee,'[1] she is betrothed by the law of a surety:[2] a surety, though he personally derives no benefit [from the loan], yet obligates himself [to repayment]; so this woman too, though she personally derives no benefit [from the money], obligates and cedes herself [in betrothal]. [If a man says,] 'Take this maneh and be betrothed to So-and-so,'[3] she is betrothed by the law of a Canaanite slave:[4] a Canaanite slave, though he himself loses nothing,[5] yet acquires himself [his freedom]; so this man too though he personally loses nothing, acquires this woman. [If the woman declares,] 'Give a maneh to So-and-so, and I will become betrothed to him,' she is betrothed by the laws of both: a surety, though he personally derives no benefit, obligates himself, so this woman too' though she personally derives no benefit, cedes herself. [And should you object:] How compare: as for a surety, he who acquires a title[6] loses money,[7] — but shall this man acquire the woman at no cost to himself? Then let a Canaanite slave prove it, who loses no money[5] and yet acquires himself. [And if you demur:] How compare: there, he who gives possession[8] acquires [the money given for the slave's freedom]; but here, shall this woman cede herself though she acquires nothing whatsoever? Then let a surety prove it: though he personally receives no benefit, he obligates himself.

Raba propounded: What [if a woman declares,] 'Here is a maneh and I will become betrothed unto thee?'[9] Mar Zutra ruled in R. Papa's name: She is betrothed. R. Ashi objected to Mar Zutra: If so, property which ranks as security [real estate] is acquired as an adjunct to property which does not rank as security [movables];[10] whereas we learnt the reverse: Property which does not rank as security may be acquired in conjunction with property which ranks as security by money, deed, or hazakah?[11] — Said he to him: Do you think that she said to him, 'Along with'?[12] Here the reference

is to an important personage: in return for the pleasure [she derives] from his accepting a gift from her, she completely cedes herself.[13] It has been stated likewise in Raba's name: The same applies to monetary matters.[14] Now, both are necessary: had we been informed this of kiddushin [only], that is because a woman is pleased [even] with very little, in accordance with Resh Lakish's dictum, for Resh Lakish said: It is better to dwell in grief with a load[15] than to dwell in widowhood;[16] but as for money, I would say it is not so. And if we were informed this of monetary matters, that is because it is subject to remission;[17] but as for kiddushin, I would say it is not so.[18] Hence both are necessary. Raba said: [If a man declares,] 'Be thou betrothed to half of me,' she is betrothed: 'half of thee be betrothed to me,' she is not betrothed. Abaye demurred before Raba: Why does 'half of thee be betrothed to me' differ, that she is not betrothed? Because Scripture said, [when a man take] a wife,[19] but not half a wife? Then here too Scripture saith, 'a man', but not half a man? — How now! he rejoined. There, a woman is not eligible to two [men]; but is not a man eligible to two [women]? Hence this is what he said to her: 'Should I desire to marry another, I may do so.' Mar Zutra, son of R. Mari, said to Rabina: Yet let the kiddushin spread through the whole of her.[20] Has it not been taught: If one declares, 'Let the foot of this [animal] be a burnt-offering,' the whole of it is a burnt-offering? And even on the view that it is not all a burnt-offering, that is only if one dedicates a limb[21] upon which life is not dependent; but if he dedicates a limb upon which life is dependent [e.g., the heart], it is all a burnt-offering![22] — How compare? There it is an animal, whereas here we have an independent[23] mind.[24] This can only be compared with R. Johanan's dictum: An animal belonging to two partners: — if one [of them] dedicates half, and then purchases it [the other half] and dedicates it, it is holy, yet cannot be offered up;[25] and it establishes [the sanctity of] a substitute,[26] and the substitute is as itself.[27] This proves three things:

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(1) And he does, and says to her, 'Thou art betrothed unto me by the maneh I gave to So-and-so.'

(2) One who stands surety for the repayment of a debt by the debtor.

(3) Who had deputed him, but that the agent gave his own money instead of that of the principal.

(4) V. infra 22b.

(5) When another gives his master money for his freedom.

(6) Viz., the creditor, to the obligation of the surety.

(7) I.e., he first gives money to the debtor.

(8) Sc. the master, who cedes the slave to himself.

(9) And the man accepted it, saying: 'Be thou betrothed unto me therewith'.

(10) A creditor could collect his debt out of the debtor's real estate, even if sold after the debt was contracted, but not out of movables, if sold; hence the former is termed property which ranks as security, the latter, property which does not rank as security. Human beings are on a par with the former, and R. Ashi assumed that the woman is acquired in conjunction with the maneh.

(11) V. infra 26a for explanatory notes.

(12) 'Here is this maneh and acquire me along with it.'

(13) Though normally the man must give the money (supra 5b), yet if he is eminent his acceptance confers pleasure, which in turn is considered of financial value.

(14) If A says to B, 'Give money to C, in return for which my field is sold to you,' the sale is valid, by the law of surety: 'Take a maneh, and let your field be sold to C,' C acquires it by the law of a Canaanite slave; 'Give money to C and let him thereby acquire my field,' he acquires it by the laws of both — all as explained with reference to kiddushin.

(15) So Jast.; Rashi, 'two bodies'.

(16) I.e., a woman prefers an unhappy married life to a happy single life.

(17) The purchase price can be altogether remitted, as in the case of a gift.

(18) A woman cannot forego the money of kiddushin. Since it is such a strong obligation, I would think that it must pass from the man who betroths to the woman who is betrothed.

(19) Deut. XXIV, 1.

(20) When he says: 'half of thee betrothed to me.'

(21) Lit., 'thing'.

(22) And surely life is dependent on half a woman's body.

(23) Lit., ‘another’.
(24) The woman refuses to let the kiddushin spread through the whole of her.
(25) Since it was not fit for offering originally, as the half belonging to the other partner was yet secular. Hence it must now be sold, and an animal purchased with the proceeds and sacrificed. Thus the sanctity of the half does not spread over the whole, since the partner does not wish it.
(26) The reference is to Lev. XXVII, 33: neither shall he change it (sc. a consecrated animal): and if he changed it at all, then both it and the change thereof shall be holy. Thus here too, if one substituted another animal for this one, the substitute also is holy.
(27) It may not be sacrificed, but must be sold, as in n. 7.

Talmud - Mas. Kiddushin 7b

[i] Live animals may be rendered [permanently] rejected;[1] [ii] that which is rejected ab initio is rejected;[2] [iii] rejection applies to monetary sanctity.[3]

Raba propounded: What [if one declares,] ‘Thy half [be betrothed to me] for half a perutah, and thy [other] half for half a perutah’? Since he says to her, ‘for half a perutah,’ he divided it;[4] or perhaps, he was proceeding with his enumeration?[5] Should you rule, he was proceeding with his enumeration: what [if he declares,] ‘Thy half [be betrothed unto me] for a peru!ah, and thy [other] half for a perutah’? Since he said to her, ‘for a perutah’ ‘and a perutah’, he divided his proposal;[6] or perhaps, providing it was on the same day, he was proceeding with his enumeration? Should you answer: Providing it was on the same day, he was proceeding with his enumeration: What [if he declares,] ‘Thy half [be betrothed to me] for a perutah to-day, and thy [other] half for a perutah tomorrow’? Since he said to her, ‘To-morrow,’ he divided it; or perhaps he meant thus: the kiddushin commence immediately, but shall not be completed until to-morrow? [Further,] what [if he says], ‘Thy two halves for a perutah’: here he certainly proposed to her in once; or perhaps a woman cannot be betrothed at all by halves? The questions stand over.

Raba propounded: What [if he declares,] ‘Thy two daughters [be betrothed] to my two sons for a perutah’? Do we consider the giver and the receiver, so that there is money;[7] or perhaps, we consider them [who betroth and are betrothed], and there is not? The question stands over.

R. Papa propounded: What [if he declares,] ‘Thy daughter and thy cow [be mine] for a perutah’? Do we say [it means,] thy daughter for half a perutah, and thy cow for half a perutah:[8] or perhaps [he meant,] ‘Thy daughter by a perutah, and thy cow by meshika’?[9] The question stands over.

R. Ashi propounded: What [if one declares,] ‘Thy daughter and thy land [be mine] for a perutah’? Does he mean, ‘Thy daughter for half a perutah and thy land for half a perutah’; or perhaps, ‘Thy daughter for a perutah, and thy land by hazakah’?[10] The question stands over.

A certain man betrothed [a woman] with silk.[11] Rabbah ruled: No valuation is necessary;[12] R. Joseph maintained: It must be valued. Now, if he declared to her, ‘[Be thou betrothed to me] for whatever it is worth,’ all agree that valuation is unnecessary.[13] If he declared to her, ‘[Be thou betrothed to me] for fifty [zuz],’ and this [the silk] is not worth fifty: then of course it is not worth it![14] They differ only if he stipulated fifty and it was worth fifty. Rabbah maintained: [Prior] valuation is unnecessary, since it is worth fifty: R. Joseph said: [Prior] valuation is required: Since the woman has no expert knowledge of its value, she does not rely thereon.[15] Others state: They disagree in the case of ‘for whatever it is worth’ too. R. Joseph maintained: The equivalent of money must be as money itself: just as the latter is definite,

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(1) As here: the animal having been rendered ineligible when dedicated, since half remained secular, it remains so even when the other half too is dedicated. There is an opposing view that only a dead animal can be rendered permanently

ineligible, v. Yoma 64a.
(2) This animal was not eligible to be dedicated by a single partner from the very outset. There is an opposing view that an animal can be rendered unfit only if it was originally rejected permanently.
(3) This animal was sanctified from the very outset only for its value, i.e., that the money which its sale would furnish should be expended for a sacrifice; nevertheless it becomes permanently ineligible for the altar. This excludes the view that might have been held that only an animal that was fit in the first place to be dedicated to the altar can be rendered permanently ineligible.
(4) I.e., he betrothed her as two separate halves, and neither is valid.
(5) He meant that as he was betrothing her entirely for a perutah, he was thereby betrothing each half for half a perutah.
(6) For it is less plausible here to assume that he was proceeding with his enumeration, since he could have betrothed her entirely for the first perutah.
(7) A perutah is given and received by one person; less than a perutah is not money.
(8) And therefore the kiddushin is invalid.
(9) V. Glos. and infra 25b.
(10) V. Glos. and infra 26a.
(11) In accordance with the Mishnah on 2a: 'OR THE WORTH OF A PERUTAH.'
(12) The silk need not be valued beforehand so that the woman might know how much it is worth.
(13) Since they are obviously worth at least a perutah.
(14) And the kiddushin is invalid.
(15) That it is worth so much, unless it is assessed by experts.

Talmud - Mas. Kiddushin 8a

so must the equivalent be definite.[1]

R. Joseph said: Whence do I know it? For it was taught: [If there be yet many years, according unto them he shall give back the price of his redemption] out of the money with which he was acquired:[2] thus he[3] may be acquired by money, but not by produce or utensils. Now, what is meant by 'produce or utensils'? Shall we say, that he cannot be acquired through these at all? But Scripture saith, 'he shall return the price of his redemption,' to include the equivalent of money as money?[4] Whilst if they are worth less than a perutah, why specify 'produce and utensil'? The same applies to money too? Hence it must surely mean that they are worth a perutah, but since they are not definite, they cannot [acquire the slave].[5] And the other?[6] — This is its meaning: he can be acquired in virtue of money, but not in virtue of produce or utensils. And what is that? Barter.[7] But according to R. Nahman, who ruled: produce cannot effect a barter,[8] what can be said? — But after all it means that they are not worth a perutah: and as to your objection, why specify 'produce and utensils'? The same applies to money? He [the Tanna] proceeds to a climax.[9] [Thus:] It is unnecessary [to state] that money, only if worth a perutah is it valid,[10] not otherwise. But as for produce and utensils, I might argue, Since the benefit derived is immediate,[11] he resolves and lets himself be acquired. Therefore we are informed [otherwise].

R. Joseph said: How do I know it? For it was taught: [If one declares,] 'This calf be for my son's redemption,'[12] 'this garment be for my son's redemption,' his declaration is invalid.[13] 'This calf, worth five sela's,[14] be for my son's redemption,' or 'this garment, worth five sela's, be for my son's redemption,' — his son is redeemed. Now, how is this redemption meant? Shall we say that it [the calf or the garment] is not worth [five sela's]? does it rest with him![15] Hence it must surely mean even if it is worth [it]; yet since it was not defined, it is not valid![16] — No. After all, it means that it was not worth [it], but, we suppose the priest accepted it [for the full value], as in the case of R. Kahana, who accepted a scarf for a son's redemption,[17] observing to him,[18] 'To me it is worth five sela's' R. Ashi said: This holds good only of, e.g., [a man like] R. Kahana, who is a great man and needs a scarf[19] for his head; but not of people in general.[20] Thus it happened that Mar, son of R. Ashi, bought a scarf from the mother of Rabbah of Kubi[21] worth ten for thirteen.

R. Eleazar said: [If a man declares,] 'Be betrothed to me with a maneh,' and he gives her a denar, she is betrothed, and he must complete [the amount]. Why? Since he stipulated a maneh but gave her a denar, it is as though he had said to her 'on condition' [that I give you a maneh], and R. Huna said in Rab's name: He who says on condition,' is as though he says 'from now'.[22] An objection is raised: [If a man declares,] 'Be betrothed to me with a maneh,' and is proceeding with the counting out [of the money], and either party wishes to retract, even at the last denar he [or she] can do so![23] — The reference here is to one who declares, 'With this maneh.'[24] But since the second clause refers to 'this maneh,' the first treats of an unspecified maneh? For the second clause teaches: If he declares to her, 'Be thou betrothed unto me by this maneh,' and it is found to be a maneh short of a denar or containing a copper denar,[25] she is not betrothed: [if it contained] a debased denar,[26] she is betrothed, but he must change it. — No: the first and the second clauses [both] refer to 'with this maneh,' 'the second [being] explanatory of the first. [Thus:] if either party wishes to retract, even at the last denar, he [or she] can do so. How so? E.g., if he said to her, 'for this maneh.' Reason too supports this view, for should you think that the first clause refers to an unspecified maneh: seeing that it is not kiddushin in the case of an unspecified maneh: is it necessary [to teach it] in the case of 'for this maneh?' — As for that,it does not prove it: the second clause may be stated in order to illumine the first, that you should not say: The first clause deals with 'this maneh,' but in the case of an unspecified maneh it is valid kiddushin: therefore the second clause is taught with reference to 'this maneh,' whence it follows that the first refers to an unspecified maneh, yet even so, the kiddushin is null. R. Ashi said:[27] If he is proceeding with the counting it is different, because [then we assume] her mind is set on the whole sum.

This 'copper denar,' how is it meant? If she knew thereof, then she understood and accepted? — This is only if he gave it to her at night, or she found it among the other zuz. How is this 'debased denar' meant? If it has no currency, is it not the same as a copper denar?[28] — Said R. Papa, E.g.,it circulates with difficulty.[29]

Raba said in R. Nahman's name: If he says to her, 'Be thou betrothed to me with a maneh,' and gives her a pledge on it, she is not betrothed:

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(1) Its value must be exactly known.

(2) Lev. XXV, 51; this refers to the redemption of a Hebrew slave.

(3) The Hebrew slave.

(4) 'He shall return' implies that a return may be made in any way desired, i.e., by goods of monetary value; obviously then he can be purchased on the same terms.

(5) And the same holds good of a woman.

(6) Rabbah: How does he refute this proof?

(7) Whatever is given for a slave, be it money or property, must be given as money. Produce and utensils too can be given under that designation, but not in the nature of barter, in exchange for the slave: for barter can acquire only movables, whereas human beings rank as real estate.

(8) An article must be given, but not produce.

(9) Lit., 'he says, it is unnecessary.'

(10) Lit., 'yes'.

(11) They can be put to immediate use, unlike money, which must first be expended.

(12) V. infra p. 138.

(13) Lit., 'he has said nothing.'

(14) Sela' — Biblical Shekel.

(15) To assign to it an artificial valuation — surely not!

(16) For the only possible difference between the two clauses is that in the first it was not formally valued, whereas in the second it was.

(17) Although it was certainly not worth five sela's.

(18) The father who redeemed his son.
(19) [A sudarium, which served as a distinctive head-gear for scholars. V. Krauss, T.A., I, 167.] Hence he would be willing to pay an enhanced price for it when necessary.
(20) I.e., a priest cannot place a fictitious price upon an article unless it may conceivably be worth it for him.
(21) Neubauer, Geographie, p. 397, is unable to identify this. [MS.M.: Raba b. Kahana.]
(22) Thus here it is as though he said: 'Be betrothed to me immediately for a denar, on condition that I give you a maneh later.'
(23) The kiddushin being invalid until the whole sum is given. This contradicts the view that the first denar immediately effects betrothal.
(24) Therefore the woman desires the whole of that maneh before she consents.
(25) A maneh — a hundred silver denarii.
(26) E.g., underweight.
(27) Answering the objection against R. Eleazer.
(28) Why then is she betrothed?
(29) Only few people accept it.

Talmud - Mas. Kiddushin 8b

here is neither a maneh nor a pledge.[1] Raba raised an objection against R. Nahman: 'If he betroths her with a pledge she is betrothed'? — There the reference is to a pledge belonging to others, and it is in accordance with R. Isaac. For R. Isaac said: How do we know that a creditor has a title to a pledge? Because it is written, [And if the man be poor, thou shalt not sleep with his pledge: thou shalt surely restore to him the pledge when the sun goeth down . . .] and it shall be accounted unto thee a charitable deed:[2] if he has no title thereto, whence is his charity? This proves that the creditor has a title to the pledge.[3]

The sons of R. Huna b. Abin bought a female slave for copper coins. Not having them [the coins] at hand, they gave a silver ingot in pledge. Subsequently the slave's value increased,[4] so they came before R. Ammi. Said he to them: There are neither coins nor an ingot.[5]

Our Rabbis taught: [If a man says to a woman,] 'Be thou betrothed unto me with a maneh,' and she takes and throws it into the sea, the fire, or into anything where it is lost, she is not betrothed. Then if she throws it down before him — it is valid kiddushin? But she [thereby] declares to him, 'Take it: I do not want it!' — He [the Tanna] proceeds to a climax.[6] [Thus:] It is unnecessary [to state that] if she throws it down before him it is not kiddushin; but if she throws it into the sea or the fire, I might argue, Since she is now liable for it, she has certainly permitted herself to be betrothed: and the reason that she acted thus was because she thought, 'I will test this man, whether he is hot-tempered or not.' Therefore we are informed [otherwise].

Our Rabbis taught: [If a man says to a woman,] 'Be thou betrothed unto me with a maneh,' [and she replies,] 'Give it to my father' or 'thy father,' she is not betrothed; 'on condition that they accept it for me,' she is betrothed. 'My father' is mentioned to shew you how far-reaching is the first clause;[7] 'your father,' to shew how far-reaching is the second.[8] [If he says] 'Be thou betrothed unto me with a maneh', [and she replies] 'Give it to So-and-so', she is not betrothed. 'On condition that So-and-so accepts it for me', she is betrothed. And both these cases are necessary. For if we were taught the law with respect to 'my father' and 'thy father', [I might have thought that] only there is she betrothed when she replies, on condition that they accept it for me,' because she relies upon them, thinking, 'They will [certainly] act as agents for me'; but in the case of 'So-and-so,' it is not thus. While if we were taught the case of 'So-and-so', [I might have thought that] only there is the kiddushin invalid when she says: 'Give it to So-and-so,' because she Is not sufficiently intimate with him to present it [the maneh] to him as a gift.[9] But as for 'my father' or 'thy father,' with whom she is intimate, I might think that she was making a gift of it to them. Thus both are necessary.

Our Rabbis taught: [If he says,] 'Be thou betrothed unto me with a maneh,' [and she replies,] 'Place it on a rock', she is not betrothed; but if the rock was hers, she is betrothed. R. Bibi asked: What if the rock belonged to both of them? The question stands over. [If he says,] 'Be thou betrothed unto me for a loaf of bread', [and she replies,] 'Give it to the dog', she is not betrothed; but if it was her dog, she is betrothed. R. Mari asked: What if the dog was pursuing her? [Do we say that] in return for the benefit of saving herself from it she resolves and cedes herself to him; or perhaps she can say to him, 'By Biblical law you were indeed bound to save me'? The question stands over. [If he says,] 'Be thou betrothed unto me with a loaf,' [and she replies,] 'Give it to the poor man': she is not betrothed, even if he was a poor man who relies on her. Why? — She can say to him, 'Just as I have a duty towards him, so hast thou a duty to him'.

A man was selling

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(1) I.e., she neither received the maneh nor did he actually give her a pledge, since that must be returned. [V. Tosaf.; Asheri: Where there is no liability there can be no pledge, for no man can pledge himself for something which he does not owe. Similarly here, since he does not owe her the maneh, for he may retract if he wishes to do so, the pledge is no pledge.]

(2) Deut. XXIV, 12f.

(3) It is legally his whilst in his possession. Therefore he may validly offer it as kiddushin.

(4) And the vendor wished to withdraw from the bargain.

(5) As on p. 30, n. 6: the coins have not been received, whilst the ingot was not given to effect the purchase. Therefore it can be cancelled.

(6) V. p. 28, n. 7.

(7) Even then, she is not betrothed.

(8) Even then, she is betrothed.

(9) Therefore her reply was a contemptuous rejection of the proposal.

glass beads, when a woman came and said to him, 'Give me a string [of these].' 'If I give it you,' he replied: 'will you become betrothed to me?' 'Oh, indeed do give it to me,' she retorted. Said R. Hama: Every [such expression,] 'Oh, indeed do give it to me' means nothing.[1] A man was drinking wine in a tavern, when a woman came and said to him, 'Give me a cup.' 'If I give you,' he replied: 'will you become betrothed to me?' 'Oh, indeed do let me have a drink,' she retorted. Said R. Hama: Every [such expression,] 'Oh, indeed do let me have a drink' means nothing.

A man was throwing down dates from a palm tree, when a woman came and said to him, 'Throw me down two'. 'If I throw them down to you, he replied: 'will you become betrothed to me?' 'Oh, indeed do throw them down,' she retorted. Said R. Zebid: Every [such expression,] 'Oh, indeed, do throw them down' means nothing.

The scholars propounded: What [if she replies,] 'Give me,' 'let me drink,' or 'throw them down?'[2] — Rabina ruled: She is betrothed;[3] R. Sammia b. Raktha said: By the royal crown, she is not betrothed. And the law is: She is not betrothed. The law is also: the silk needs no valuation;[4] and the law agrees with R. Eleazar;[5] and the law agrees with Raba's dictum in R. Nahman's name.[6]

Our Rabbis taught: By deed: how so? If A writes for B on a paper or a shard, even if not intrinsically worth a perutah, 'Thy daughter be consecrated unto me,' 'thy daughter be betrothed unto me,' [or] 'thy daughter be my wife,' she is betrothed. R. Zera b. Mammel demurred: But this deed is dissimilar from a deed of purchase: there the vendor writes, 'My field is sold to thee,' whereas here the husband writes, 'Thy daughter be consecrated unto me!'[7] — Raba replied: There

[the form is determined] by Scriptural context, and here [likewise] by Scriptural context. There it is written, and he sell some of his possessions:[8] thus Scripture made it dependent on the vendor: whereas here it is written, when a man [taketh a woman],[9] thus making it dependent upon the husband. But there too it is written, men shall buy fields for money?[10] — Read: Men shall transmit [i.e., sell].[11] Now, why do you read 'transmit'? because it is written: 'and he sell'! Then here too read: If a man be taken, for it is written: I gave my daughter unto this man for wife?[12] — But said Raba: These are traditional laws, which the Rabbis supported by Scriptural verses.[13] Alternatively, there too it is written, so I took the deed of the purchase.[14]

Raba said in R. Nahman's name: If one writes on a paper or shard, even if not intrinsically worth a perutah, 'Thy daughter be consecrated unto me,' 'thy daughter be betrothed unto me,' [or] 'thy daughter be my wife,' whether [she accepts it] through her father or herself, she is betrothed by his [sc. her father's] consent,[15] providing that she has not attained her majority.[16] If he writes on a paper or a shard, even if not intrinsically worth a perutah, 'Behold, thou art consecrated unto me,' 'Behold, thou art my wife,' 'Behold, thou art betrothed unto me,' she is betrothed, whether [it is accepted] by her father or herself, with her consent, providing that she is of age.

R. Simeon b. Lakish propounded: What if a deed of betrothal was not written expressly for her sake?[17] Do we assimilate modes of betrothal[18] to divorce:[19] just as

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(1) She merely emphasized her request, but did not consent. In this and the following stories, the answer was expressed by the repetition of the verb, — an expression of impatience.

(2) Without repeating the verb; v. p. 32, n. 2.

(3) These answers denote assent.

(4) V. supra 8b.

(5) Who rules on 8a: If a man says: 'Be thou betrothed unto me with a maneh', and gives her a denar, she is betrothed, and he must complete the amount.

(6) Who ruled, here is neither a maneh nor a pledge; v. supra 8a bottom and 8b.

(7) And he is in the position of the vendor; how then do we know that such a deed is valid?

(8) Lev, XXV, 25.

(9) Deut. XXIV, 2.

(10) Jer. XXXII, 44.

(11) This requires a mere change of punctuation, the letters remaining the same.

(12) Deut. XXII, 16.

(13) But they are not actually deduced from them.

(14) Jer. ibid. 11; this shews that Jeremiah, the purchaser, received the deed, which must have been drawn up by the vendor.

(15) I.e., if she accepts it herself, she must have had her father's authority.

(16) I.e., she is not yet a bogereth (q.v. Glos.), and so still under her father's control,

(17) It was originally written for another woman. In the case of divorce, such a document is invalid. E.g., if a husband indites a divorce for his wife and does not use it, the same may not be used by another man to divorce his wife, even if all the relevant particulars, viz., names and places and date, coincide.

(18) Lit., 'becoming' (a wife).

(19) Lit., 'goings forth' (from the married state).

Talmud - Mas. Kiddushin 9b

divorce must be expressly for her sake,[1] So must betrothal be too; or perhaps, different modes of betrothal are assimilated to each other: just as betrothal by money need not be for her sake,[2] so betrothal by deed need not be for her sake? — After putting the question he, himself, decided it: betrothal is assimilated to divorce, for Scripture writes, and when she is departed [i.e., divorced] . . . she may be [another man's wife].[3]

It has been stated: If it [the deed of betrothal] is written for her sake, but without her knowledge: Raba and Rabina rule: She is betrothed; R. Papa and R. Sherabia say: She is not betrothed. Said R. Papa: I will explain their reason and I will explain mine. I will explain their reason: Because It is written, and when she is departed. . . she may be [another man's wife], assimilating betrothal to divorce: just as divorce must be [written] for her sake yet without her consent,[4] so must betrothal be for her sake, yet without her consent. And I will explain my reason: And when she departeth . . . then she shall be [etc.]: this assimilates betrothal to divorce: as in divorce, the giver's knowledge is required,[5] so in betrothal, the giver's knowledge is required.[6]

An objection is raised: Deeds of erusin and nissu'in[7] may only be written with the knowledge of both. Surely actual deeds of erusin and nissu'in are meant? — No: [the reference is to] deeds of apportionment,[8] and it is in accordance with R. Giddal's dictum in Rab's name, viz., How much do you give your son? — So much. How much do you give your daughter? — So much. If they [thereupon] arose and made a betrothal, they acquire a title [to the promised sums], and these are the things which are acquired by a verbal undertaking.[9]

OR BY INTERCOURSE. Whence do we know this? — R. Abbahu said in R. Johanan's name: Because Scripture saith, If a man be found lying with a woman] who had intercourse with a husband,[10] thus teaching that he became her husband through intercourse. R. Zera said to R. Abbahu-others state, Resh Lakish said to R. Johanan: Is this what Rabbi taught unsatisfactory, [viz.,] [When a man taketh a wife] and hath intercourse with her:[11] this teaches that she is acquired by intercourse? — If from there, I might have thought: He must first betroth her [e.g., by money] and then cohabit with her:[12] [therefore] we are informed [otherwise]. R. Abba b. Mammel objected: If so,[13] when Scripture decrees stoning in the case of a betrothed maiden,[14] how is it conceivable? If he [first] betrothed and then cohabited with her, she is a be'ulah;[15] if he betrothed but did not cohabit with her, it is nothing.[16] The Rabbis answered this before Abaye; It is possible if the arus cohabited with her unnaturally.[17] Thereupon Abaye observed to them: Even Rabbi and the Rabbis dispute [this matter] only in reference to a stranger: but as for the husband, all agree that if he cohabits with her unnaturally he renders her a be'ulah! (What is this?[18] For it was taught: If ten men cohabited [unnaturally] with her [sc. a betrothed maiden] and she is still a virgin, all are stoned. Rabbi said: I maintain, the first is stoned, but the rest are strangled.)[19] R. Nahman b. Isaac said: It would be possible if he betrothed her by deed: since it completely sunders,[20] it completely unites.[21]

And R. Johanan: How does he utilize this, and hath intercourse with her? — He needs that [to shew]: she [a wife] is acquired by cohabitation, but not a Hebrew bondmaid. For I might have thought, it may be inferred a minori from a yebamah: if a yebamah, who cannot be acquired by money, is acquired by cohabitation; this one [Hebrew bondmaid] who can be acquired by money, may surely be acquired by cohabitation. [No.] As for a yebamah, that is because she is already tied![22] — I might have argued, since it is written: If he take him another [wife],[23] Scripture compared her [the bondsmaid] to the ‘other’ [the wife]: just as the other is acquired by intercourse, so is a Hebrew bondsmaid acquired thus; therefore we are informed [otherwise].[24]

And Rabbi: how does he know this conclusion? — If so,[25] Scripture should have written; and hath intercourse: why [state] ‘and hath intercourse with her?’ Thus both are deduced.[26] But according to Raba, who said: Bar Ahina explained it to me: ‘When a man taketh a woman and hath intercourse with her’: [this teaches:] kiddushin[27] that can be followed by[28] intercourse is [valid] kiddushin, that which cannot be followed by intercourse is not [valid] kiddushin;[29] what can one say?[30] — If so,[31] Scripture should have written, or ‘hath intercourse with her’: why [state], ‘and hath intercourse with her?’[32] Thus all are inferred.

And Rabbi: how does he employ this phrase,’ who had intercourse [be'ulath] with a husband?’ —

He utilizes it [to teach:] her husband renders her a be'ulah unnaturally,[33] but not a stranger.[34] But does Rabbi hold this view? Has it not been taught: If ten men cohabited [unnaturally] with her [sc. a betrothed maiden] and she is still a virgin, all are stoned. Rabbi said: I maintain, the first is stoned, but the rest are strangled.[35]

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(1) Deduced from, then he shall write her a bill of divorcement (Deut. XXIV, 2).

(2) I.e., the money is not minted expressly to betroth that woman.

(3) Thus, betrothal and divorce are stated in proximity to each other, shewing that they are compared.

(4) In ancient Jewish law a wife's consent to divorce was not required. In the Middle Ages this was amended, and her consent became necessary.

(5) I.e., the husband's, who gives the woman her freedom.

(6) I.e., the woman's, who gives herself in marriage.

(7) v. Glos. for both.

(8) I.e., the amounts which the parents promise to settle on their son or daughter on marriage,

(9) Normally, a promise is binding only if the recipient performs an act of acquisition. i.e., he takes an article, not necessarily the thing promised, from the promisor. Here, however, the promise itself is binding. And the Baraitha quoted teaches that the witnesses may not draw up bonds to that effect unless both parties consent.

(10) Deut. XXII, 22.

(11) Ibid. XXIV, 1.

(12) But that cohabitation alone is not betrothal.

(13) That this verse might be interpreted as meaning that both betrothal and cohabitation are necessary, but that without the latter she is not even betrothed.

(14) Who commits adultery.

(15) I.e., no longer a virgin, whereas stoning is only for a virgin; v. Deut. XXII, 23f.

(16) She is not betrothed on this hypothesis.

(17) Leaving her a virgin.

(18) Concerning which Rabbi and the Rabbis are in dispute.

(19) Which is the punishment for committing adultery with a be'ulah. Thus the Rabbis regard her as a virgin all the time, whereas Rabbi maintains that she is a be'ulah after the first. This dispute, however, applies only to strangers.

(20) I.e., a deed is the only thing required for divorce.

(21) Lit., 'brings in.' Yet it might be that money betrothal must be followed by cohabitation.

(22) To the yabam, v. Deut. XXV, 5.

(23) Ex. XXI, 10: 'another' i.e., in addition to the Hebrew bondsmaid.

(24) By 'and he hath intercourse with her', as above.

(25) That the verse teaches only that intercourse is one of the methods of betrothal.

(26) (i) that a woman may be acquired by intercourse and (ii) a Hebrew bondsmaid cannot be so acquired.

(27) Implied by, when a man taketh.

(28) Lit., 'that is given over to.'

(29) V. infra 51a.

(30) For the verse is needed for this purpose.

(31) That the only purpose of the verse is to shew that a bondsmaid cannot be acquired by intercourse.

(32) 'And' implies that the taking — i.e., kiddushin — and the cohabitation are interdependent.

(33) I.e., by unnatural cohabitation.

(34) Because 'be'ulah' is connected with 'a husband': if she had cohabited with her husband, no matter how, she is a be'ulah.

(35) V. supra.

Talmud - Mas. Kiddushin 10a

— Said R. Zera: Rabbi admits in respect to the fine, that they must all pay.[1] Wherein does it differ from the death penalty?[2] — There it is different, because Scripture writes, then the man alone that lay with her shall die.[3] And the Rabbis: how do they employ this word 'alone'? — They need it even

as it was taught: [If a man be found lying with a woman married to a husband], then they shall both of them die:[4] [this implies,] they must both be equal as one:[5] this is R. Josiah's view. R. Jonathan maintained: 'then the man alone that lay with her shall die'.[6] And R. Johanan: how does he know this ruling?[7] — If so,[8] Scripture should have written, who had intercourse with a man; why [state], 'who had intercourse with a husband'? Hence both are inferred.[9]

The scholars propounded: Does the beginning of intercourse acquire [the woman] or the end of intercourse? The practical difference is, e.g., if he performed the first stage of intercourse, and then she stretched out her hand and accepted kiddushin from another man;[10] or whether a High Priest may acquire a virgin by intercourse.[11] What then [is our ruling]? — Said Amemar in Raba's name: The mind of him who has intercourse is set on the completion of intercourse.[12] The scholars propounded: Does intercourse effect nissuin or erusin? The practical difference is in respect of his being her heir, defiling himself on her account and annulling her vows. If you say it effects nissu'in, he [the husband] succeeds her as heir, must[13] defile himself for her,[14] and can annul her vows.[15] But if you say that it effects only erusin, he does not succeed her as heir, may not defile himself on her account, and cannot annul her vows. What is our ruling? — Said Abaye: Come and hear: A father has a privilege over his daughter [if a minor] in respect of her kiddushin by money, deed or intercourse. And he is entitled to her findings, her labour, and the annulment of her vows; he can accept her divorce;[16] but he does not enjoy usufruct during her lifetime.[17] If she was married,[18] her husband's rights exceeds his,[19] in that he enjoys the usufruct during her lifetime. Now, intercourse is taught, and yet he [the Tanna] also teaches: If she was married![20] — 'If she married' may have been taught in reference to the other [privileges]. Raba said: Come and hear: A maiden aged three years and a day may be betrothed by intercourse, and if the yabam has intercourse with her, he acquires her. The penalty of adultery may be incurred through her: [if a menstruant,] she defiles him who has connections with her,

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(1) If a man violates an unbetrothed virgin he must pay a fine of fifty shekels: (Deut. XXII, 28f.) if a number of men violate her unnaturally, leaving her a virgin, they must all pay the same, as for a virgin.

(2) That there Rabbi regards her a be'ulah.

(3) Ibid. 25; now, this is superfluous. since the next verse states: But unto the damsel thou shalt do nothing; hence it teaches that only the first man is stoned, but after he seduces her, even unnaturally, she is a be'ulah, and her ravishers are strangled.

(4) Ibid. 22.

(5) Rashi: both must have attained their majority and be liable to punishment, thus excluding an adult who violates a minor. Tosaf.: they must both be liable to the same death penalty; the reference is to R. Meir's view on this matter, q.v. Sanh. 66b.

(6) I.e., the man stands in a separate category, and need not be equal to the woman.

(7) That only the husband renders her a be'ulah by unnatural intercourse etc.

(8) That the verse teaches only that cohabitation acquires a woman.

(9) The emphasis on 'husband' shews that only he renders her a be'ulah etc.

(10) If the beginning acquires, she belongs to the first; if not, to the second.

(11) A High Priest must marry a virgin; Lev. XXI, 13. Now, if the first stage acquires, he may betroth her by intercourse; but if the last stage, he may not, because immediately after the first stage she ceases to be a virgin, yet does not belong to him.

(12) Hence the last stage is necessary.

(13) Or 'may', v. Sotah, 3a.

(14) Even if he is a priest.

(15) Alone, without her father.

(16) Even without her authority, if she was divorced whilst an arusah, and a na'arah.

(17) If she inherit property through her maternal relations, her father has no claim to its usufruct while she is alive.

(18) Lit., 'became a nesu'ah'.

(19) The husband's rights over his wife after nissu'in are greater than the father's over his daughter before nissu'in.

(20) Subsequent to intercourse; this proves that intercourse only effects erusin.

Talmud - Mas. Kiddushin 10b

so that he in turn defiles that upon which he lies, as a garment which has lain upon [a zab].[1] If she married[2] a priest, she may partake of terumah;[3] if any of the forbidden degrees[4] interdicted by Scripture cohabited with her, they are executed on her account,[5] but she is exempt;[6] if an unfit person[7] cohabits with her, he disqualifies her from priesthood.[8] Thus [here too] intercourse is taught,[9] and also 'if she married'! — This may be its meaning: If this marriage[10] was with a priest, she may partake of terumah.

Come and hear: Johanan b. Bag Bag had already sent [word] to R. Judah b. Bathyra at Nisibis:[11] I have heard of you that you maintain, An arusah, the daughter of an Israelite [betrothed to a priest], may eat terumah. He sent back: And do you not rule likewise? I am certain of you that you are well versed in the profundities[12] of the Torah [and able] to infer a minori. Do you not know: if a Gentile bondmaid, whose intercourse does not permit her to eat of terumah,[13] yet her money[14] permits her to eat of terumah; then this one [an arusah], whose intercourse [with a priest] permits her to eat of terumah, surely her money[15] permits her to eat terumah. But what can I do, seeing that the Sages ruled: An arusah, the daughter of an Israelite, may not eat terumah until she enters huppah?[16] How so? If [the reference is to] intercourse following huppah, and money followed by huppah, in both cases she may certainly eat. But if to intercourse with huppah, and money without huppah: here there are two, while there is only one,[17] Hence it must surely refer to both intercourse and money without huppah. Now, if you say that it [intercourse] effects nissu'in, it is well: hence it is obvious to him that Intercourse is stronger than money.[18] But if you say that it effects only kiddushin [i.e., erusin], why is he certain in the one case and doubtful in the other? — Said R. Nahman b. Isaac: After all, I can tell you that [the reference is to] intercourse with huppah and money without huppah. And as to your objection, here there are two, while there is only one: nevertheless the a minori proposition holds good, and it was thus he sent word to him: If a Gentile bondmaid, whose intercourse does not permit her to eat of terumah even after huppah, yet her money even without huppah authorizes her to eat terumah,' then this one, whose intercourse when accompanied by huppah permits her to eat terumah, Surely her money even without intercourse permits her to eat terumah. But what can I do, seeing that the Sages ruled: An arusah, the daughter of an Israelite, may not partake of terumah until she enters huppah, on account of 'Ulla's statement.[19] And [Johanan] b. Bag Bag?[20] — In the case of a Gentile bondmaid he omits nothing of her acquisition;[21] but here he has left undone part of her acquisition.[22] Rabina said: By Biblical law he was quite certain that she may eat, and it was only by Rabbinical law that he [R. Johanan b. Bag Bag] sent word to him [that she is forbidden], and he sent thus to him: I have heard of you that you rule: An arusah, the daughter of an Israelite, may eat of terumah, and you disregard the possibility of nullification.[23] He sent back: And do you not rule likewise? I am certain that you are well versed in the profundities of the Torah, [and able] to infer a minori. Do you not know: if a Gentile bondmaid, whose intercourse does not permit her to eat terumah, yet her money does, and we do not fear the possibility of nullification;[24] then this one [sc. an arusah], whose intercourse permits her to eat terumah,[25] surely her money does, and we may disregard the possibility of nullification. But what can I do, seeing that the Sages ruled: An arusah, the daughter of an Israelite, may not partake of terumah

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(1) A man who has sexual connections with a menstruant woman defiles that upon which he lies, even if he does not actually touch it. But the degree of uncleanliness it thereby acquires is not the same as that of the bedding upon which she herself or a zab (v. Glos.) lies. For in the latter case, the bedding in turn defiles any person or utensil with which it comes into contact; whereas in the former, it can only defile foodstuffs and liquids. This is the same degree of uncleanliness possessed by a garment which has lain upon or been borne by a zab, v. Nid. 44b.

(2) V. n. 8.

(3) As an Israelite's adult daughter who married a priest. But if she is less than three years old, she is sexually immature,

so that the marriage cannot be consummated, and hence she may not eat terumah.
(4) E.g., her father or brother.
(5) If they are of those forbidden on pain of death.
(6) Being a minor.
(7) E.g., a heathen or bastard.
(8) I.e., she may not marry a priest.
(9) Proving that intercourse only effects erusin.
(10) Sc. the intercourse mentioned in the first clause.
(11) A city in N.E. Mesopotamia; its Jewish population was already of importance during the second Temple. J.E. s.v.; Obermeyer, p. 229.
(12) Lit., 'chambers'.
(13) If a priest cohabits with her without having previously acquired her with money.
(14) I.e., the money given for her by a priest.
(15) Whereby she is acquired as an arusah.
(16) I.e., becomes a nesu'ah.
(17) How can money without huppah be deduced from intercourse and huppah?
(18) And it certainly authorises her to eat terumah, and he proceeds to deduce that money has the same power.
(19) V. supra 5a bottom.
(20) Does he not accept this a minori deduction?
(21) Once he gives the money, she is absolutely his.
(22) After intercourse she still lacks huppah before he ranks as her heir and may defile himself on her account.
(23) Through a bodily defect discovered in the woman, which may invalidate the betrothal. Hence this has no bearing on the question of the status conferred by intercourse, since all admit that even an arusah may, Biblically speaking, eat terumah.
(24) A bodily defect which may entitle the priest to cancel the purchase.
(25) [Since the arus would not have had intercourse with her without first making enquiries concerning her (Tosaf.).]

Talmud - Mas. Kiddushin 11a

until she enters huppah, on account of 'Ulla's statement. And the son of Bag Bag?[1] — He disregards the possibility of nullification in the case of slaves: if there are open bodily defects — then he has seen them.[2] If on account of concealed bodily defects, what does it matter to him? He needs him for work, and so does not care. If he [the slave] is found to be a thief or a rogue,[3] he is his.[4] What can you say: he was discovered to be an armed robber or proscribed by the State[5] — these are well known.[6] Let us see: both agree that she [an arusah] may not eat:[7] wherein then do they differ? — They differ where he [the husband] accepted [bodily defects],[8] or he [the father] delivered [her to the husband's messengers to be taken to her husband's home],[9] or if they [the father's messengers] were on the way with [the husband's messengers to escort the bride to her new home].[10]

'BY MONEY: BETH SHAMMAI MAINTAIN, BY A DENAR etc. What is Beth Shammai's reason? — Said R. Zera: Because a woman is particular about herself and will not [permit herself to] become betrothed with less than a denar. Abaye objected to him: If so, then e.g., R. Jannai's daughters, who are particular about themselves and will not become betrothed with less than a tarkabful[11] of denarii, if she stretches out her hand and accepts a zuz from a stranger [as kiddushin], is the kiddushin indeed invalid?[12] — He replied: If she stretches out her hand and accepts. I do not say thus: I refer to a case where he betroths her at night,[13] or if she appoints an agent.[14] R. Joseph said: Beth Shammai's reason is in accordance with Rab Judah's dictum in R. Assi's name, viz., Wherever 'money'[15] is mentioned in Scripture: Tyrian coinage is meant; whereas the Rabbinical usage[16] refers to provincial coinage.[17]

It was stated above: Rab Judah said in R. Assi's name: Whenever 'money' is mentioned in Scripture: Tyrian coinage is meant; whereas the Rabbinical usage refers to provincial coinage. Now,

is this a universal rule?

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(1) Does he not admit the force of this argument?

(2) And the purchaser cannot invalidate the transaction.

(3) Jast.: a swindler; Tosaf.: a gambler; Rashi: a kidnapper. The last might suit the context here, but not elsewhere.

(4) The purchaser's: he cannot annul the purchase, because the average slave is one of these.

(5) I.e., under sentence of death. fast.: levied for royal service.

(6) And the purchaser would not buy him in ignorance.

(7) For R. Judah b. Bathyra also admits that she may not eat, in accordance with 'Ulla.

(8) According to Johanan b. Bag Bag, she may then eat terumah, since there is no fear of nullification; in the opinion of R. Judah b. Bathyra she is forbidden, since 'Ulla's reason holds good here.

(9) 'Ulla's reason no longer holds good since her brothers and sisters are not then with her, but there is still the possibility of nullification.

(10) V. preceding note, which applies here too.

(11) Tarkab — two kabs (later = three kabs): 1 kab = 1/6th of a se'ah.

(12) Surely not!

(13) And she does not see what is given her.

(14) To accept kiddushin on her behalf, without telling him what is the minimum which he shall accept.

(15) Lit., 'silver'.

(16) Lit., 'that — sc. money of their (sc. the Rabbis') words.'

(17) Viz., current coinage. The latter is an eighth of the former; i.e., a provincial shekel = 1/8th of a Tyrian shekel, a provincial denar = 1/8th of a Tyrian, etc.; v. J.E. IX, 351, and Zuckermann, Tal. Mun. pp. 15-33. Tyrian is further to be identified with Jerusalem (coins). Krauss, T.A., 11-405 and n. 639 a.l., v. B.K. (Sonc. ed.) p. 204, n. 11. Now, since kiddushin by money is Biblical (supra 2a), it cannot be a copper perutah, for there were no copper coins in the Tyrian system: hence, the perutah being excluded, it is evident that a coin of considerable value is required, and this was fixed at a denar.

Talmud - Mas. Kiddushin 11b

But what of a claim, concerning which it is written: If a man shall deliver unto his neighbour money or utensils to keep etc.[1] yet we learnt: 'The oath taken before judges [is imposed] for a [minimum] claim of two silver [ma'ahs] and an admission of a perutah'?[2] — There it is similar to 'utensils': just as 'utensils' implies [at least] two, so must 'money' refer to two [coins],[3] and just as 'money' implies something of worth,[4] so does 'utensils' mean something of worth.[5] But [what of the second] tithe, in regard to which it is written, [Then thou shalt turn it into money] and bind up the money in thine hand,[6] yet we learnt: 'If one changes a sela' of second tithe [copper] coins . . .'?[7] — 'The money' is an extension,[8] But what of hekdesh,[9] concerning which it is written, then he shall give the money, and it shall be assured to him,[10] yet Samuel said: If hekdesh worth a maneh is redeemed with the equivalent of a perutah, it is redeemed?[11] — There too, we deduce the meaning of 'money' from tithes.[12]

But what of a woman's kiddushin, concerning which it is written: When a man taketh a wife, and marry her,[13] and we deduce the meaning of 'taking' from the field of Ephron,[14] yet we learnt: BETH HILLEL RULE, BY A PERUTAH OR THE WORTH OF A PERUTAH; shall we say [then] that R. Assi ruled in accordance with Beth Shammai?[15] — But if stated, it was stated thus: Rab Judah said in R. Assi's name: Whenever a fixed sum of money is mentioned in the Torah, Tyrian coinage is meant; whereas the Rabbinical usage refers to provincial currency.[16] Then what does he teach us? We have already learnt it: The five sela's mentioned in connection with a firstborn,[17] the thirty of a slave,[18] the fifty of a ravisher and a seducer,[19] and the hundred of a slanderer[20] — all these are [computed] by the holy shekel according to the Tyrian maneh![21] — He wishes to state, 'whereas the Rabbinical term refers to provincial currency,' which we did not learn. For we learnt: If one boxes his neighbour's ears,[22] he must pay him a sela'. Now, you should not say, what is a sela'? Four

zuz,'[23] but what is a sela'? Half a zuz, for it happens that people call half a zuz 'istira'.[24]

R. Simeon b. Lakish said: Beth Shammai's reason is in accordance with Hezekiah. For Hezekiah said: Scripture saith, then shall he let her be redeemed[25] — this teaches that she deducts from her redemption [money] and goes out [free]. Now, if you say that he [the master] gave her a denar,[26] it is well: hence she can go on deducting until a perutah. But if you say that he gave her a perutah: what can be deducted from a perutah?[27] But perhaps Scripture ordered thus: if he gave her a denar, she can go on deducting until a perutah; [but] if he gave her a perutah, she cannot deduct at all?

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(1) Ex. XXII, 6; in B.K. 107a it is deduced from this verse that an oath is imposed upon a defendant only if he admits part of the claim and denies part.

(2) Rashi: This proves that no particular sum is meant by the term 'money,' but that in all cases it was left for the Rabbis to determine. For if a particular sum is meant, granted that a ma'ah is the smallest Tyrian coin, why two? Tosaf. and others: the smallest Tyrian coin is a denar, whereas a ma'ah = 1/6th of a denar. (Though the actual coin is not mentioned in the quotation, ma'ah is assumed, because 'two' is in the fem. form, agreeing with ma'ah, whereas denar is masc.).

(3) So that the claim must be at least for two silver pieces, i.e., ma'ahs.

(4) I.e., two ma'ahs.

(5) So that if a man claimed two needles, one of which was admitted, no oath is imposed, since these are not worth two ma'ahs (Rashi). Tosaf. and others with different reading of the text: just as 'utensils' implies something of value, so does 'money' apply to that likewise, and a ma'ah is a coin of value; whilst 'two' is likewise deduced from the plural, 'utensils'. [Whereas according to Rashi's reading the minimum value required in the case of 'utensils' is determined by the significance attached to the word 'money', according to that of Tosaf., the value of 'utensils' is judged by their own merits, so that even a couple of needles are to be treated as things of worth in view of the use to which they can be put].

(6) Deut. XIV, 25, q.v.

(7) A dispute follows as to how many of the coins should be changed. Now, this shews that in the first place the tithe was redeemed with copper coins, though Scripture mentions 'money' in this connection.

(8) Shewing that even copper coins may be used.

(9) V. Glos.

(10) V. B.M. (Sonc. ed.) p. 321, n. 1.

(11) V. n. 2; the same applies here.

(12) Since in the latter instance the money extends the law to copper coins, these are valid for the redemption of hekdesh too.

(13) Deut. XXIV, 1.

(14) V. p. 1, n. 12. Thus it is as though 'money' were written in this passage.

(15) It is a fixed principle that in all disputes between these two schools the halachah agrees with Beth Hillel.

(16) But no fixed sum is mentioned for kiddushin.

(17) V. Num. XVIII, 15f: Nevertheless the firstborn of man thou shalt surely redeem . . . for the money of five shekels. — 'Shekels' is the Biblical term for sela'.

(18) Ex. XXI, 32: If the ox gore a manservant or a maidservant he (the owner) shall give unto their master thirty shekels of silver.

(19) Deut. XXII, 28f: If a man find a damsel that is a virgin which is not betrothed, and lay hold on her, and lie with her, and they be found; then the man that lay with her shall give unto the damsel's father fifty shekels of silver.

(20) Ibid. 13 et seqq.: If a man take a wife . . . and hate her . . . and bring an evil name upon (i.e., slander) her, and say: I took this woman, and . . . I found not in her tokens of virginity . . . then the elders of that city shall amerce him in a hundred shekels of silver.

(21) 1 Tyrian maneh = 25 holy shekels.

(22) Others: shouts into his neighbour's ear.

(23) I.e., the Tyrian currency.

(24) A silver coin, equal to the provincial sela' = 1/2 zuz.

(25) Ex. XXI, 8; v. infra 14b, 15a for the full reference.

(26) In buying her. The money given for a Hebrew maidservant may also be regarded as kiddushin, since in virtue thereof he can take her to wife; v. Ex. ibid.

(27) Seeing that it is the smallest coin.

Talmud - Mas. Kiddushin 12a

— You cannot think so, [for] it is similar to designation:[1] just as designation, though he [the master] can designate her or not, as he will, yet where he may not designate her, the sale is invalid;[2] so here too, where he cannot deduct, the sale is invalid.[3] And a woman's kiddushin, according to Beth Shammai, is deduced from a Hebrew maidservant: just as a Hebrew maidservant cannot be acquired for a perutah,[4] so a woman cannot be betrothed by a perutah.[5] Then say half a denar, or two perutahs? — Since a perutah was excluded, it was fixed at a denar.[6] Raba said: This is Beth Shammai's reason, [viz.,] that the daughters of Israel should not be treated as hefker.[7] AND BETH HILLEL RULE, BY A PERUTAH. R. Joseph thought to rule, A perutah, whatever it is.[8] Said Abaye to him: But thereon we learnt: AND HOW MUCH IS A PERUTAH? AN EIGHTH OF AN ITALIAN ISSAR. And should you answer: That was only in the time of Moses, but nowadays it is as generally estimated — but when R. Dimi came,[9] he said: R. Simai computed in his time: how much is the perutah? An eighth of an Italian issar.[10] And when Rabin came, he said: R. Dosethai, R. Jannai and R. Oshiah estimated: how much is a perutah? A sixth of an Italian issar! — R. Joseph answered him: If so,[11] when we learnt,[12] Go out and estimate: how many perutahs are there in two sela's? More than two thousand. Seeing that there are not even two thousand, can he [the Tanna] call it more than two thousand?[13] Thereupon a certain old man said to him, I learnt it, close on two thousand. But even so, it is only one-thousand-five-hundred-thirty-six! — Since it passes beyond half [a thousand], it is called close on two thousand.

It was just stated: When R. Dimi came, he said: R. Simai computed in his time, How much is a perutah? An eighth of an Italian issar. And when Rabin came, he said: R. Dosethai, R. Jannai, and R. Oshiah estimated: How much is the perutah? A sixth of an Italian issar. Said Abaye to R. Dimi: Shall we say that you and Rabin differ in the dispute of the following Tannaim? For it was taught: The perutah which the Sages mentioned is an eighth of an Italian issar. [Thus:] one denar =six silver ma'ahs; one ma'ah =two pundion, one pundion = two issars, one issar = two musmis, one musmis = two kuntrunk, one kuntrunk =two perutahs.[14] Hence the perutah is an eighth of an Italian [Roman] issar. R. Simeon b. Gamaliel said: three hadrisin = one ma'ah, two hanzin = one hadris, two shamnin = one hanez, two peutahs = one shamin:[15] hence a perutah equals one sixth of an Italian issar.[16] Shall we say that you agree with the first Tanna, whilst Rabin holds with R. Simeon b. Gamaliel? — He replied: Both Rabin and I agree with the first Tanna, yet there is no difficulty: here the issar bears its full value; there, it had depreciated. Here the issar bears its full value, twenty-four going to the zuz; there it had depreciated, thirty-two going to the zuz.[17]

Samuel said: If a man betrothed a woman[18] with a date, even if a kor[19] stood at a denar,[20] she is nevertheless betrothed: we fear that it may be worth a perutah in Media.[21] But we learnt: BETH HILLEL RULE, BY A PERUTAH OR THE WORTH OF A PERUTAH?[22] — There is no difficulty: the one refers to certain kiddushin; the other to doubtful kiddushin.[23]

A certain man betrothed [a woman] with a bundle of tow cotton. Now, R. Simi b. Hiyya sat before Rab and examined it: if worth a perutah, it is well:[24] if not, not. Now, if not worth a perutah, it is not well? But Samuel said: 'We fear [etc.]'! — There is no difficulty: in the former case it is certain kiddushin; in the latter doubtful kiddushin. A certain man betrothed [a woman] with a black marble stone. Now, R. Hisda was sitting and appraising it: if worth a perutah, it is well;[25] if not, not. Now, if not worth a perutah, it is not well? But Samuel said: 'We fear [etc.]'! — R. Hisda did not accept Samuel's [view]. Said his mother to him: But on the day he betrothed her it was worth a perutah![26] It does not rest entirely with you, replied he, to render her forbidden to the other man.[27]

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(1) sugh or sughh, the betrothal of a Hebrew handmaid to her master or his son in virtue of having been bought, no other

than the purchase money being necessary.
(2) I.e., she cannot be sold, e.g., to her brother, since she may not be designated to him.
(3) Since Scripture teaches that a deduction is made, the sale must be capable of one.
(4) As just proved.
(5) V. Glos.
(6) For the exclusion of a perutah shews that a sum of considerable value is required.
(7) V. Glos., which is acquired without much trouble; thus to acquire a woman by merely a perutah would be derogatory to her status.
(8) No matter how it is debased in the course of time, providing that it is called a perutah.
(9) To Babylon. R. Dimi was a fourth century Amora of Palestine, who settled in Babylon on account of Constantine's decree of banishment against the Jewish teachers of Palestine. But even before this scholars regularly travelled to and fro between the Palestine and the Babylonian academies, and R. Dimi and Rabin (i.e., R. Abin) were specially designated for this task, to provide a cultural link between the two. I. Halevy, Doroth, II, 467-473.
(10) A woman having been betrothed for a perutah, he stated that it must be equal to an eighth of an Italian issar, and was not satisfied with the mere designation of a perutah.
(11) That the perutah must not be less than this.
(12) In the Sifra, a Midrashic commentary on Leviticus, also called 'The Law of the priests.'
(13) The table is given below.
(14) These are Roman coins, the names being corrupted. Kuntrunk. < quadrans (**), a Roman value equal to three Roman ounces, also called terunicius; musmis or messimis < semissis = 1/2 as; pundion < dupundium = two ases.
(15) Hadris is perhaps a corruption of darosah = 1 3/4 as; hanez < nez (blossom); shamnim < shamin (Heb. hbhna, shemini — an eighth) 1/8 of an Italian issar. [For a full discussion of these terms, v. Krauss, TA, pp. 408ff.]
(16) For the issar = 1/2 4th denar; now one denar = six ma'ahs = a hundred and forty-four perutahs, according to his table; therefore one perutah — 1/6th issar.
(17) Thus one denar = a hundred and ninety-two perutahs, in accordance with the first Tanna. The perutah remained stable, but the issar fluctuated. In R. Simai's age the issar was at par, i.e., twenty-four =one denar: therefore one perutah = 1/8th issar. But in the age of R. Dosethai etc., it had slumped to 1/3 2nd of a denar, therefore one perutah =1/6th of an issar.
(18) Lit., 'her'.
(19) A measure of capacity; v. J.E. XII, 489, Table 3.
(20) So that one date is worth far less than a perutah.
(21) Where dates were very dear. Or perhaps Media is mentioned as an example of elsewhere.
(22) And in Samuel's view anything may be worth a perutah somewhere.
(23) If the article is worth a perutah where it is given, the woman is certainly betrothed, and another man's betrothal is invalid. But if it is not worth a perutah there, she is in a position of doubt: she cannot be free without a divorce, yet should another betroth her before she is divorced, his act may be valid, and she then requires a divorce from both, being in the meantime forbidden to both and to everyone else.
(24) The betrothal is valid.
(25) The kiddushin is valid.
(26) Though by the time you came to value it, it had depreciated.
(27) To whom one had, in the meantime, become betrothed. I.e., your evidence cannot be accepted.

Talmud - Mas. Kiddushin 12b

For is this not comparable to the case of Judith, R. Hiyya's wife, who had severe travail in childbirth.[1] Said she to him: My mother told me: 'Your father accepted kiddushin on your behalf [from another man] when you were a child.'[2] He replied to her: It does not rest entirely with your mother to forbid you to me. The Rabbis protested to R. Hisda: Why so? But there are[3] witnesses In Idith[4] who know that on that day it was worth a perutah! — Nevertheless, at present they are not before us. Is this not analogous to R. Hanina's dictum, For R. Hanina said: Her witnesses are in the north,[5] yet she is to be forbidden![6] Abaye and Raba, [however], do not agree with this ruling of R. Hisda: if they [the Rabbis] were lenient in respect of a captive woman,[7] who suffered disgrace under

her captors,[8] shall we be [equally] lenient in the case of a married woman?[9] Some of that family remained in Sura,[10] and the Rabbis held aloof from them;[11] not because they agreed with Samuel, but because they agreed with Abaye and Raba.[12]

A certain man betrothed [a woman] with a myrtle branch in a market place. Thereupon R. Aha b. Huna sent [a question] to R. Joseph: How is it in such a case? — He sent back: Have him flagellated, in accordance with Rab; and demand a divorce, in accordance with Samuel.[13] For Rab punished any man who betrothed [a woman] in a market place, or by intercourse,[14] or without [previous] shiddukin,[15] or who annulled a divorce,[16] or who lodged a protest against a divorce,[17] or harassed a messenger of the Rabbis,[18] or per — mitted a ban to remain upon him thirty days,[19] and a son-in-law who dwelt in his mother-in-law's house thirty days.[20] Only him who dwelt, but not him who merely passed by [his mother-in-law's house]? But a certain son-in-law passed by his mother-in-law's door, for which R. Shesheth chastised him? — There his mother-in-law was [already] under suspicion through him. The Nehardeans maintained: For all these Rab inflicted no punishment, excepting for betrothing [a woman] by intercourse without shiddukin — others state, even with shiddukin, on account of licentiousness.[21]

A certain man betrothed [a woman] with a mat of myrtle twigs. Said they to him, 'But it is not worth a perutah!'[22] 'Then let her be betrothed for the four zuz it contains,' replied he.[23] Having taken it, she remained silent. Said Raba: It is silence after receipt[24] of the money, and such silence has no significance.[25] Raba said: Whence do I know[26] this? For it was taught: If he says to her, 'Take this sela' as a bailment ,' and then he says to her, 'Be thou betrothed unto me therewith', [if he made the declaration] when giving the money [and she accepted it without protest], she is betrothed; after giving the money: if she consented, she is betrothed; if not, she is not betrothed. What is meant by 'she consented,' 'she did not consent'? Shall we say: 'she consented' means that she said 'yes', and 'she did not consent,' that she said: 'no'? Then it follows that the first clause means

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(1) [She used to give birth to twins, v. Yeb. 65b.]

(2) And therefore I am forbidden to you.

(3) So cur. edd. Ri, Bah and Tosaf. read: but people say that there are; v. also Tosaf. a.I. s.v. tv.

(4) So cur. edd. Tosaf. reads: in Arith, i.e., in the west, sc. in Palestine, which lies to the west of Babylon. Levy, Worterbuch, s.v. , אורי , mentions a conjecture that the word may mean 'north', and denotes generally a distant, unknown country.

(5) Heb. Istan, v. B.B. (Sonc. cd.) p. 568, n. 9.

(6) Surely not! for the allusion v. Keth. 23a.

(7) To whom R. Hanina's dictum applied.

(8) [Or, 'who makes herself look repulsive in the presence of her captors' so as to keep them away from her.]

(9) Tosaf. explains thus (on a reading which omits the phrase 'who... captors'): Even if witnesses attest her captivity, a priestly marriage is forbidden her only by Rabbinical law, for fear that she was outraged by her captors; hence we are lenient where the existence of such witnesses is only alleged. But in the case under discussion, should witnesses attest that the stone was worth a perutah when given, she is certainly a married woman and forbidden to others; therefore regard must be paid to the allegation that such witnesses exist elsewhere.

(10) The woman married another, and her descendants were in Sura. — Sura was a town in Southern Babylon between the canals, and seat of the famous academy founded by Rab. V. Obermeyer 283 et seqq.

(11) From contracting a marriage with them.

(12) That the alleged existence of witnesses could not be disregarded; hence these were tainted with the suspicion of bastardy.

(13) For the myrtle branch may be worth a perutah elsewhere.

(14) Notwithstanding the Mishnah.

(15) V. Glos. He regarded these as licentiousness.

(16) After sending it to his wife, but before she received it, in which case it is annulled. But the messenger may not know of this and deliver the divorce, and the wife contract another marriage.

(17) A divorce had to be given of the husband's free will. Even when he was forced (e.g., for refusal of conjugal rights, Keth. V. 6; impotence, Ned. XI, 12), he had to declare that he was giving it voluntarily. Yet he might secretly lodge a protest before witnesses that he was giving it under compulsion, in which case it was invalid.
(18) Sent to summon him to court.
(19) Without seeking its remission by expressing his regret at the offence which had occasioned it and undertaking to amend his ways. Buchler in MGWJ 1934 (Festschrift) p. 129, observes that as far as known the ban, during the days of Jamnia and Usha (first century) was imposed only on scholars, but that in the early amoraic period all were subject to it, as here (v. note 3, a.l.).
(20) Contrary to modern belief, the love between these two was regarded as so strong as to endanger their morals; cf. Pes. 113a.
(21) Tosaf.: this view is relied upon nowadays, in that sons-in-law live with their mothers-in-law.
(22) Matting must have been extremely cheap. Tosaf. Ri, however, translates: a bundle of myrtle twigs.
(23) The money was wrapped up in the mat or bundle.
(24) Lit., 'the giving'.
(25) Though normally silence gives consent. For when she took the matting, she knew that it was not worth a perutah, and therefore it was unnecessary for her to reject the proposal. Her subsequent silence makes no difference.
(26) Lit., 'say'.

Talmud - Mas. Kiddushin 13a

that even if she said 'no,' it is [valid] kiddushin. But why, seeing that she said 'no'? Hence surely, 'she consented' means that she said 'yes', whilst 'she did not consent, that she kept silence; thus proving that silence after receipt of money has no significance. A difficulty was raised thereon at Pum Nehara[1] in the name of R. Huna, son of R. Joshua. How compare? There it was given her as a deposit: [therefore] she thought, 'If I throw it away and it is broken, I am liable for it.' But here he gave it to her as kiddushin: if she did not want it [as such], she should have thrown it away! — R. Ahai retorted: Do then all women know the law? Here too she might have thought, 'If I throw it away and it is broken, I will be held responsible for it.' R. Aha b. Rab sent [an inquiry][2] to Rabina: What is the ruling in such a case? He sent back: We have not heard this [objection] of R. Huna, son of R. Joshua;[3] but you, who have heard it,[4] must have regard to it.[5] A certain woman was selling silk skeins,[6] when a man came and snatched one away from her. 'Give it back to me,' she exclaimed. 'If I give it to you,' he queried, 'will you become betrothed to me?' She took it and was silent. Thereupon R. Nahman ruled: She can say: 'Indeed, I took it, and 'twas my own I took'.[7] Raba objected before R. Nahman: If he betroths her with [an article] of robbery, violence, or theft,[8] or if he snatches a sela' from her hand and betroths her, she is [validly] betrothed? — There it means that he had discussed the preliminaries [of marriage].[9] And how do you know that we draw a distinction between one who discussed the preliminaries and one who did not? — Because it was taught: If one says to a woman,[10] 'Take this sela' which I owe thee,' and then he says: 'Be thou betrothed unto me therewith': [if he said this] when giving the money and she consented, she is betrothed; if she did not consent , she is not betrothed; after giving the money, even if she consented, she is not betrothed. Now, what is the meaning of 'she consented,' 'she did not consent'? Shall we say: 'she consented' means that she said 'yes', 'she did not consent', that she said 'no': but if she remained silent, the kiddushin is valid? Then it should simply have been taught: 'she is betrothed',just as there.[11] But [we must say,] 'she consented' means that she said 'yes,' whilst 'she did not consent,' that she was silent, and it was taught that she is not betrothed. What is the reason? Because she can say: 'Indeed, I took it, and 'twas mine I took.' But in that case, this [Baraitha], 'If he betroths her with robbery, violence, or theft, or if he snatches a sela' from her hand and betroths her, she is betrothed,' presents a difficulty. Hence it must surely be inferred that in the one case he had discussed the preliminaries,[12] whereas in the other he had not.

When R. Assi died, the Rabbis went up to assemble his legal traditions. Said one of the Rabbis, R. Jacob by name, to them: Thus did R. Assi say in R. Mani's name: Just as a woman cannot be

acquired by less than a perutah's worth, so can real estate not be acquired with less than a perutah's worth. But, they protested to him, it was taught: Although a woman cannot be acquired for less than a perutah's worth, land can be acquired for less than a perutah's worth? — That was taught only in respect to barter, he answered them. For it was taught: Acquisition can be effected through an article, even if it is not worth a perutah.[13] Again they sat and related: In reference to Rab Judah's statement in Rab's name, [that] one who does not know the peculiar nature of divorce and betrothal should have no business with them,[14] R. Assi said in R. Johanan's name: And they[15] are more harmful to the world than the generation of the flood, for it is written: By swearing, and lying, and killing, and stealing, and committing adultery, they spread forth, and blood toucheth blood.[16] How does this imply [it]? — As R. Joseph translated:[17] They beget children by their neighbour's wives,[18] thus piling evil upon evil.[19] And it is written: Therefore shall the land mourn and everyone that dwelleth therein shall languish, with the beasts of the field and the fowls of heaven: yea, the fishes of the sea also shall be taken away.[20] Whereas in the case of the generation of the flood nought was decreed against the fish of the sea, for it is written, of all that was in the dry land, died:[21] [implying] but not the fish in the sea, whilst here even the fish of the sea [are to be destroyed]. But perhaps that is only when all these are perpetrated?[22] — You cannot think so, for it is written, for because of swearing the land mourneth.[23] Yet perhaps swearing stands alone, and these others [combined] alone?

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(1) A town lying. as its name signifies, at the mouth of a canal (Nehar Sura = 'the Sura canal'), where it debouches into another, not far from Humanya on the Tigris. It had an all-Jewish population. Obermeyer, pp. 194 et seqq.

(2) MS.M. reads: Such an occurrence happened, (and) R. Ahab. Rab sent etc.

(3) Rashi: we have heard it neither from him nor from anyone else in his name — which is not very satisfactory, seeing that they were evidently aware of it, whoever their informant was. Kaplan, Redaction of the Talmud, p. 138 translates: We have not found the view of R. Huna the son of R. Joshua as logically correct.

(4) I.e., agree with the force of the objection; v. preceding note.

(5) Therefore the kiddushin has at least doubtful validity (v. p. 47, n.10); Tosaf. Ri the Elder. — Kaplan. loc. cit., assumes that R. Aha b. Rab, Rabina and R. Ahai, otherwise known as the Sabora R. Ahai of Hatim, appear here as contemporaries. On the strength of this he identifies Rabina with Rabina b. R. Huna, the last president of Sura, and not Rabina, the colleague of R. Ashi. Actually however, there is nothing here to indicate that they were contemporaries, the reply of R. Ahai possibly having been made at a later date.

(6) Others: beads, silk fillets.

(7) Hence she is not betrothed.

(8) v. p. 263, n. 3.

(9) Then her silence is consent.

(10) Lit., 'her'.

(11) Sc. in the Baraitha quoted at the bottom of 12b.

(12) Then she is betrothed.

(13) Barter (Heb. halifin) is a system of symbolic exchange, the article with which it is effected symbolically representing the larger article or the money which is actually the purchase price: consequently it may be worth less than a perutah. But when acquisition is effected through money itself, or an article valued as money, what is not worth a perutah does not rank as such.

(14) V. supra 6a for notes.

(15) Who take part in these matters without sufficient knowledge.

(16) Hos. IV, 2.

(17) So Targum, Pseudo.Jonathan, v. B.K. (Sonc. ed.) p. 9, n. 9.

(18) Understanding 'spread forth' in that sense; cf. Ex. I, 12: But the more they afflicted them, the more they multiplied and spread forth.

(19) So interpreting 'blood toucheth blood.' — Men of insufficient knowledge who take part in the solemnising of marriage and divorce likewise cause this, married women often being declared free illegally.

(20) Ibid. 3.

(21) Gen. VII, 22.

(22) Viz., those enumerated in the first verse quoted, but not for adultery alone.

(23) Jer. XXIII, 10. This shews that a single crime is sufficient.

Talmud - Mas. Kiddushin 13b

— Is it then written 'and they spread forth':[1] 'they spread forth is written.[2]

Again they sat and related: In reference to what we learnt: If a woman brought her sin-offering [after childbirth] and then died, her heirs must bring her burnt-offering,[3] Rab Judah said in Samuel's name: Providing that she had separated it[4] during her lifetime, but not otherwise; thus proving that in his opinion the hypothecary obligation[5] is not Biblical.[6] [But] R. Assi said in R. Johanan's name: Even if she did not separate it during her lifetime, thus proving that he holds that hypothecary obligation is Biblical.[7] But they have already disputed this matter once. For Rab and Samuel both maintained: A debt [contracted] by word of mouth cannot be collected from heirs or purchasers;[8] while R. Johanan and Resh Lakish both rule: A debt [contracted] by word of mouth can be collected both from heirs and purchasers? — Both are necessary. For if it were stated in the latter case [alone]: Only there [I would say] did Samuel rule [thus] because it is not a debt decreed in Scripture; but in the former instance I might say that he agrees with R. Johanan and Resh Lakish.[9] And if we were taught this [dispute] in the former instance: only there, [I would say,] did R. Johanan rule [thus], because a debt decreed in Scripture is as one indited in a bond; but in the latter case, I might say that he agrees with Samuel. Hence both are necessary.

R. Papa said: The law is: A debt [contracted] by word of mouth can be collected from heirs, but not from purchasers. It can be collected from heirs: because the hypothecary obligation involved is Biblical. And it cannot be collected from the purchasers: because it [the debt] is not generally known.[10]

AND SHE ACQUIRES HER FREEDOM BY DIVORCE OR HER HUSBAND'S DEATH. As for divorce, It is well, since it is written, then he shall write her a bill of divorcement;[11] but whence do we know [that she is freed by] her husband's death? — It is logic: he [the husband] bound her; hence he frees her. But what of consanguineous relations, whom he binds, and nevertheless does not free?[12] — But since Scripture decreed that a yebamah without children is forbidden [to the outside world], it follows that if she has children she is permitted. Yet perhaps, if she has no children she is forbidden to the world but permitted to the yabam, whereas if she has children she is forbidden to all? — But since Scripture states that a widow is forbidden to a High Priest,[13] it follows that she is permitted to an ordinary priest.[14] Yet perhaps [she is forbidden] to a High Priest by a negative injunction, and to all others by an affirmative precept?[15] — What business has this [alleged] affirmative precept? If her husband's death has effect, let her be entirely free; and if not, let her remain in her original status![16] Why not? It [sc. her husband's death] withdraws her from [the penalty of] death and places her under [the interdict of] an affirmative precept. For this may be analogous to consecrated animals rendered unfit [for sacrifice], which originally [before they became unfit] involved a trespass-offering[17] and might not be sheared or worked with; yet when they are redeemed, they no longer involve a trespass-offering, but may still not be sheared or worked with?[18] — But [it is known] since Scripture said, [And what man is there . . . his house,] lest he die in the battle and another man take her.[19] To this R. Shisha son of R. Idi demurred: Perhaps who is meant by 'another man: the yabam?[20] — Said R. Ashi, There are two answers to this: firstly, the yabam is not designated 'another man': and furthermore, it is written. And if the latter husband hate her, and write her a bill of divorcement . . . or if the latter husband die:[21] thus death is compared to divorce: just as divorce completely frees[22] her, so does death completely free her.

A YEBAMAH IS ACQUIRED BY INTERCOURSE. Whence do we know [that she is acquired] by intercourse? — Scripture saith,

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(1) The conjunction would denote that they must be combined.
(2) Without a conjunction, shewing that that itself merits the punishment stated in the following verse.
(3) These two sacrifices were due after childbirth; v. Lev. XII, 8.
(4) Sc. an animal, for a burnt-offering.
(5) Involved by debt.
(6) E.g., if a man borrows money, we do not say that his property is automatically mortgaged for its repayment, so that in the event of his death his heirs are Biblically liable, since they inherit mortgaged property, unless the debtor explicitly mortgages his goods in a bond, v. B.B. 175b. For here too, the woman is under an obligation to God to bring a sacrifice, yet since she did not separate an animal for it, no obligation lies on the heirs.
(7) I.e., every debt carries with it a pledge of the debtor's property in favour of the creditor.
(8) If the debtor's land was sold, the property not having been mortgaged for repayment, the creditor cannot collect from the vendees.
(9) The sacrifice being a Scriptural precept, the liability is stronger than that of an ordinary debt.
(10) Lit., 'has no voice.' Therefore to safe-guard the vendee's interests, the Rabbis deprived the creditor of his rights.
(11) Deut. XXIV, 1.
(12) A woman may not marry her father-in-law even after her husband's death; thus the interdict which he imposed on her by marriage remains even when he dies.
(13) Lev. XXI, 14.
(14) And by the same reasoning, to all other men.
(15) Lev. XXI, 24 is in the form of a negative injunction, the violation of which is punished by flagellation (malkoth), whereas that of an affirmative precept goes unpunished by Biblical law. Tosaf.: the affirmative precept may be the verse: Therefore shall a man . . . cleave to his wife (Gen. II, 24). implying, but not to his neighbour's wife (cf. Sanh. 58a). — An interdict implied by an affirmative precept is itself regarded as such, and not as a negative command.
(16) As a married woman she is forbidden to others by a negative precept under pain of death (Lev. XVIII, 20: XX, 10; Deut. XXII, 22); there are no grounds for supposing that her husband's death leaves the interdict but changes its nature.
(17) For secular use, e.g., ploughing with them.
(18) V. Bek. 15a. This proves that a certain fact may leave the interdict but change its penalty, and the same may apply to the husband's death.
(19) Deut. XX, 7.
(20) But not others.
(21) Ibid. XXIV, 3.
(22) Lit., 'permits.'

Talmud - Mas. Kiddushin 14a

Her husband's brother shall go in unto her, and take her to him to wife.[1] Then perhaps she is like a wife in all respects?[2] — You may not think so. For it was taught: I might think that money or deed can complete her acquisition, just as intercourse does; therefore it is written, and perform the duty of an husband's brother unto her:[3] teaching, intercourse alone completes the acquisition of her, but money or deed does not complete the acquisition of her. Yet perhaps what is the purpose of 'and perform the duty of an husband's brother unto her'? It is that he can take her by force?[4] — If so, Scripture should have stated: 'and perform the duty of a husband's brother',[5] why [add] 'unto her'? Hence both are learnt from it.[6]

[AND ACQUIRES HER FREEDOM] BY HALIZAH. Whence do we know it?[7] — From the verse: And his name shall be called in Israel, The house of him that hath his shoe loosed:[8] once there has been the loosening of the shoe in her case, she is permitted to all Israel. Does then this [word] 'Israel' come to teach this? But it is necessary for what R. Samuel b. Judah learnt: [Halizah must be performed] at a Beth din of [naturally born] Israelites, but not at a Beth din of proselytes. — 'In Israel' is written twice.[9] Yet it is still required for what was taught: R. Judah said: We were once sitting before R. Tarfon, when a woman came to perform halizah. Thereupon he instructed us, Do all of you respond and say: 'He that hath his shoe loosed, he that hath his shoe loosed'?[10] — That is

derived from, and his name shall be called.[11]

OR THE YABAM'S DEATH. How do we know it? — A fortiori: if a married woman, who is [forbidden to others] on pain of strangulation, is freed[12] by her husband's death; then a yebamah, who is [forbidden only] by a negative precept,[13] is surely [freed by the yabam's death]. As for a married woman, [it may be asked] that is because she is freed[14] by divorce! Will you say [the same] of this one a yebamah], who is not freed [from the Levirate tie] by divorce? — She too is freed by halizah.[15] But [refute it thus]: as for a married woman, that is because he who binds her frees her![16] — Said R. Ashi: In her case too, he who binds her frees her: the yabam binds her, the yabam frees her.[17]

Now, let a married woman be freed by halizah, a minori: if a yebamah, who is not freed by divorce, is freed by halizah; then this one [a married woman], who is freed by divorce, is certainly freed by halizah! — Scripture saith, [then he shall write her] a deed of divorcement,[18] thus, a deed may divorce her, but nothing else can divorce her. Now, let a yebamah be freed by divorce, a minori: if a married woman, who is not freed by halizah, is freed by divorce: then this one [a yebamah], who is freed by halizah, is surely freed by divorce! — Scripture states: Thus [shall it be done, etc.][19] and 'thus' intimates indispensableness.[20] Now, wherever there is an intimation of indispensableness, do we not infer a minori? But what of the Day of Atonement, where 'lot' and 'statute' are written,[21] yet it was taught: [And Aaron shall present the goat upon which the lot fell for the Lord,] and offer him for a sin-offering:[22] the lot renders it a sin-offering, but designation does not render it a sin-offering.[23] For I might have thought, Does not [the reverse] follow a minori: if designation sanctifies where lot does not,[24] how much the more would designation satisfy where lot does! Therefore it is said: 'and offer him for a sin-offering,' teaching, the lot renders it a sin-offering, but designation does not render it a sin-offering. Thus, it is only because Scripture excluded it [designation]; but otherwise we would infer a minori, notwithstanding that statute is written![25] — Scripture saith, '[then he shall write] her [a deed of divorcement]': for 'her', but not for a yebamah. Yet perhaps 'her' teaches that it must be for her sake?[26] — 'Her' is written twice.[27] Yet even so they are needed: one 'her' [intimating that it must be] for her sake; and the other 'her' teaching, but not for her and her companion?[28] — But Scripture saith, '[the house of him that hath a] shoe [loosed]:' only a shoe [can set her free], but nothing else can.[29] Does 'shoe' come to teach this? But it is necessary for what was taught: 'And she shall loose his shoe:[30] I know only [that she must loosen] his shoe; whence do I know [that it may be] any man's shoe?[31] From the verse: '[the house of him that hath] the shoe [loosed]:' 'shoe' is an extension.[32] 'If so, who state, 'his shoe'? — 'His shoe' [intimates that it must fit him, [thus] excluding one [too] large, in which he cannot walk, and one [too] small, which does not cover the greater part of his foot, excluding

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(1) Ibid. XXV, 5.

(2) To be acquired by money or deed too?

(3) I.e., have intercourse with her. Ibid. This is really a repetition of the first part of the verse, and therefore emphasizes intercourse.

(4) That being taught by the repetition.

(5) This would have sufficed to emphasize intercourse alone as a means of acquisition.

(6) 'unto her' implying even against her will.

(7) The passage a.I. does not state that halizah frees her, but merely that it must be performed if the yabam refuses her.

(8) Ibid. 10.

(9) In Deut. XXV, 7 and 10.

(10) Heb. haluz ha-na'al, haluz ha-na'al — i.e., those present must actually say these words as part of the ceremony.

(11) Leaving 'in Israel' free for another purpose.

(12) Lit., 'permitted'.

(13) Ibid. 5: the wife of the dead shall not marry without unto a stranger.

(14) Lit., 'goes out'.

(15) Thus another means of freedom being found for each, the a fortiori argument holds good.
(16) But a yebamah is forbidden to others on account of her dead husband, whereas it is to be proved that the yabam's death frees her.
(17) But for the existence of the yabam, her husband's death would have freed her. Hence it is really he who is responsible.
(18) Deut XXIV, 1.
(19) Ibid. XXV, 9.
(20) The emphatic 'thus' indicates that the ceremony prescribed is indispensable. and that nothing else can achieve the same result.
(21) And it is a principle that 'statute' likewise indicates indispensableness.
(22) Lev. XVI, 9.
(23) If he merely designates it a sin-offering, without having previously chosen it by lot, it is invalid.
(24) Sc. in the case of the two pigeons, one a sin-offering and the other a burnt-offering. brought for the offences enumerated in Lev. V, 1-4. If he designates each for a particular sacrifice, the designation stands and cannot be revoked. But if he casts lots, it is of no avail, and he can then sacrifice each as he wishes.
(25) And this shall be a statute for ever unto you; Lev. XVI, 29.
(26) V. p. 34. n. 8.
(27) In Deut. XXIV. 1 and 3.
(28) If a man has two wives of the same name, he cannot divorce both with the same document, even though it is expressly written for them, v. Git.87a.
(29) Rashi: because 'shoe' is superfluous, as the verse could have read: 'the house of him that was loosed'.
(30) Deut. XXV, 9.
(31) Which the yabam is wearing.
(32) Shewing that any person's may be used. The E.V. has 'his shoe' here too, but 'his' is not in the original.

Talmud - Mas. Kiddushin 14b

a sandal consisting of a mere sole, which has no heel! — If so,[1] Scripture should have written 'shoe'; why 'the shoe'? That both may be inferred therefrom.[2]

MISHNAH. A HEBREW SLAVE IS ACQUIRED BY MONEY AND BY DEED; AND ACQUIRES HIMSELF BY YEARS,[3] BY JUBILEE,[4] AND BY DEDUCTION FROM THE PURCHASE PRICE.[5] A HEBREW MAIDSERVANT IS MORE [PRIVILEGED] IN THAT SHE ACQUIRES HERSELF BY 'SIGNS'.[6] HE WHOSE EAR IS BORED[7] IS ACQUIRED BY BORING, AND ACQUIRES HIMSELF BY JUBILEE OR HIS MASTER'S DEATH.

GEMARA. A HEBREW SLAVE IS ACQUIRED BY MONEY. How do we know this? — Scripture states, [he shall give back the price of his redemption] out of the money that he was bought for:[8] this teaches that he was acquired by money. We have [thus] learnt[9] it in the case of a Hebrew slave sold to a heathen, since his sole method of acquisition is by money:'[10] how do we know it of one sold to an Israelite?[11] — Scripture states: Then shall he let her be redeemed:[12] this teaches that she deducts [part] of her redemption money and goes out [free].[13] We have thus learned it in the case of a Hebrew bondmaid: since she is betrothed with money,[14] she is acquired with money; how do we know it of a Hebrew Slave? — The Writ saith, If thy brother, an Hebrew man, or an Hebrew woman be sold unto thee, and serve thee six years:[15] thus a Hebrew manservant is assimilated to a Hebrew maidservant. We have now learnt it of one sold by Beth din,[16] since he was sold against his will;[17] how do we know it of one who sells himself? — We learn [identity of law from] the repeated use of 'sakir'.[18] Now, that is well according to him who accepts the deduction of the repeated use of 'sakir';[19] but according to him who does not , what can be said? — Scripture states, and if a stranger or sojourner with thee be waxen rich,[20] thus continuing[21] the preceding section,[22] so that [the subject] above may be deduced from [that] below.[23]

And which Tanna does not admit the deduction from the repeated use of sakir? — The following Tanna. For it was taught: He who sells himself may be sold for six years or more than six years; if sold by Beth din, he may be sold for six years only. He who sells himself may not be bored;[24] if sold by Beth din, he may be bored. He who sells himself, has no gift made to him;[25] if sold by Beth din, a gift is made to him.[26] To him who sells himself, his master cannot give a Canaanite bondmaid;[27] if sold by Beth din, his master can give him a Canaanite bondmaid. R. Eleazar[28] said: Neither may be sold for more than six years; both may be bored; to both a gift is made; and to both the master may give a Canaanite bondmaid. Surely they differ on this point: the first Tanna does not admit the deduction of the repeated use of sakir, while R. Eleazar does?[29] Said R. Tabyomi in Abaye's name: All admit the deduction of the repeated use of sakir, but here they differ on the following: What is the reason of the first Tanna, who maintained, He who sells himself may be sold for six years or more than six years? [Because] Scripture expressed a limitation In connection with one sold by Beth din: and he shall serve thee six years:[30] 'he,' but not one who sells himself. And the other?[31] — 'And he shall serve thee' [intimates] 'thee', but not thine heir.[32] And the other?[33] — Another 'served thee' is written.[34] And the other?[35] — That comes [to teach] that the master must be willing [to make a gift].[36]

What is the reason of the first Tanna who maintained that one who sells himself is not bored? Because Scripture expressed a limitation in connection with one sold by Beth din: and his master shall bore his ear through with an awl,[37] [implying] his ear, but not the ear of him who sold himself.[38]

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(1) That its only purpose is to shew that any persons shoe may be used.

(2) The def. art. shews that a shoe is the means of freeing her, and nothing else can.

(3) I.e., when he has served six years. Ex. XXI, 2.

(4) If this intervened before he had completed his six years of servitude.

(5) At any time by a pro rata repayment, taking into account the time he still has to serve.

(6) Of puberty.

(7) I.e., a slave who refuses his freedom at the expiration of six years; v. Ex. XXI, 5f.

(8) Lev. XXV, 51.

(9) Lit., 'found'.

(10) It is stated infra 26a, that movables are acquired by meshikah (v. Glos.); this, however, holds good only of a Jewish purchaser, not a Gentile, who can acquire them only by giving the money.

(11) The whole discussion turns on the question which act formally consummates the transaction. Though a purchase is naturally effected by money, in the case of some property the delivery of money does not consummate the transaction, and both sides may retract. On the other hand, meshikah (q.v. Glos.) in the case of movables completes the transaction even before the delivery of the purchase price, which ranks as an ordinary loan. Hence the question here: how do we know that the delivery of money consummates the purchase of a Hebrew slave?

(12) Ex. XXI, 8.

(13) [R. Tam: Just as she acquires herself by money so is she acquired by money.] Rashi: Since Scripture writes, 'then shall he let (or cause) her to be redeemed', not, then shall she be redeemed, it shews that the master must help her redemption by accepting less than he paid for her, on a pro rata basis, as explained on p. 59, n. 6; hence she must have been bought with money — otherwise, from what is a deduction to be made? Of course, as pointed out on p. 59, n. 12, it is understood that money was paid. But the point is this: This exegesis shews that immediately on repaying the money she becomes free and no other formality is necessary. But if the purchase itself required some form of acquisition apart from the payment of the purchase price, e.g., deed, she would require the same on buying herself back (Maharam).

(14) Which is also a form of acquisition.

(15) Deut. XV, 12.

(16) For 'if thy brother be sold' implies by someone else, viz., Beth din, for theft: v. Ex. XXII, 2.

(17) Therefore, a strong form of acquisition, e.g., the symbolical act of hazakah (v. infra 26a and Glos.) is unnecessary, and the delivery of money suffices.

(18) Hired servant; this word is used in connection with both. One who sells himself, Lev. XXV, 39f: And if thy brother

. . . sell himself unto thee . . . as an hired servant (sakir) he shall be with thee. One sold by Beth din, Deut. XV, 12-18: If thy brother . . . be sold unto thee . . . it shall not seem hard unto thee, when thou lettest him go free from thee; for to the double of the hire of a hired servant (sakir, E.V. 'hireling') hath he served thee six years. The use of 'sakir' in both cases teaches that the same method of purchase holds good in both cases.

(19) Lit., 'who infers 'sakir' from 'sakir'.

(20) Lev. XXV, 47.

(21) Lit., 'adding to'.

(22) Lit., 'subject'.

(23) It is an exegetical principle that when a passage commences with 'and', this conjunction links it to the previous portion, and a law stated in one applies to the other too. Thus this 'and' links vv. 39-46, dealing with a Hebrew slave who sells himself to a Jew, with vv.47-55, treating of one who sells himself to a non-Jew. Just as the purchase of the latter is consummated by money, so is that of the former too.

(24) He must accept his freedom at the end of six years, and the provisions of Ex. XXI, 5f (q.v.) do not apply to him.

(25) By his master, on attaining his freedom.

(26) Deut. XV, 13f: And when thou lettest him go free from thee, . . . thou shalt furnish him liberally out of thy flock etc.

(27) To beget slaves for him.

(28) This is the reading of most editions: Tosaf. (15a s.v.Ishtu) gives another reading, R. Eliezer, which will refer to R. Eliezer b. Hyrcanus. There were several Tannaim of the first name, and the halachah may agree with them; but if Tosaf.'s reading is correct, the halachah is definitely not so, for it is a principle that the halachah never agrees with R. Eliezer b. Hyrcanus when he is in dispute with others (v. B.M. 59b, (Sonc. ed.) pp. 352f, for reason).

(29) Hence they are alike in all respects.

(30) Deut. XV, 12: this refers to a person sold by Beth din; v. p. 60, n. 4.

(31) R. Eleazar: does he not admit the force of this limitation?

(32) Other than a son; v. infra 17b.

(33) The first Tanna: does he not admit that the word is required for the latter purpose.

(34) Ibid. 18, quoted p. 60, n. 6; in Heb. the same word is used here for both tenses, the difference being indicated by the so-called waw conversive; v. Davidson, Heb. Grammar, ** 23, 3.

(35) R. Eleazar: how does he utilize the second 'served thee?'

(36) 'Served thee' in v. 18 is written in connection with this.

(37) Ex. XXI, 6; the whole passage a.l. refers to one sold by Beth din; v. pp. 64ff.

(38) Rashi: Because 'his ear' is superfluous, as it is written in Deut. XV,17: then thou shalt take on owl, and thrust it through his ear unto the door.

Talmud - Mas. Kiddushin 15a

And the other?[1] — That comes for the purpose of a gezerah shawah.[2] For it was taught: R. Eliezer said: How do we know that the boring must be through the right ear? Here is said: 'ear': and elsewhere is said, [and the priest shall take some of the blood . . . and put it upon the tip of the right] ear etc.,:[3] just as there the right is meant, so here too, the right is meant. And the other?[4] — If so,[5] Scripture should have written 'ear'; why 'his ear'?[6] And the other?[7] — That is needed: 'his ear', but not her ear.[8] And the other? — He deduces that from, but if the bondsman shall plainly say:[9] the bondsman, but not the bondmaid. And the other? — He needs that [to teach]: he must say it while yet a slave.[10] And the other? — That is derived from 'the bondsman' [instead of] bondsman.[11] — And the other? — [The difference between] the bondsman and bondsman affords no basis for exegesis.

What is the reason of the first Tanna who maintained, He who sells himself, no gift is made to him? — Scripture expressed a limitation in connection with one sold by Beth din: thou shalt furnish him liberally;[12] 'him', but not one who sells himself. And the other?[13] — He needs that: 'him', but not his heirs.[14] ('His heirs': why not? The All-Merciful designated him a hired servant [sakir]: just as the wages of a hired servant belong to his heirs,[15] So here too, his wages[16] belong to his heirs? — But [say thus:]) 'him', but not his creditor.[17] [This is necessary,] because elsewhere we agree with R.

Nathan, as it was taught: R. Nathan said: How do we know that if a man claims from another and then one claims [the same amount] from a third, that we collect from the last named and give it to the first [creditor]? From the verse, and he shall give it unto him to whom he is indebted.[18] Therefore 'him' comes to exclude that [from the case of a slave]. And the other? — Elsewhere we do in fact disagree with R.Nathan.[19]

What is the reason of the first Tanna who maintained, To him who sells himself, his master cannot give a Canaanite bondsmaid? Scripture expressed a limitation in connection with one sold by Beth din: If his master give him a wife,[20] [implying], him, but not one who sells himself. And the other? — 'Him' [intimates] even against his will. And the other?[21] — That is deduced from, for to the double of the hire of a hired servant [hath he served thee].[22] For it was taught: 'For to the double of the hire of a hired servant hath he served thee:' a hired servant works by day only, whereas a Hebrew slave works by day and night. Yet can you really imagine that a Hebrew slave works by day and night: is it not written, because he is well with thee,[23] [teaching] that he must be [on a par] with thee in food and drink? and R. Isaac answered thus: From this follows that his master can give him a Canaanite bondmaid.[24] And the other?[25] — If from there, I might have said: That is only with his consent, but not against his will; therefore we are told [otherwise].

Then which Tanna does not accept the deduction from the repetition of 'sakir'? — It is this Tanna. For it was taught: And if thy brother sell himself unto thee . . . he shall serve thee unto the years of jubilee. And then . . . he shall returns unto his family, etc.:[26] R. Eliezer b. Jacob said: Of whom does Scripture speak? If of him who sells himself — then it was already stated.[27] If of him whose ear was bored — that too was already stated.[28] Hence Scripture refers [here] only to him whom Beth din sold two or three years before jubilee, [thus teaching] that jubilee liberates him. Now, should you think that he [R. Eliezer b. Jacob] accepts the deduction of the repeated use of 'sakir', why is it [the verse cited] necessary; let him make the aforementioned deduction?[29] — Said R. Nahman b. Isaac: After all, he does make this deduction; nevertheless it [the verse quoted] is necessary. I might have thought, only he who sells himself,[30] because he committed no offence; but as for one sold by Beth din, who committed an offence, I might say: Let him be punished; therefore we are informed [that it is not so].

The Master said: 'If of him whose ear was bored — that too was already stated.' What is this?[31] — For it was taught: [It shall be a jubilee unto you;] and ye shall return every man unto his possession, and ye shall return every man unto his family.[32] To what does Scripture refer? If to one who sells himself — it was already stated;[33] if to one sold by Beth din — that [too] was already stated.[34] Hence the Writ can only refer to one whose ear was bored two or three years before jubilee, [teaching] that jubilee liberates him. How is this implied?[35] — Said Raba b. Shila: Scripture saith, [and ye shall return every] man: now, what thing is practised in the case of a man but not of a woman? Say: boring. Now, [both cases,] one sold by Beth din, and one who was bored,[36] must be written. For had we been informed [this] of him whom Beth din sold, [I might say] that is because his term had not expired;[37] but as for him whose ear was bored, seeing that his term had already expired, I might have said: let him be punished![38] And if we were informed [this] of him whose ear was bored, [I might say] that is because he had already served six years; but as for him who has been sold by Beth din, who had not yet served six years, I might have argued: he is not [liberated]. Thus both are necessary.

Now, both 'and ye shall return' and '[and he shall serve him] for ever'[39] must be written .[40] For had the All-Merciful written 'for ever' [only], I would have thought, literally for ever; therefore the All-Merciful wrote 'and ye shall return'. And had the All-Merciful written 'and ye shall return' [only], I would have thought: when is that?[41] If he had not served six years [after being bored]; but if he had already served six years, his last phase should not be more stringent than his first: just as his first phase[42] was for six years, so should his last be for six years [only]; hence 'for ever' teaches us,

for the eternity of jubilee.[43]

Then [the question again arises,] which Tanna does not accept the deduction of ‘sakir’, ‘sakir’? — It is Rabbi. For it was taught:

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(1) R. Eleazar: What does ‘his ear’ teach, on his view?
(2) V. Glos.
(3) Lev. XIV, 25, also in v. 28. This refers to a poor leper, and the whole section on the sprinkling etc., is superfluous, since is stated in vv. 14ff., in connection with a leper of means: hence it is for the purpose of exegesis (Rashi).
(4) The first Tanna: whence does he know this?
(5) That its only purpose is the gezerah shawah.
(6) Surely to intimate the limitation stated above.
(7) R. Eleazar: why state, ‘his’?
(8) Teaching that a Hebrew bondsmaid cannot be bored.
(9) Ex. XXI, 5f., q.v.
(10) I.e., before the expiration of his six years.
(11) The def. art. emphasizes that he must still be a slave when he refuses his freedom. Hence the substantive itself excludes a bondsmaid.
(12) Deut. XV, 14.
(13) R. Eleazar: how does he utilize ‘him’?
(14) If the slave dies before his master makes him the gift.
(15) If he dies before receiving them.
(16) Of which this gift is part.
(17) If the slave owes money, the gift is not to be given to his creditor. — The Wilna Gaon substitutes the following for the bracketed passage: And the other? (The first Tanna: whence does he exclude the heirs?) — ‘Him’ is written twice, (of that wherewith the Lord thy God hath blessed thee thou shalt give unto him). And the other? — That is needed: ‘him’, but not his creditor.
(18) Num. V, 7: translating, and he (the last debtor) shall give it unto him (the first creditor), to whom he (the second creditor) is indebted. By analogy, the master ought to deliver the gift direct to the slave's creditor.
(19) Hence no particular verse is needed for a slave.
(20) Ex. XXI, 4.
(21) The first Tanna: how does he know this?
(22) Deut. XV, 18.
(23) Ibid. 16.
(24) This must be the night service referred to.
(25) Why deduce it from ‘him’?
(26) Lev. XXV, 39f: the word translated ‘sell himself may also mean ‘be sold.’
(27) ‘He shall serve thee unto the year of Jubilee’, when he obviously returns to his family.
(28) The Talmud asks below, where?
(29) From which the same follows.
(30) Is thus prematurely liberated by jubilee.
(31) I.e., where was it stated?
(32) Lev. XXV, 10.
(33) As mentioned in the passage above. — It should be observed that the Talmud refers to a law as ‘already stated,’ even when it occurs further on in the chapter or book, as here; thus it is the equivalent of ‘stated elsewhere.’
(34) Then he shall return unto his family (Ibid. 41), interpreted above as referring to this case.
(35) In the verse.
(36) Each two or three years before jubilee.
(37) Lit., ‘his time (for freedom) had not come,’ and it was his good fortune that the jubilee supervened.
(38) For voluntarily choosing servitude when he might have been free. — This hypothetical reasoning may appear curious: but it arises out of the Jewish insistence on the fundamental freedom of man.
(39) Ex. XXI, 6.

(40) Both refer to one whose ear was bored: the first, by inference; the second, explicitly (vv. 5, 6). On the surface, they are contradictory.

(41) That he must wait for jubilee.

(42) I.e., when first sold.

(43) I.e., , he is a slave until then, no matter how long.

Talmud - Mas. Kiddushin 15b

And if he be not redeemed by these, etc.:[1] Rabbi said: He may be redeemed by these, but not by Six [years].[2] For I might have argued, Does it not follow a minori: if he[3] who cannot be redeemed by these[4] is redeemed by six [years], then this one, who may be redeemed by these, is surely redeemed by six years? Therefore it is written: 'by these': teaching, he may be redeemed by these, but not by six years. Now, should you think that he [Rabbi] accepts the deduction from 'sakir', used twice, why does he Say, 'if he who cannot be redeemed by these': let us deduce [similarity of law from] the repetition of sakir?[5] — Said R. Nahman b. Isaac: After all, he does accept the deduction of 'sakir', 'sakir'; yet here it is different, because Scripture saith, [one of his brethren] shall redeem him.[6] [implying] him, but not another.[7]

And what Tanna disagrees with Rabbi? — R. Jose the Galilean and R. Akiba. For it was taught: 'And if he be not redeemed by these' — R. Jose the Galilean said: If 'by these', it is for freedom, if by strangers,[8] it is for servitude.[9] R. Akiba said: If 'by these',it is for servitude: if by strangers, it is for freedom. What is the reason of R. Jose the Galilean? — Scripture saith, 'And if he be not redeemed by these' — but by a stranger — 'then he shall go out in the year of jubilee'.[10] While R. Akiba interprets: 'And if he be not redeemed by any but these, then he shall go out in the year of jubilee'. And R. Jose the Galilean?[11] — Is it then written: 'by any but these'?[12] But they differ in respect of the following verse: Or his uncle, or his uncle's son may redeem him:[13] this is redemption by relations; or if he be waxen rich:[13] this is self redemption: and he shall be redeemed:[13] this is redemption by strangers. Now, R. Jose the Galilean holds: a verse is interpreted with what precedes it. [Hence] link[14] redemption by relations with self-redemption: just as self-redemption is for freedom, so is that by relatives. While R. Akiba maintains: a verse is interpreted with what follows: [hence] link redemption by strangers with self redemption: just as the latter is for freedom, so is the former. If so, why state 'by these'?[15] — But for 'by these', I would have said: the verse is interpreted with what precedes and what follows it, so that [the redemption of] all is for freedom. If so, the difficulty remains in[16] its place?[17] — But they differ on a matter of logic. R. Jose the Galilean holds: It is logical that redemption by strangers is for servitude; for should you say it is for freedom, they will refrain from redeeming him. While R. Akiba holds: It is logical that redemption by kinsmen is for servitude: for should you say that it is for freedom, he will go every day and sell himself![18] R. Hiyya b. Abba said: These are the views of R. Jose the Galilean and R. Akiba: but the Sages maintain, [The redemption of] all is for freedom. Who are the Sages? — Rabbi, who employs this 'by these' for a different exegesis,[19] while the verse is interpreted with both what precedes and what follows it.[20]

And Rabbi, how does he utilize this [verse] 'then he shall go out in the year of jubilee'? — He needs it for what was taught: 'Then he shall go out in the year of jubilee':

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(1) Lev. XXV, 54: the section deals with the Hebrew slave of a Gentile, and 'these' refers to his relatives, mentioned in vv. 48f.

(2) I.e., he is not set free after six years of service.

(3) Sc. a Hebrew slave sold to a Jew.

(4) Redemption by relatives is not mentioned in his case.

(5) V. p. 60, n. 6.

(6) Ibid. 48.

(7) Sc. a slave sold to a Jew.
(8) Lit., 'the rest of people.'
(9) If a relation redeems him, he goes free; if a stranger, he becomes his slave.
(10) And until then he is the stranger's slave.
(11) How does he refute R. Akiba?
(12) Surely not! This is the reading in the curr. edd. Other versions, more plausibly: And R. Akiba: is it then written, etc.? This is both more logical and in keeping with what follows.
(13) Lev. XXV, 49.
(14) Lit., 'cast.'
(15) Which implies: if he is not redeemed by these, but by relatives, then he shall go out etc.; this contradicts R. Akiba.
(16) Lit., 'reverts to.'
(17) Since this verse may mean that he is free no matter who redeems him, how can R. Akiba interpret v. 54 as meaning that if redeemed by relatives it is for servitude?
(18) And it is unfair to saddle his relations with the duty of redeeming him.
(19) As stated supra.
(20) Hence contrari-wise, R. Jose the Galilean and R. Akiba reject Rabbi's deduction.

Talmud - Mas. Kiddushin 16a

this refers to a heathen who is under your rule.[1] Yet perhaps it is not so, the reference being to a heathen who is not under your rule? — You can answer; [if so,] what can be done to him?[2] Hence Scripture speaks only of a heathen who is under your rule.

AND BY DEED. Whence do we know it? — Said 'Ulla, Scripture saith, If he take him another [wife]:[3] thus the Writ assimilated her [the Hebrew bondmaid] to another [wife]: just as the other [sc. the wife] is acquired by deed, so is a Hebrew maidservant acquired by deed. Now, that is well on the view that the deed of a Hebrew bondmaid is written by her master;[4] but on the view that her father writes it, what can be said? For it has been stated: As to the deed of a Hebrew bondmaid, who writes it? R. Huna maintained: The master writes it; R. Hisda said: Her father writes it. [Hence] it is well according to R. Huna; but on R. Hisda's view, what can be said? — R. Aha b. Jacob answered: Scripture saith, she shall not go out as the menservants do:[5] [implying,] but she may be acquired as [heathen] menservants are;[6] and what is that? By deed. Then say: but she may be acquired as [heathen] menservants are, and what is that? Hazakah![7] — Scripture saith, And ye shall make them [the heathen slaves] an inheritance for your children after you:[8] only they [are acquired] by hazakah, but not another.[9] Then say: Only they [are acquired] by deed, but not another? — But it is written, she shall not go out as menservants do.[10] And why do you prefer it so?[11] — It is logical that 'deed' is included [as a means of acquisition], since it divorces an Israelite daughter.[12] On the contrary, one should rather include hazakah, since it acquires the property of a proselyte?[13] — Still we do not find it in marriage relationship.[14] Alternatively, if 'he take another' serves that very purpose.[15] And R. Huna: how does he expound this [verse,] She shall not go out as the menservants do?[16] — He employs that as intimating that she does not go out [free] through [the loss of her] outstanding limbs, as a [heathen] slave.[17] And R. Hisda?[18] — If so, Scripture should have written: 'she shall not go out as menservants'; why, as the going out of menservants?[19] That both may be inferred.[20]

AND ACQUIRES HIMSELF BY YEARS. For it is written, six years he shall serve: and in the seventh he shall go out free for nothing.[21] AND BY JUBILEE. For it is written, he shall serve with thee unto the year of jubilee.[22]

AND BY DEDUCTION FROM THE PURCHASE PRICE. Hezekiah said: Because Scripture saith, Then shall he let her be redeemed:[23] this teaches that she makes a deduction from her redemption money and goes out [free].[24]

A Tanna taught: And he may acquire himself by money, its equivalent, and by deed. Now, as for money, 'tis well, for it is written, [he shall give back the price of his redemption] out of the money he was bought for.[25] As for its equivalent too — Scripture wrote, 'he shall give back the price of his redemption,' to include the equivalent of money as being equal to money.[26] But this deed, how is it meant? Shall we say that he [the slave] indites a bond for the [redemption] money? Then it is money! But if it is [a deed of] manumission, why is a deed necessary? Let him say to him in the presence of two, or in the presence of a Beth din, 'Go'? — Said Raba: This proves that a Hebrew slave belongs bodily [to his master]:[27] hence if the master remits his deduction,[28] the deduction is not remitted.[29]

A HEBREW MAIDSERVANT IS MORE [PRIVILEGED] THAN HE. Resh Lakish said: A Hebrew bondmaid is freed[30] from her master's authority by her father's death, a minori: if signs,[31] which do not free her from her father's authority, free her from the authority of her master;[32] then how much the more death, which frees her from her father's authority, should free[33] her from her master's authority! R. Hoshea raised an objection: A HEBREW MAIDSERVANT IS MORE [PRIVILEGED] THAN HE, IN THAT SHE ACQUIRES HERSELF BY 'SIGNS'; but if this [Resh Lakish's dictum] be so, let her father's death also be stated? — He [the Tanna] teaches [some ways,] and omits[34] [others]. But what else does he omit, that he omits this?[35] — He omits her master's death.[36] If it is on account of her master's death[37] — that is no omission; since that applies to a male [slave] too, it is not taught. Then let it be taught![38] — That which may be fixed is taught;[39] that which can not be fixed is not taught. But 'SIGNS', which are not fixed,[40] are nevertheless taught? — Said R. Safra: They are not fixed above, yet are fixed

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(1) Lit., 'hand.' Even then, the Jew must remain his slave until jubilee.

(2) How can he be forced to provide facilities for redemption?

(3) Ex. XXI, 10; i.e., in addition to the Hebrew bondmaid.

(4) I.e., he who acquires her, just as the husband writes the deed to acquire his wife.

(5) Ibid. 7; the comparison is with heathen slaves, who go free if their master blinds them or knocks out their teeth (vv. 26f). Hebrew slaves, however, are not freed, but merely compensated.

(6) Lit., 'as the acquisition of menservants.'

(7) Glos. and V. infra 22b.

(8) Lev. XXV, 46.

(9) Sc. Hebrew slaves. The Heb. והתנחלתם we-hithnahaltem, is really applicable to land, and intimates that heathen slaves are transmitted and acquired like land, viz. , by hazakah.

(10) From which it was deduced that she can be acquired by deed.

(11) Lit., 'what (reason) do you see' (for interpreting it thus)? Perhaps Lev. XXV, 46 teaches, only they are acquired by deed, but not another, while Ex. XXI, 7 intimates, she shall not go out . . . but may he acquired as menservants, viz., by hazakah?

(12) Hence, just as it is effective in one instance, so also in another, viz., the acquisition of a slave. — Tosaf.: he could also have said: Because it brings a Jewish daughter into the married state, which is more appropriate, both then referring to acquisition, but a 'deed' is explicitly stated in connection with divorce. A proselyte who dies without Jewish issue has no legal heirs and his property after death falls to the first occupier by means of hazakah.

(13) And since it can acquire in one case, it can do so in another.

(14) And the purchase of a Hebrew bondmaid is also this: v. p. 45, nn. 7, 9.

(15) To shew that 'she shall not go out etc.', teaches that she may be acquired by deed, as is implied by the analogy of 'another'.

(16) Since on his view, 'if he take another' is sufficient to shew that she is acquired by deed.

(17) V. p. 68, n. 4, which is extended to outstanding limbs.

(18) Surely that is the purpose of the verse!

(19) Lit., translation.

(20) The law itself, as stated by R. Huna; while the emphasis on going out' shews that she may, however, come in, i.e., be acquired as they are.

(21) Ex. XXI, 2.

(22) Lev. XXV, 40.
(23) Ex. XXI, 8.
(24) V. p. 60, n. 1, and the same applies to a bondman.
(25) Lev. XXV, 51.
(26) He shall return implies that a return may be made in any way desired.
(27) [In so far as the master could assign to him a Canaanite maidservant for procreation. Nahmanides, quoted by S. Adreth, Kiddushin, a.l.]
(28) I.e., the sum due for the remainder of the term of bondage.
(29) And the master can reclaim him whenever he wishes. Therefore it is insufficient merely to dismiss him, but he must give him a deed.
(30) Lit., 'acquires herself.'
(31) I.e., evidence of puberty.
(32) As stated in the Mishnah, 14b.
(33) In that he does not transmit his rights to her earnings to his heirs.
(34) Lit., 'leaves over.'
(35) It is reasonable that several items are omitted, but not just one.
(36) For his heirs do not inherit her; infra 17b.
(37) That you say the Tanna also omits her father's death.
(38) That the maid is freed by her father's death, since nothing else is omitted.
(39) The term of six years and the proportionate repayment of the purchase price and the Jubilee are all fixed and ascertainable.
(40) Not all women receive the evidences of puberty at the same age.

Talmud - Mas. Kiddushin 16b

below.[1] For ii was taught: If a male, aged nine years, grew two hairs,[2] it is a mole;[3] from nine years and a day until twelve years and a day, remaining in him,[4] they are a mole. R. Jose son of R. Judah said: They are a 'sign'.[5] At thirteen years and one day, all admit that they are a 'sign'.[6]

R. Shesheth objected: R. Simeon said: Four are presented with gifts [on becoming free], three in the case of a man, and three in the case of a woman. And you cannot say four in the case of either, because 'signs' do not apply to a man, nor boring to a woman.[7] Now if this[8] be correct, the father's death should also be taught? And if you answer: Here too he teaches [some] and omits [others] — but he states 'four'?[9] And if you answer: He teaches [only] that which is fixed, but not that which is not fixed — but what of 'signs', which are not fixed and which he nevertheless teaches? And if you reply: Here too it is as R. Safra — but there is the master's death, which is likewise not fixed, and yet taught? — The master's death too is not taught. Then what are the four? — [i] Years, [ii] jubilee,[10] [iii] jubilee for him whose ear was bored, and [iv] a Hebrew bondmaid [freed] by 'signs'. Reason too supports this view. For the second part teaches: 'And you cannot say four in the case of either, because "signs" do not apply to a man, nor boring to a woman. Now if it be so,[11] then in the case of a woman at least four may be found.[12] This proves it.

R. 'Amram objected: Now, the following are furnished with gifts: He who is freed by [six] years, by jubilee, and by his master's death, and a Hebrew bondsmaid [freed] by 'signs'. But if this be correct, the father's death too should be taught. And should you answer: He teaches and leaves over-but he states 'the following'?[13] And should you reply: He teaches that which is fixed, but not that which is not fixed — but what of 'signs', which are not fixed, and which he nevertheless teaches? And should you answer: Here too, it is as R. Safra — but there is the master's death! This refutation of Resh Lakish is indeed a refutation. But Resh Lakish reasoned a minori! — It is an a minori which can be refuted. For one can refute it [thus]: as for 'signs', that is because there is a physical change [in her];[14] will you say [the same] of her father's death, seeing that there is no physical change?[15]

One [Baraitha] taught: The outfit of a Hebrew male slave[16] belongs to himself, and that of a Hebrew female slave to herself. While another [Baraitha] taught: the outfit of a Hebrew female slave, and her findings, belong to her father, and the master can claim only for loss of time.[17] Now surely one [Baraitha] refers to where she was liberated by 'signs',[18] while the other means that she was liberated by her father's death?[19] — No: both [Baraithas] refer to liberation by 'signs', yet there is no difficulty. In the one case she has a father, in the other she has not.

Now, as for [teaching,] 'The outfit of a female slave belongs to herself,' that is well, [for] it is to exclude her brothers,[20] For it was taught: And ye shall make them [the heathen slaves] an inheritance for your sons after you[21] — 'them' for your sons, but not your daughters for your sons. Hence we learn that one cannot transmit his rights in his daughters to his sons. But as for 'the outfit of a male slave belongs to himself — that is obvious! to whom else should it belong? — Said R. Joseph: I see here a yod [turned into a] town.[22] Abaye said: Thus did R. Shesheth say: Who is the authority for this? Totai. For it was taught: Totai said: [Thou shalt furnish] him [liberally][23] — him, but not his creditor.[24]

[To turn to] the main text [above:] 'Now, the following are furnished with gifts: — He who is freed by years, jubilee, and his master's death, and a Hebrew bondmaid [freed] by "signs". But no gift is made to a runaway, or him who is freed by a deduction from his purchase price. R. Meir said: No gift is made to a runaway; but he who is freed by a deduction from the purchase price is furnished with a gift. R. Simeon said: Four are presented with gifts, three in the case of a man, and three in the case of a woman. And you cannot say four in the case of either, because "signs" do not apply to a man, nor boring to a woman'. How do we know this? — For our Rabbis taught: I might think that only he who is freed by six [years] is furnished with a gift; how do I know to include one who is freed by jubilee or by his master's death, and a Hebrew bondmaid [freed] by signs? From the verses, thou shalt let hint go free from thee. And when thou lettest him go free from thee.[25] [Again] I might think that I include a runaway and one who goes out through a deduction from the purchase price — therefore it is stated: 'and when thou lettest hint go free from thee,' teaching, only he whose dismissal is from thee,[26] thus excluding a runaway and one who is freed by deduction from the purchase price, whose dismissal is not from thee.[27] R. Meir said: A runaway is not furnished with a gift, since his dismissal is not from thee: but one who is freed by deduction from the purchase price, whose dismissal is from thee,[28] [is presented with a gift]. A runaway? But he must complete [his term]?[29] For it was taught: How do we know that a runaway is bound to complete [his term]? From the verse, six years he shall serve.[30]

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(1) [They serve as evidence whenever they appear after a certain age, but not if they appear before.]

(2) The normal evidence of puberty.

(3) But not signs of puberty; hair grows out of a mole.

(4) All the time, and not falling out.

(5) Of puberty. But had they fallen out, he too admits that it is only a mole.

(6) Even if they subsequently fall out.

(7) R. Shesheth assumes that the four are: (i) one who is freed on the expiration of six years; (ii) by jubilee; (iii) he whose ear was bored, freed by his master's death; and (iv) a Hebrew bondmaid freed by 'signs.'

(8) Resh Lakish's ruling.

(9) Which shews that the number is exact.

(10) If it comes before the end of six years.

(11) That the master's death is taught, as originally assumed.

(12) (i) Her master's death; (ii) six years; (iii) jubilee, and (iv) 'signs.'

(13) Which indicates only those.

(14) Having attained puberty, she is not really the same person who was sold.

(15) Surely not.

(16) I.e., the gifts with which he is sent away at the end of six years.
(17) Involved in her finding.
(18) Her father still being alive — then the gift belongs to her father.
(19) Which supports Resh Lakish.
(20) Though it would have belonged to her father, had he lived, he does not transmit it as a legacy to his sons, her brothers.
(21) Lev. XXV, 46.
(22) 'A mountain out of a molehill': the yod, being only a small letter, has grown into a whole town! The Tanna has swelled his Baraitha by the inclusion of superfluous matter.
(23) Deut. XV, 14.
(24) The gift must not be passed on to the slave's creditor, and that is the Baraitha's teaching.
(25) Ibid. 12, 13 ; the repetition teaches that whatever the cause of his freedom, he must be furnished with a gift.
(26) I.e., with the master's good will.
(27) Since the master is bound to accept a refund, even against his will.
(28) So he regards it.
(29) After which he should certainly receive a present.
(30) Ex. XXI, 2; he must complete the period.

I might think, even if he fell sick,[1] therefore, it is stated, and in the ‘seventh he shall go outfree’! — R. Shesheth answered: The reference here is to one who escaped, and then jubilee supervened:[2] I might have thought, since jubilee would have emancipated him, we apply to him, ‘his dismissal is from thee,’ and do not punish but furnish him with a gift. Therefore we are informed [that it is not so].

The Master said: ‘I might think, even if he fell sick, therefore it is stated: "and in the seventh he shall go out free ". ‘Even if he was sick the whole of the six [years]? But it was taught: If he was sick three years and served three years , he is not bound to complete [his term]; but if he was ill the whole of the six years, he is bound to make it up! — R. Shesheth replied: This means that he was able to perform needle-work.[3]

This is self-contradictory. You say: ‘If he was sick three years and served three years, he is not bound to complete [his term]’: which implies, if four years he must complete [it]. Then consider the second clause: ‘but if he was ill the whole of the six years, he is bound to make it up’ — implying, if [only] four, he is not? — This is its meaning:[4] if he was four years ill, it is accounted as though he were indisposed the whole of the six years, and he must make it up.

Our Rabbis taught : With how much is he [the freed slave] presented? With five sela's [worth] of each kind,[5] which is fifteen sela's in all: this is R. Meir s view. R. Judah maintained: Thirty, as the thirty [paid] for a [heathen] slave.[6] R. Simeon said: Fifty, as the fifty of ‘arakin.[7]

The master said: ‘With five sela's [worth] of each kind, which is fifteen sela's: this is R. Meir's view.’ Does then R. Meir come to teach us arithmetic? — He tells us this: He may not indeed diminish his total, but if he gives him less of one kind and more of another, we have no objection. What is R. Meir's reason? — He learns the meaning of ‘empty’ from a firstborn:[8] just as there, five sela's is meant , so here too five sela's is meant. Then perhaps five sela's in all? — Were ‘empty’ written at the end [of the verse],[9] [it would be] as you say. Now, however, that ‘empty’ is written at the beginning,[10] apply [the word] ‘empty’ to ‘flock’, ‘threshing-floor,’ and ‘wine-press’ individually. But let us learn the meaning of ‘empty’ from the pilgrimage burnt-offering?[11] — Scripture saith, as the Lord thy God hath blessed thee [thou shalt give unto him].[12]

‘R. Judah maintained: Thirty, as the thirty [paid] for a [heathen] slave.’ What is R. Judah's reason? — He learns the meaning of ‘giving’ from a slave:[13] just as there, thirty is meant, so here too, thirty is meant. But let us learn the meaning of ‘giving’, from ‘arakin:[14] just as there, fifty, so here too, fifty? — Firstly, because if you seize much, you cannot hold; if you seize little, you can hold;[15] moreover, one should rather deduce slave from slave. ‘R. Simeon said: Fifty, as the fifty of ‘arakin.’ What is R. Simeon's reason? — He learns the meaning of ‘giving’ from ‘arakin: just as there, fifty, so here too, fifty. But perhaps [the comparison is] with the least [sum] of ‘arakin?[16] — It is written, as the Lord thy God hath blessed thee.[17] But let us learn the meaning of ‘giving’ from a slave: just as there, thirty, so here too thirty: [for] firstly, if you seize much, you cannot hold; if you seize little, you can hold; and moreover, one should rather deduce slave from slave? — R. Simeon deduces ‘poverty’ from ‘poverty’.[18]

Now, as for R. Meir, it is well: for that reason[19] ‘flocks, threshing floor’ and ‘wine.press’ are [specifically] stated. But on the views of R. Judah and R. Simeon, why are these necessary?[20] — They are necessary, even as it was taught: I might think that the gift can be made only of flocks, the threshing-floor, and the wine-press: how do I know that all things are included? From the verse: ‘as [i.e., with whatever] the Lord thy God hath blessed thee thou shalt give unto him’. If so, why state ‘flocks, threshing-floor, and wine-press’? To inform you: just as these are distinguished in that they

fall within the scope of ‘blessing’, so must everything [given to the slave] fall within the scope of ‘blessing’, thus excluding cash money:[21] this is R. Simeon's view. R. Eliezer b. Jacob said: excluding mules.[22] And R. Simeon?[23] — Mules are themselves capable of improvement. And R. Eliezer b. Jacob?[24] — One can engage in business with money.[25] Now, they are [all] necessary. For had Scripture mentioned ‘flocks’, I would have thought, only livestock [may be given], but not agricultural produce: [therefore] Scripture wrote ‘threshing.floor’. And had it written ‘threshing-floor’, I would have said, only agricultural produce; [therefore] Scripture wrote ‘threshing-floor’. And had it written ‘threshing-floor’, I would have said, only agricultural produce, but not livestock: hence Scripture wrote ‘flocks’. Why do I need ‘wine-press’?

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(1) During the period, he is bound to make up for it after the six years.

(2) Immediately — say, a day after.

(3) I.e., light work — then he is not bound to complete his term. — Krauss, T.A. 1, 159 translates: Schneiderhandwerk, hand tailoring.

(4) Of the second clause.

(5) Viz., ‘out of thy flock, and out of thy threshing floor (i.e., grain), and out of thy winepress’ — Deut. XV, 14.

(6) Killed by an ox, v. Ex. XXI, 32.

(7) V. Glos. If one vows his own worth to the Temple. he must pay according to a fixed scale, which in the case of an adult man is fifty sela's; Lev. XXVII, 3.

(8) Here: thou shalt not let him go empty — Deut. XV, 13 ; firstborn; All the firstborn of thy sons thou shalt redeem. And none shall appear before me empty — Ex. XXXIV, 20. A firstborn is redeemed with five shekels — Num. XVIII, 16.

(9) ‘Thou shalt furnish . . . thy wine-press; and thou shalt not let him go empty.

(10) Before the enumeration of the three kinds.

(11) Lit., ‘the burnt offering of appearing’ cf. Ex. XXIII, 14, 15: Three times thou shalt keep a feast unto me in the year . . . and none shall appear before me empty. This is interpreted in Hag. 2a and 6a that a burnt-offering must be brought, the minimum value of which must be either two silver ma'ahs or one silver ma'ah according to Beth Shammai and Beth Hillel respectively. Why then not assume the same here?

(12) Deut. XV, 14; hence the deduction of the larger sum from the firstborn.

(13) Here: thou shalt give unto him; slave: If the ox gore a manservant or a maidservant, he shall give unto that master thirty shekels of silver — Ex. XXI, 32.

(14) Actually, ‘giving’ is not mentioned in the whole passage on ‘arakin (Lev. XXVII, 1-8). It is probable, however, that the Talmud here relies on a Baraitha in Hul. 139a, which states that the verse, then he shall give thine estimation in that day, as a holy thing unto the Lord (v. 23) refers to the valuation of man, notwithstanding that the section as a whole (vv. 22f) deals with the sanctification of fields (S. Strashun).

(15) I.e., given a choice of two deductions, select that which gives the smaller number.

(16) Five shekels, Lev. XXVII, 6.

(17) V. p. 75, n. 5.

(18) [Or, ‘he learnt on tradition (from his teacher; the deduction of) ‘arakin ‘poverty" (from) ‘poverty" ‘it being the rule that no one may draw a conclusion from a qezerah shawah on one's own authority, v. Pes. 66a and Rashi.] Not ‘giving’ from ‘giving’. — Slave: and if thy brother be waxen poor with thee, and sell himself unto thee — Lev. XXV, 39: ‘arakin: but if he be poorer than thy estimation etc., — ibid. XXVII, 8. Hence the two passages illumine each other, and shew that a slave's gift is fifty sela's.

(19) Sc. the deduction of ‘empty’ should be applied to each kind separately.

(20) Since the sum is learnt from elsewhere, while the gift need not be of these three in particular, as stated in the following Baraitha.

(21) These may be blessed by God in respect of natural increase. But money has no natural increase.

(22) Which were considered unproductive; cf. Meg. 13 b, Gen. Rab.41 ; the mule was held to be a hybrid. cf. Pes. 54a: Adam took two animals (of different kinds) . . . and from them ‘came forth a mule’: v. Lewysohn, Zoologie, p. 144.

(23) Why does he not exclude mules?

(24) Why does he not exclude money?

(25) And it is thus capable of a blessing.

— According to one Master, to exclude money; according to the other, to exclude mules.

Our Rabbis taught : 'As the Lord thy God hath blessed thee': I might think, if the house was blessed on his account 'a gift is made to him; but if the house was not blessed on his account, no gift is made to him; therefore Scripture states, thou shalt surely furnish him [etc.], teaching, in all cases.[1] If so, what is intimated by 'as [the Lord thy God] hath blessed thee'? Give him according to thy blessing.[2] R. Eleazar b. Azariah said: The matter is as it is written: if the house was blessed on his account, a gift is made to him; if the house was not blessed on his account, no gift is made to him. If so, what is intimated by 'thou shalt surely furnish him'? The Torah employed human idiom.[3]

Our Rabbis taught: A Hebrew male slave serves [his master's] son, but does not serve [his] daughter;[4] a Hebrew female slave serves neither son nor daughter; one who was bored, or is sold to a heathen, serves neither son nor daughter. The Master said: 'A Hebrew male slave serves [his master's] son, but not [his] daughter.' How do we know this? — For our Rabbis taught: [If thy brother . . . be sold unto thee,] he shall serve thee six years[5] — thee, but not thine heir'.[6] You say: 'thee, but not thine heir': yet perhaps it is not so, but 'thee, but not thy son'? When it is said, six years he shall serve,[7] the son is included;[8] then how am I to interpret,[9] he shall serve thee six years? Thee, but not thine heir. Why do you choose[10] to include the son and exclude the brother? I include the son, because he arises in his father's place to designate her,[11] and in respect of an ancestral field.[12] On the contrary, I should include the brother, since he takes his brother's place for yibum?[13] Is there yibum excepting in the absence of a son? but if there is a son, there is no yibum. Now it is only because there is this refutation; but otherwise, the brother would be preferable? Yet it [the reverse] may be inferred from the fact that here [in the case of a son] there are two [points in his favour], whereas there, only one? — [The preference for a son in respect of] an ancestral field is likewise inferred from this same refutation: is there yibum excepting in the absence of a son?[14]

'A Hebrew female slave serves neither son nor daughter.' Whence do we know this? — Said R. Papa, Because Scripture writes, [And . . . if he say unto thee, I will not go out from thee . . . then thou shalt take an awl, and thrust it through his ear . . .] and also unto thy bondwoman thou shalt do likewise:[15] thus Scripture assimilated her to one who is bored. Just as the latter serves neither son nor daughter, so the former too serves neither son nor daughter. Now this [verse,] 'and also unto thy bondwoman thou shalt do likewise' — does it come to teach this? But it is required for what was taught: And also unto thy bondwoman thou shalt do likewise — i.e., furnish [her with] a gift. You say, furnish a gift; yet perhaps it is not so, but in respect to boring? When it is stated: But if the manservant shall plainly say,[16] boring is already dealt with:[17] how then do I interpret[18] and also unto thy bondwoman thou shalt do likewise? In respect of a gift! If so,[19] Scripture should write, 'and also to thy bondwoman likewise;[20] why state, 'thou shalt do'? [Hence] both may be inferred.

'One who was bored, or is sold to a heathen, serves neither son nor daughter.' One who was bored, for it is written, and his master shall bore his ear through with an awl: and he shall serve him for ever,[21] — but neither son nor daughter. Whence do we know it of one who is sold to a heathen? — Said Hezekiah, because Scripture writes, And he shall reckon with his purchaser[22] — but not with his purchaser's heirs. Raba said: By Biblical law, a heathen is his father's heir, for it is said: 'and he shall reckon with his purchaser', [implying,] but not with his purchaser's heirs, whence it follows that he has heirs. [But the succession of] a proselyte [to the estate of] a heathen is not in accordance with Biblical law but by the law of the Soferim.[23] For we learnt: If a proselyte and a heathen succeed their father, a heathen: the proselyte may say to the heathen, 'You take the idols, I [will take] money'; 'you take the wine of libation[24] and I will take fruit.' But once they[25] have come into the proselyte's possession, this [exchange] is forbidden.[26] Now, should you think that [the proselyte

succeeds] by Biblical law, even if they have not yet come into his possession, when he takes [the money or the produce], he takes something in exchange for an idol![27] Hence it [his succession] is [only] by Rabbinical law, the Rabbis having enacted a preventive measure, lest he return to his evil ways.[28] It has been taught likewise: When was this said? If they inherited [the property]. But if they went into partnership,[29] it is forbidden.[30] A heathen [succeeds] a proselyte, or a proselyte [succeeds] a proselyte, neither by Biblical law nor by the law of the Soferim. For we learnt:[31] If a man borrows money from a proselyte whose children were converted together with him, he must not return it to his children,[32] and if he does, the spirit of the Sages is not pleased with him. But it was taught:[33] The spirit of the Sages is pleased with him? — There is no difficulty. The former refers to where his [sc. the child's] conception and birth were not In sanctity:[34]

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(1) Expressed by the emphasis in the doubling of the verb (translated here, 'surely'; E.V. 'liberally').

(2) Rashi: the amounts stated above are the minimum, but should be increased proportionately to the blessing received.

(3) Where this repetition of the verb is quite common, and has no particular significance, v. B.M. 31b.

(4) If the master died within the six years, leaving one of these as his heir.

(5) Deut. XV, 12.

(6) Other than the son.

(7) Ex. XXI, 2.

(8) Lit., 'stated,' since 'thee' is not mentioned.

(9) Lit., 'fulfil'.

(10) Lit., 'see'.

(11) Sc. a female slave, as his wife; v. p. 45, n. 9.

(12) If one sanctifies an ancestral field, he can redeem it at a fixed rate, proportionate to its area, after which it belongs to him for good. If he does not redeem it, the Temple treasurer sells it, and it belongs to the purchaser until jubilee, when it becomes the property of the priests. But if the sanctifier's son redeems it, it is as though he himself does so, and it remains his for good.

(13) V. Glos.

(14) But it is not explicitly stated. For fuller notes, v. B.B. (Sonc. ed.) pp. 449ff.

(15) Deut. XV, 16f.

(16) Ex. XXI, 5.

(17) I.e., manservant excludes maidservant.

(18) Lit., 'fulfil'.

(19) That the only purpose of the verse is as stated before.

(20) Which would suffice for the analogy.

(21) Ex. XXI, 6.

(22) Lev. XXV,50; the verse treats of redeeming a Jewish slave from a heathen owner.

(23) Lit., 'scribes,' the designation of the early body of teachers beginning with Ezra and ending with Simeon the Just, though sometimes it would appear to apply to later Talmudists too; e.g., in R.H. 19a. The Rabbis derive the word from safar, to count: hence the body who counted the letters of the Torah or grouped subjects by number; e.g., four chief causes of damage, thirty-nine principal modes of labour forbidden on the Sabbath (infra 30a; Sanh. 106b). Weiss, Dor, I, 50, maintains that they were so called on account of their skilled calligraphy; and also, because they taught from a scroll (sefer). This body has been identified with the Men of the Great Synagogue (Z. Frankel, Darke ha-Mishnah, p. 8; N. Krochmal, More Nebuke ha-Zeman, ch. X, 186). Weiss op. cit. p. 58 maintains that they were separate bodies, though their objects were alike. The Soferim were the theoretical scholars who interpreted the law; the Men of the Great Synagogue were the practical legislators.

(24) Wine handled by a Gentile, so called as he might have dedicated the wine for a libation to a heathen deity.

(25) Sc. the idols or the wine.

(26) Because one may not benefit from these in any way.

(27) For if he inherits by Biblical law, he automatically has a half-share in everything, whether he has taken possession or not.

(28) For the sake of the estate. — The reason that he cannot succeed by Biblical law is that 'a proselyte is as a new-born babe,' who has no kinsmanship whatsoever with any of his pre-conversion relations.

(29) In a business, or in property, among which were idols and forbidden wine.

(30) Which proves that he does not inherit by Biblical law, for in that case it would be partnership.

(31) [This is no Mishnah, hence Var. lec. 'it has been taught'.]

(32) Because they are not his heirs.

(33) [This is a Mishnah, Sheb. X, 9, hence Var. lec., 'we learnt'.]

(34) I.e., before the father's conversion. If the debtor returns the money to his child, he ipso facto recognises him as heir against the desire of the Rabbis, who held that there is absolutely no relationship between them.

Talmud - Mas. Kiddushin 18a

the latter to where his conception was not In sanctity, but his birth was.[1] R. Hiyya b. Abin said in R. Johanan's name: A heathen succeeds his father by Biblical law, since it is written, because I have given Mount Seir unto Esau for an inheritance.[2] Yet perhaps an apostate Israelite is different?[3] — But [it follows] from this: Because I have given Are unto the children of Lot as a heritage.[4] Now, R. Hiyya b. Abin, why does he not agree with Raba? — Is it then written: 'And he shall reckon with his purchaser' but not with his purchaser's heirs! And Raba, why does he not agree with R. Hiyya b. Abin? — There it is different, [it being] on account of Abraham's honour.[5]

Our Rabbis taught: A Hebrew bondman has features which a Hebrew bondwoman lacks, and there are features in a Hebrew bondwoman which a Hebrew bondman lacks. A Hebrew bondman has [these] features, viz.: he goes out [free] through [the passage of six] years, by jubilee, and by his master's death, which is not so in the case of a Hebrew bondwoman. And a Hebrew bondwoman has [these] features, viz.: a Hebrew bondwoman goes out by 'signs', she cannot be sold and re-sold, and is redeemed against her will, which is not so in the case of a Hebrew bondman.

The Master said: 'A Hebrew bondman has features which a Hebrew bondwoman lacks.' But the following contradicts this: A HEBREW MAIDSERVANT IS MORE [PRIVILEGED] THAN HE, IN THAT SHE ACQUIRES HERSELF BY 'SIGNS'![6] — Said R. Shesheth: E.g., if he designated her [as his wife].[7] 'He designated her?' But that is obvious: she needs a divorce! — I might have thought, The regulations[8] are not annulled in her case. Hence we are informed otherwise. If so, why does she go out free by 'signs'? — This is its meaning: If he [her master] did not designate her, she goes out free by 'signs' too.

'And she cannot be sold and re-sold.' Hence it follows that a Hebrew male slave may be sold and re-sold. But it was taught: [If he have nothing, then he shall be sold] for his theft,[9] but not for his double repayment;[10] 'for his theft,' but not for his refuted testimony;[11] for his theft': having been sold once, he may not be sold again! — Said Raba: There is no difficulty: the latter refers to one theft, the former to two thefts. Abaye demurred: 'for his theft' may imply even many thefts![12] But, said Abaye, there is no difficulty; the latter refers to one man, the former to two men.[13]

Our Rabbis taught: If his theft was thousand [zuz], and he was [only] worth five hundred, he is sold and then sold again.[14] If his theft was five hundred, whereas he is worth thousand, he is not sold at all. R. Eliezer said: If his theft corresponded to his purchase price,[15] he is sold; if not, he is not sold. Raba said: In this matter R. Eliezer triumphed over the Rabbis. For why is it different if his theft was five hundred and he was worth thousand, that he is not sold: because Scripture said: 'then he shall be sold' — all of him, but not half? Then here too,[16] Scripture ordered, 'he shall be sold for his theft,' but not for half his theft.

'And is redeemed against his will.' Raba thought to interpret: against the master's will. Said Abaye to him: How so — that a bond is drawn up for him for her value? But why:[17] he holds a pearl in his hand — shall we give him a shard?[18] But, said Abaye, against her father's will,[19] on account of the family disgrace. If so, in the case of a Hebrew bondman too, let the members of his family [be forced

to redeem him] on account of the family disgrace? — Then he will go and sell himself again. Then here too, he [the father] will go and sell her again? — Was it not taught: She cannot be sold and then sold again? And this agrees with R. Simeon. For it was taught: A man may sell his daughter for marital relationship, and then repeat it;[20] for servitude, and then repeat it,[21] for marriage after servitude,[22] but not for servitude after marriage. R. Simeon said: Just as a man cannot sell his daughter for servitude after marriage, so a man cannot sell his daughter for servitude after servitude. Now this enters into the dispute of the following Tannaim. For it was taught: [To sell her unto a strange people he shall have no power], seeing he hath dealt deceitfully with her [be-bigedo bah]:[23]

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(1) Then the Rabbis are pleased that he returns it (Rashi).

(2) Deut. II, 5.

(3) Esau having been such. — Though all people, including Abraham and his descendants, were accounted as Noachides until the Revelation, and thus not subject to Jewish law (cf. Sanh. p. 384, n. 6), it would appear that this was not held to apply to inheritance, probably because Palestine itself was given to the Jews as a heritage from Abraham.

(4) Deut. II, 9.

(5) For that reason the descendants of Lot, Abraham's nephew, were given the privilege of inheritance.

(6) 'More privileged' implies that 'signs' are additional.

(7) Then she is not freed by these.

(8) Relating to a Hebrew bondwoman.

(9) Ex. XXII, 2.

(10) A convicted thief had to repay double; ibid. 3.

(11) Lit., 'his scheming.' If one preferred a false charge, he was punished with the same penalty that he had sought to impose; v. Deut. XIX, 19. But if he falsely testified to theft, though he thereby sought to have the accused sold as a slave, if he could not make restitution, he is nevertheless not sold himself.

(12) 'Theft' being understood generically.

(13) If he robs one man, even twice, and is charged with both thefts simultaneously, he can only be sold once. But if he robs two men, each of whom sues him at court at different times, he may be sold twice. Tosaf. reverses it.

(14) This is the reading of curr. edd. The Wilna Gaon and Maim. read: he is sold but not sold again. This is preferable, and agrees with the previous statements.

(15) Being neither more nor less.

(16) If his theft was thousand and he is worth five hundred.

(17) Must he accept it?

(18) With a double meaning: he holds something of value, must he accept something valueless; also, must he accept the shard on which such a bond may be written?

(19) If he can afford it, he is forced to redeem her (Rashi). Tosaf.: the family is compelled to redeem her against her father's desire, who may not wish to have her back at home and to keep her.

(20) One may accept kiddushin on behalf of his daughter, a minor: and if she is widowed or divorced while an arusah (q.v. Glos.) he can do so again, on each occasion the money of kiddushin belonging to himself.

(21) If she became free through six years, jubilee, or her master's death, and is still a minor (ketannah).

(22) Having been freed from servitude, she can then be given in marriage.

(23) Ex. XXI, 8.

Talmud - Mas. Kiddushin 18b

once he spread his cloak over her,[1] he can no longer sell her: this is R. Akiba's view.[2] R. Eliezer said: seeing he hath dealt deceitfully with her — having dealt deceitfully with her,[3] he may not sell her [again]. Wherein do they differ? R. Eliezer maintains: the traditional text [i.e., letters without vowels] is authoritative;[4] R. Akiba maintains: the text as read is authoritative; whereas R. Simeon holds: both the traditional text and the vocalization are authoritative.[5]

Rabbah b. Abbuhah propounded: Does designation[6] effect nissu'in or erusin? The difference is in respect of inheriting her property, defiling himself on her account, and annulling her vows.[7] What is

the law? — Come and hear: 'Seeing that he hath dealt deceitfully with her [be-bigedo bah]: once he spread his cloak over her, he can no longer sell her'. Thus, he merely may not sell her, yet may indeed designate her.[8] But if you say, it effects nissu'in, once she was married,[9] her father has no more authority over her. Hence we may surely infer that it effects erusin. R. Nahman b. Isaac said: The reference here is to kiddushin in general,[10] and this is its meaning: Once her father delivers her to one who becomes responsible for 'her food, raiment and conjugal rights,'[11] he may no longer sell her.

Come and hear: He [the father] may not sell her to relations.[12] On the authority of R. Eliezer it was said: He may sell her to relations. And both agree that he may sell her, if a widow, to a High Priest, and if divorced, or a haluzah,[13] to a common priest.[14] Now [as to] this widow, how is it meant? Shall we say, that she accepted kiddushin for herself: can she be called a widow![15] Then It means that her father betrothed her — but a man cannot sell his daughter for servitude after marriage! And thereon R. Amram said in R. Isaac's name: The reference here is to the kiddushin of designation,[16] and [was taught] according to R. Jose son of R. Judah, who maintained: The original money was not given as kiddushin.[17] But if you say: It effects nissu'in: once she is married, her father no longer has any authority over her! — What then: it effects erusin? [Then how say,] 'and both agree' etc.; surely a man cannot sell his daughter to servitude after marriage! Then what can you answer: her own erusin differs from her father's?[18] Then even if you say that it effects nissu'in: her own nissu'in differs from her father's. How now? As for erusin differing from erusin, that is well;[19] but can nissu'in differ from nissu'in?[20]

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(1) I.e., given her in marriage; for this idiom cf. Ruth III, 9: spread therefore thy skirt over thy handmaid (i.e., take me in marriage).

(2) Deriving be-bigedo fr. beged, a garment.

(3) I.e., disgracefully, by selling her into slavery.

(4) V. Sanh. (Sonc. ed.) p. 4, n. 4.

(5) The traditional text is be-bagedo, seeing that he hath deceived, i.e., sold her; it is vocalised be-bigedo, with his garment, i.e., having married her.

(6) V. p. 45, n. 9.

(7) The heir of an arusah is her father; of a nesu'ah, her husband. A priest must (or may, v. Sotah 3a) defile himself on account of his deceased wife, if a nesu'ah, but not if an arusah. The vows of an arusah, if a na'arah (q.v. Glos.) can only be annulled by her husband and father jointly; those of a nesu'ah, by her husband alone.

(8) I.e., give her in marriage.

(9) I.e., with nissu'in.

(10) I.e., not a bondmaid's designation by her master.

(11) The phrasing is Biblical; cf. Ex. XXI, 10. I.e., once he accepted. kiddushin on her behalf.

(12) Who cannot designate her on account of consanguinity.

(13) V. Glos.

(14) Though these too may not designate her: v. Lev. XXI, 7 (this was extended to a haluzah too) and 14. The betrothal of consanguineous relations is forbidden, and if performed, invalid; that of a High Priest to a widow, or a common priest to a divorced woman or a haluzah, is likewise forbidden, but if performed, valid. Hence the difference.

(15) Surely not, since her actions have no validity. — The reference in the whole passage is necessarily to a minor, for only then can he sell her.

(16) I.e., her father sold her, then her master designated her and died, leaving her a widow.

(17) When one buys a bondmaid, the money he pays is not for the purpose of betrothal; and when he designates her, it is by the labour she owes him, not by the money he has given. Therefore her father can resell her after her master's death, and it is not regarded as servitude after betrothal, since he himself did not accept the original money as kiddushin.

(18) When her father receives kiddushin on her behalf, he loses his authority to sell her subsequently. But when she herself receives it (as explained p. 84, n. 10, that she is betrothed in virtue of the labour she owes her master), and thus receive the kiddushin — viz., the renunciation of her labour — herself, her father retains the right to sell her.

(19) For she does not altogether pass out of her father's control after erusin, e.g., in respect of inheritance and annulment

of vows (p. 83, n. 1). Therefore it may be said that he loses the right to sell her only after he himself accepts kiddushin, but not after she does so by means of designation.

(20) Since nissu'in completely frees her from her father's authority, it does not matter at whose instance it is effected.

Talmud - Mas. Kiddushin 19a

Now, according to R. Nahman b. Isaac, who maintained: Even on the view of R. Jose son of R. Judah, the original money was given for kiddushin,[1] how can he explain it? — He explains it as agreeing with R. Eliezer, who held: It is only for servitude after servitude that he may not sell her, but he can sell her to servitude after marriage.

Resh Lakish propounded: Can a man designate [his bondmaid] for his son, a minor? The All-Merciful said, his son,[2] — his son, whatever his state; or perhaps, 'his son' must be similar to himself: just as he is an adult, so must his son be an adult?[3] — Said R. Zera, Come and hear: [And a man that committeth adultery with another man's wife]:[4] 'a man' excludes a minor; 'that committeth adultery with another man's wife' excludes the wife of a minor. But if you say that he can designate, if so, we find matrimonial relationship in the case of a minor.[5] What then: he cannot designate? Why does Scripture exclude it?[6] [Then on the contrary] solve [the problem] from this that he can designate![7] — Said R. Ashi: The reference here is to a yabam, aged nine years and a day, who had intercourse with his yebamah, who is tied[8] to him by Scriptural law.[9] I might have thought, since she is tied to him by Biblical law and his intercourse is intercourse,[10] he who has intercourse with her incurs the penalty for [adultery with] a married woman: hence we are informed [that it is not so].

What is our decision on the matter? — Come and hear: For R. Aibu said in R. Jannaiðs name: Designation can be performed only by an adult; designation is only by consent.[11] [Are these] two [statements]?[12] — He states the reason: What is the reason that designation can be performed only by an adult? Because designation is only by consent. Alternatively, what is the meaning of, 'by consent'? 'By her consent.' For Abaye son of R. Abbahu[13] recited: [If she please not her master,] who hath not espoused her [ye'adah]: this teaches that he must inform her [that he intends to designate her.][14] He recited it and he explained it: This refers to betrothal by designation, and is in accordance with R. Jose son of R. Judah, who maintained, The original money was not given as kiddushin.[15] R. Nahman b. Isaac said: Even if you say that it was given as kiddushin,[16] here it is different, because Scripture expressed [betrothal by the word] ye'adah.[17]

What is the reference to R. Jose son of R. Judah? — For it was taught: '[If she please not her master,] who hath espoused her to himself,[18] then he shall let her be redeemed': [this teaches,] there must be sufficient time [left] of the day to necessitate redemption.[19] Hence R. Jose son of R. Judah ruled: If there is sufficient time in that day for her to do work to the value of a perutah, she is betrothed. This proves that in his opinion the original money was not given as kiddushin.[20] R. Nahman b. Isaac said: You may even say that it was given as kiddushin, yet here it is different, since Scripture said: 'then he shall let her be redeemed.'[21]

Raba said in R. Nahman's name: A man can say to his daughter, a minor, 'Go forth and receive thy kiddushin.' [This follows] from R. Jose son of R. Judah['s dictum]. Did he not say: The original money was not given as kiddushin? Yet when he [the master] leaves her a perutah's worth [of her labour] it is kiddushin;[22] [hence] here too It is not different.

Raba also said in R. Nahman's name, If a man betroths [a woman] with a debt upon which there is a pledge,[23] she is betrothed. [This follows] from R. Jose son of R. Judah['s dictum]: did he not say: The original money was not given as kiddushin? [Hence] this [her labour] is a loan,[24] and she herself is a pledge,

(1) So that when her master designates her, her father is deemed to have received the kiddushin.
(2) And if he espouse her unto his son — Ex. XXI, 9.
(3) I.e., thirteen years and a day.
(4) Lev. XX, 10.
(5) Why then should the penalty for adultery — execution — not apply?
(6) Since a minor cannot have a wife.
(7) For that is the only way in which it is conceivable that a minor shall be married.
(8) Lit., 'fit'.
(9) And therefore he acquires her by intercourse, though normally a minor's action has no force. Nine years and a day is the minimum age at which a male's intercourse counts, i.e., can engender.
(10) V. preceding note.
(11) Of the man; the first half solves Resh Lakish's problem.
(12) Actually, it is only one law: since the man's consent is necessary, it follows that he must be an adult, for a minor's consent is not recognised in law.
(13) [The name occurs nowhere else. MS.M. has 'Abimi' in the place of 'Abaye'].
(14) Connecting ye'adah with de'ah, knowledge, information. [MS.M. reads: לידעה instead of ליעדה cf. cur. edd.]
(15) V. p. 84, n. 10; consequently, her father's consent is absent, and therefore he must inform her to obtain her consent (Rashi).
(16) So that the father's consent is automatically given when he sells her; nevertheless she too must be informed, and her consent obtained.
(17) Which has an affinity. with de'ah; v. n. 5.
(18) The written text is lo tk, 'not'; but it is also read lo uk, 'to himself.'
(19) If her master wishes to designate her on the very last day of her servitude, her labour still owing must be worth at least a perutah, so that she could be redeemed therefrom. Otherwise he cannot designate her.
(20) For if it were, he could betroth her at any time within the six years.
(21) Which shews that espousal and redemption are interdependent.
(22) Thus, it is she, a minor, who actually receives the kiddushin, and it is valid because in the first place her father, by selling her, authorized her ipso facto to receive it.
(23) And he betroths her by her pleasure at his remission of the debt, even if he does not actually return the pledge. The pledge referred to is one voluntarily given when the debt was contracted (Tosaf.). [Asheri: He betroths her with the debt itself (cf. supra p. 21, n. 9) and nevertheless where it is secured by a pledge it is not regarded as spent, and the betrothal is valid.]
(24) I.e., she owes it to her master, as any other debt.

Talmud - Mas. Kiddushin 19b

yet when he [the master] leaves her a perutah's worth [of her labour] and designates [her therewith], it is kiddushin; so here too, It is not different.

Our Rabbis taught: How is the law of designation [carried out]? He [her master] declares to her in the presence of two people, 'Behold, thou art designated unto me,'[1] [or] 'Behold, thou art betrothed unto me,'[or] 'Behold, thou art become an arusah unto me: even at the end of the six [years] ,[2] even just before sunset. He must then treat her as a wife, not as a bondmaid. R. Jose son of R. Judah said: If there is sufficient time In that day for her to do work to the value of a perutah, she is betrothed; if not, she is not betrothed. This may be compared to a man who says to a woman, 'Be thou betrothed unto me from now and after thirty days,'[3] and then another man comes and betroths her within the thirty days: [the law of designation teaches] that she is betrothed to the first. On whose view is this analogous? Shall we say, on R. Jose son of R. Judah's? But [he maintained:] If there is sufficient time in that day for her to do work to the value of a perutah, she is betrothed; if not, she is not betrothed![4] — Said R. Aha the son of Raba: It is analogous on the view of the Rabbis.[5] But that is obvious?[6] — I might have thought, But he [her master] did not say 'from now';[7] hence we are informed [that it is not so].[8]

Another [Baraitha] taught: If a man sells his daughter and then goes and betroths her to another man, her master is powerless,[9] and she is betrothed to the second: this is R. Jose son of R. Judah's view. But the Sages maintain: If he wishes to designate her, he can do so. This may be compared to a man who declares to a woman, 'Behold, thou art betrothed unto me after thirty days,' and another man comes and betroths her within the thirty days, then she is betrothed to the second.[10] On whose view is this analogous? Shall we say, on the Rabbis'? But they maintain: If he wishes to designate her, he can do so! — But, said R. Aha the son of Raba, it is analogous on the view of R. Jose son of R. Judah.[11] But that is obvious? — I might have argued, But he did not say to her, 'After thirty days';[12] hence we are informed otherwise.[13]

Another [Baraitha] taught: If a man sells his daughter and stipulates,' on condition that he [her master] shall not designate [her],' the condition is binding:[14] this is R. Meir's opinion. But the Sages maintain: If he wishes to designate her, he can do so, because he [her father] has stipulated contrary to what is written in the Torah, and he who makes a stipulation contrary to what is decreed in the Torah, his stipulation is null. Does then R. Meir hold that this stipulation is valid? But it was taught: If a man says to a woman, 'Behold, thou art betrothed unto me on condition that thou hast no claims upon me of sustenance, raiment, and conjugal rights' — she is betrothed, but the condition is null: this is R. Meir ðs view. R. Judah said: In respect of financial matters,[15] his condition is binding. — Said Hezekiah: Here it is different, because the Writ saith, [and if a man sell his daughter] to be a bondwoman:[16] sometimes he can sell her to be only a bondwoman.[17] And the Rabbis? How do they utilize this, 'to be a bondwoman'! — They employ it, even as was taught: 'To be a bondwoman': this teaches that he can sell her to unfit persons.[18] But does this not follow a fortiori: if he can betroth her to unfit persons,[19] shall he not sell her to unfit persons?[20] — As for betrothing her to unfit persons, that may be because a man can betroth his daughter as a na'arah: shall he then sell her to unfit persons, seeing that a man cannot sell his daughter as a na'arah?[21] Therefore Scripture states: 'to be a bondmaid', teaching that he can sell her to unfit persons. R. Eliezer said: If it is to teach that he can sell her to unfit persons — behold, it was already said: 'if she displease her master [so that he hath not espoused her],' which means, she was displeasing in respect of marriage.[22] What then is taught by, 'to be a bondwoman'? It teaches that he may sell her

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(1) So Bah.

(2) On the very last day, but before she actually completes it.

(3) I.e., kiddushin begin at this moment, but are not completed until thirty days, as though it were a long ceremony requiring all this time.

(4) Which proves that kiddushin do not commence at the beginning of her servitude, but only at the last moment. Hence here too, kiddushin commence at the end of the thirty days, and therefore if another man betroths her in the meantime, she is betrothed to the second.

(5) Since they maintain that the designation takes effect even when she can no longer do a perutah's worth of work, it must have commenced as soon as she was sold: otherwise, what effects her betrothal now? Hence the same applies to this.

(6) That this analogy may be drawn, the cases being so alike.

(7) Therefore in the analogous case, even if he says: 'Thou art betrothed unto me after thirty days,' and another man betroths her within the thirty days, she is betrothed to the first.

(8) The above explanation follows Rashi. Tosaf. explains it quite differently: This may be compared etc. Hence here too, if another man betroths her before her master designates her, she is not betrothed to the second, and the subsequent designation of her master takes effect, because the original money was given for kiddushin. 'On whose . . . she is not betrothed': which proves that he must actually give her something (sc. her labour, which is worth a perutah) at the end, when he designates her; therefore another man's intervention is valid, and she is betrothed to the second. 'Said R. Aha . . . the Rabbis:' just as there, so here too, and the intervention of another man before the master's designation is not valid. The rest is similar to Rashi's explanation.

(9) Lit., 'he has laughed at the master.'

(10) Rashi and Tosaf. differ here as in the preceding passage.
(11) Rashi: just as her betrothal to the second is valid because her master did not designate her from the time he bought her, so here too. Tosaf. reverses the premise and the conclusion.
(12) Rashi: Her master did not state that he would designate her after a certain period, therefore the second man's betrothal is valid. But if one says: 'Be betrothed to me after thirty days,' I might have thought that she is betrothed to him, and the second man's betrothal is invalid. Tosaf.: her master did not state that he would designate her only after a certain period, and therefore I would have thought that the designation commences immediately, and the second man's betrothal is invalid.
(13) Rashi: Since Scripture empowered him to designate her as a result of the purchase, it is as though he had said that he would subsequently designate her; therefore the cases are entirely analogous. Tosaf.: Since he did not explicitly state, 'from now,' the designation commences only later; hence she is betrothed to the second.
(14) Lit., 'fulfilled'.
(15) Viz., sustenance and raiment.
(16) Ex. XXI, 7.
(17) Hence the stipulation is not contrary to Scripture.
(18) I.e., who are forbidden to intermarry with Jews of unblemished birth, e.g.. a bastard, to whom he can sell her only for servitude and not designation.
(19) I.e., if he betroths her to a bastard, though it is forbidden, the betrothal is valid.
(20) Surely he can; then why deduce it from Scripture? It might be argued that whereas such betrothal is valid only if performed, we desire to prove now that one may at the very outset sell his daughter to an unfit person, and this vitiates the argument. But this rebuttal is fallacious: it is logical to distinguish in marriage between what is permitted at the very outset and what is valid only if done in defiance of the law; but there are no grounds for drawing this distinction in respect to a sale, and if the sale is valid when done, there is no reason for saying that it is not permitted in the first place (Maharsha). S. Strashun explains it differently.
(21) But only as a ketannah (q.v. Glos.). Hence his power of betrothal is greater than that of sale.
(22) I.e., forbidden to her master.

Talmud - Mas. Kiddushin 20a

to [consanguineous] relations.[1] But does this not follow a fortiori: If he can sell her to unfit persons,[2] shall he not sell her to relations?[3] As for selling her to unfit persons, that may be because if he[4] wishes to designate her [in spite of the interdict] he can do so;[5] shall he then sell her to [consanguineous] relations, seeing that if he wishes to designate her, he cannot? Therefore the Writ saith, 'to be a bondwoman,' teaching that he can sell her to relations. And R. Meir?[6] — [That he can sell her] to unfit persons he deduces from the same verse from which R. Eliezer deduces it; and in the matter of relations he agrees with the Rabbis, who maintain: He may not sell her to relations.

One [Baraitha] taught: He may sell her to his father, but may not sell her to his son. Another [Baraitha] taught: He may sell her neither to his father nor to his son. As for saying: 'He may sell her neither to his father nor to his son,' that is well, agreeing with the Rabbis. But 'he may sell her to his father but may not sell her to his son' — with whom does this agree; neither with the Rabbis nor with R. Eliezer? — After all, it agrees with the Rabbis: they admit [that he can sell her] where there is a possibility[7] of designation.[8]

Our Rabbis taught: If he come in by himself [be-gapo], he shall go out by himself [be-gappo][9] — he comes in with his [whole] body [be-gufo] and goes out with his [whole] body.[10] R. Eliezer b. Jacob said: Having come in single, he goes out single. What is meant by 'he comes in with his [whole] body and goes out with his [whole] body'? — Said Raba: It means that he is not freed through [the loss of his] outstanding limbs, as a [heathen] slave. Abaye protested: But that is deduced from, 'she shall not go out as the bondmen do'?[11] — If from there, I would have thought, He must pay for his eye, and then he goes free;[12] hence we are informed [otherwise]. 'R. Eliezer b. Jacob said: Having come in single, he goes out single.' What is meant by 'he goes out single'? —

Said R. Nahman b. Isaac: This is meant: If he has a wife and children [when entering service], his master may give him a heathen[13] bondmaid;[14] if he has no wife and children, his master may not give him a heathen bondmaid.

Our Rabbis taught: If he was sold for a maneh, and appreciated [in value] and stood at two hundred [zuz], how do we know that he is assessed only at a maneh?[15] — Because it is written, [He shall give back the price of his redemption] out of the money that he was bought for.[16] If he was sold for two hundred and depreciated and stood at a maneh, how do we know that he is assessed only at a maneh? — Because it is written, according unto his years [shall he give back the price of his redemption].[17] Now, I know this only of a slave sold to a heathen: since he may be redeemed by his kinsmen, his [the master's] hand is nethermost.[18] How do we know it of one who is sold to a Israelite! — Because sakir [an hired servant] is stated twice, for the purpose of a gezerah shawah.[19]

Abaye said: Behold I am like Ben ‘Azzai in the streets of Tiberias.[20] One of the scholars said to Abaye: Consider: these verses may be interpreted leniently and stringently: why do you choose to interpret them leniently [to the slave's advantage]; let us interpret them stringently?[21] — You cannot think so, since the All-Merciful favoured[22] him. For it was taught: Because he is well with thee:[23] he must be with [i.e., equal to] thee in food and drink, that thou shouldst not eat white bread and he black bread, thou drink old wine and he new wine, thou sleep on a feather bed and he on straw. Hence it was said: Whoever buys a Hebrew slave is like buying a master for himself. Yet perhaps that is only in respect to food and drink, that he should not be grieved, but in the matter of redemption, let us be stringent with him, [as follows] from R. Jose son of R. Hanina. For R. Jose son of R. Hanina said: Come and see how hard are the results[24] of [violating the provisions of] the seventh year. A man who trades in seventh year produce must eventually sell his movables, for it is said: In this year of jubilee ye shall return every man unto his possession,[25] and in juxtaposition thereto, and if thou sell aught ‘into thy neighbour, or buy of thy neighbour's hand,[26] [which refers to] what is acquired from hand to hand.[27] If he disregards this,[28] he eventually sells his estates, for it is said: If thy brother be waxen poor, and sell some of his possession.[29] He has no opportunity [of amending his ways][30] until he sells his house, for it is said: And if a man sell a dwelling house in a walled city.[31] (Why state there ‘if he disregards this,’ but here, ‘He has no opportunity’? — In accordance with R. Huna. For R. Huna said: Once a man has committed a transgression and repeated it, it is permitted to him. ‘Permitted to him!’ — can you think so? But say, it becomes to him as permitted.)[32] It is not brought home to him[33] until he sells his daughter, for it is said, and if a man sell his daughter to be a bondwoman;[34] (and though [the sale of] his daughter is not mentioned in this section, yet he teaches us that one should [even] sell his daughter and not borrow on usury. What is the reason? — His daughter makes a deduction and goes free,[35] whereas this [his debt] waxes ever larger.)[36] it is not brought home to him until he borrows on interest, as it is written, and if thy brother be waxen poor, and his hand fail with thee,[37] in proximity to which [is stated,] Take thou no usury of him or increase.[38] It is not brought home to him until he sells himself, as it is said, and if thy brother be waxen poor with thee and sells himself unto thee.[39] And not even to thee, but to a proselyte, as it is said [and sell him — self] unto the proselyte.[40] And not even to a righteous proselyte,[41] but to a resident alien,[42] as it is said, or to the resident alien.[43] The family of a proselyte[44] means a heathen. When it is said: To the stock,[45]

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(1) Though designation is altogether impossible, for even if performed it is invalid.

(2) I.e., who are forbidden to all.

(3) Who are interdicted only to her.

(4) The master.

(5) I.e., his designation is valid.

(6) Since he utilizes ‘to be a bondmaid’ otherwise, how does he know these rulings?

(7) Lit., ‘side’.

(8) His father can designate her for his son, her uncle. But his son can neither betroth her himself nor designate her for

his son.
(9) Ex. XXI, 3.
(10) Explained below.
(11) Ibid. 7, the same applying to the Hebrew bondman.
(12) Whereas a heathen slave is freed but not compensated.
(13) Lit., ‘Canaanitish’.
(14) To beget slaves for him.
(15) For the purpose of redemption.
(16) Lev. XXV, 51.
(17) Ibid. 52; this implies, he must repay the value of the unexpired term, i.e., his depreciated worth.
(18) I.e., he is at a disadvantage, the lower value always being the basis for redemption.
(19) A slave sold to a Jew: as an hired servant (sakir) . . . he shall be with thee — ibid. 40; a slave sold to a heathen: according to the time of an hired servant (sakir) he shall be with him — Ibid. 50. The same word used in both sections denotes that the same law applies to both.
(20) Said humorously ‘I am ready to face all comers!’ Ben ‘Azzai was the keen scholar, able to answer all questions; cf. Bek. 28a.
(21) Applying v. 51 to a case of depreciation, and v. 52 to appreciation, so that the slave is always assessed on his higher value.
(22) Lit., ‘was lenient to’.
(23) Deut. XV, 16.
(24) Lit., ‘dust’.
(25) Lev. XXV, 13: this concludes the sections on the seventh year and jubilee.
(26) Ibid. 14.
(27) I.e., movables, implying that the one is a punishment for transgressing the other.
(28) Lit., ‘if he does not perceive’ — that the enforced sale is a punishment.
(29) Ibid. 25; ‘possession,’ Heb. אחוזה , applies to land.
(30) Lit., ‘it does not come to his hand.’
(31) Ibid. 29.
(32) Repetition of sin blunts the finer perception of right and wrong. — This is perhaps sin's greatest punishment; cf. Ab. (Sonc. ed.) p. 44: the punishment of transgression is transgression. Having violated the law of the seventh year so often, he ceases to regard it as an offence, and hence has no opportunity of amendment.
(33) Lit., ‘it does not come to his hand.’
(34) Ex. XXI, 7.
(35) The more time elapses the less the obligation.
(36) Hence, since the chapter speaks about borrowing money, it is assumed that he had already sold his daughter.
(37) Lev. XXV, 35.
(38) Ibid. 36.
(39) Ibid. 39.
(40) Lev. XXV, 47.
(41) I.e., one who accepts all the laws of Judaism.
(42) One who accepts some laws of Judaism for the sake of certain rights.
(43) E.V.: sojourner.
(44) Ibid.
(45) Ibid.

Talmud - Mas. Kiddushin 20b

it refers to one who sells himself to the service of the idol itself![1] — Said he to him: But there the Writ led him back.[2] For the School of R. Ishmael taught: Since this man went and became an acolyte in the service of idolatry, I might have said: Let us cast a stone after the fallen, therefore it is said, after that he is sold he shall be redeemed,’ one of his brethren shall redeem him.[3] Yet perhaps ‘he shall be redeemed’ so as not to be absorbed by the heathens, but in respect to redemption we should

be stringent with him, in accordance with R. Jose son of R. Haninah? — Said R. Nahman b. Isaac: Two verses are written: [i] if there be yet increases in the years;[4] [ii] and if there remains but little in the years:[5] are there then increased [i.e., prolonged] years and decreased [i.e., shortened] years?[6] But [the meaning is:] if his value increases, [then his redemption shall be] out of the money that he was bought for; if his value decreases, [the basis of redemption is] according unto his years [yet remaining]. But perhaps the meaning is this: If he served two [years], four remaining, he must repay him for four years 'out of the money that he was bought for'; while if he served four [years], two remaining, he must repay him for two, 'according unto his years'?[7] — If so, Scripture should write, If there be yet many years [shanim] . . . If there remain but few years [shanim]: why 'in years' [ba-shanim]? [To teach:] if his value increased in [these] years, [his redemption is] 'out of the money that he was bought for'; if his value decreased in [these] years, [he is redeemed] 'according unto his years'. Said R. Joseph: R. Nahman[8] interpreted these verses as Sinai.[9] (Mnemonic: Slave, House, Half, Slave, Relations.)[10] R. Huna b. Hinena asked R. Shesheth: Can a Hebrew slave sold to a heathen be half redeemed, or can he not be half redeemed?[11] Do we learn the meaning of 'his redemption', from a field of possession:[12] just as a field of possession cannot be half redeemed,[13] so he too cannot be half redeemed; or perhaps, we may interpret it in his favour,[14] but not to his disadvantage?[15] — He answered him: Did you not say there,[16] he shall be sold entirely, but not half; hence here too, he shall be redeemed,[17] entirely.

Abaye said: Should you rule that he can be half redeemed, it will be found [both] to his advantage and disadvantage. 'To his advantage': If he [the heathen] bought him for a hundred [zuz], and he [the slave] then refunded him fifty, half of his Value,[18] then he appreciated and stood at two hundred: if you say that he can be half redeemed, he pays him [an additional] hundred[19] and goes out [free]; but if you say, he cannot be half redeemed, he must pay him a hundred and fifty, and [then] go out.[20] But you said: 'if his value increased, [his redemption is] out of the money that he was bought for'! — Suppose he was dear [when bought], then slumped, then rose again.[21] 'It will be found to his disadvantage': If he bought him for two hundred [zuz], he [the slave] refunded a hundred, half of his value, and then slumped to a hundred. If you say, he can be half redeemed, he must pay him fifty and go out; but if you say that he cannot be half redeemed, then this hundred was a bailment in his [the master's] charge:[22] hence he [the slave] gives it to him and goes out [free].

R. Huna b. Hinena asked R. Shesheth: If a man sells a house in a walled city,[23] can he half redeem it or not? Do we learn the meaning of 'his redemption' from a 'field of possession':[24] just as 'a field of possession' cannot be half redeemed, so this too cannot be half redeemed; or perhaps, where [Scripture] revealed it,[25] it revealed it; where not, it did not? — He answered him: From the exegesis of R. Simeon we learn that he can borrow and redeem, and redeem half. For it was taught: [And if a man shall sanctify unto the Lord part of the field of his possession.] And if he [that sanctified the field] will indeed redeem it:[26] this teaches that he can borrow and redeem, and redeem half.[27] Said R. Simeon: What is the reason? Because we find in the case of him who sells 'a field of possession', that [since] he has a great privilege, in that if jubilee comes and it has not been redeemed, it reverts to its owners, his rights are weakened in [so far] that he cannot borrow and redeem, and redeem half; hence he who sanctifies ['a field of possession'] whose rights are impaired in that if jubilee comes and it has not been redeemed, it goes out to the priests at jubilee, [therefore] his privilege is strengthened in [so far] that he may borrow and redeem, and redeem half. Hence this one too, who sells a house in a walled city, since his rights are impaired so that if a complete year elapsed and it is not redeemed, it is absolutely [sold], therefore his privilege is strengthened in that he can borrow and redeem, and redeem half.

He raised an objection: 'And if he will indeed redeem it': this teaches that he may borrow and redeem, and redeem half. For I might have thought, does it [the reverse] not follow a minori: if he who sells 'a field of possession', whose privilege is great in that if jubilee comes and it has not been redeemed it reverts to its original owner, yet his power is impaired in that he cannot borrow and

redeem, and redeem half; then he who sanctifies, whose rights are impaired in that if jubilee comes and it has not been redeemed it goes out to the priests at jubilee, it surely follows that his rights are [also] impaired so that he cannot borrow and redeem, and redeem half. As for one who sells 'a field of possession', that is because his privilege is weak in that he [cannot] redeem it immediately;[28] will you say [the same] of one who sanctifies, whose privilege is strong, that he can redeem it immediately? Let one who sells a house in a walled city prove it, whose privilege is strong to redeem it immediately, and yet he cannot borrow and redeem, and redeem half![29] — There is no difficulty:

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(1) E.g., to cut wood for its altar, etc., though not accepting it as a god. — Now, reverting to the original question: since he had to sell himself as a punishment for trading in seventh year produce, why should we not interpret the verse stringently, to his disadvantage?

(2) To the compassion of his brethren.

(3) Ibid. 48 — a lesson in tolerance.

(4) Ibid. 51.

(5) Ibid. 52. The translations here would seem to indicate the meanings of the verses as understood by R. Nahman.

(6) The length of years does not vary!

(7) The verse may not refer to a rise or fall in values, but be meant literally, as the E.V.

(8) Cur. ed.: b. Isaac, but Rashal deletes it: in this case, it must be deleted in the previous passage. (Rashal points out that b. Isaac is omitted in some editions, but apart from that, his reason for deletion is not very cogent).

(9) Very profoundly, as though he were present when they were first promulgated as Sinai.

(10) A mnemonic is a group of letters or words, each being an abbreviation or the key word of a series of subjects, to facilitate their remembering.

(11) Can he repay half his redemption money and serve only half the remainder of his term?

(12) An ancestral field. Here: he shall give back the price of his redemption-Lev. XXV, 52, 'field of possession': and find sufficient for his redemption — ibid. 26.

(13) And he find sufficient to redeem it, written in reference to an ancestral field, implies that the whole must be redeemed.

(14) Lit., 'leniently'.

(15) Lit., 'stringently'.

(16) Supra 18a, q.v.

(17) Ibid. 48.

(18) Not yet having served at all.

(19) Since he owes him his servitude for only half the time.

(20) Since he owes him his service for the whole period, the fifty paid being in the nature of a deposit.

(21) He was bought for two hundred, and then slumped to a hundred, whereupon the slave refunded fifty for half redemption, not yet having served at all, and then his value rose again to two hundred.

(22) But actually belonging to the slave.

(23) V. Lev. XXV, 29-33.

(24) An inherited field: v. p. 95, n. 5; a house in a walled city, ibid. 29: for a full year shall be his redemption (E.V. shall he have the right of redemption).

(25) That the whole must be redeemed.

(26) Ibid. XXVII, 16, 19. 'Indeed' is expressed by the doubling of the verb.

(27) Intimated by the emphasis on 'redeem'.

(28) But must leave it at least two years with the vendees.

(29) This last sentence contradicts R. Shesheth.

Talmud - Mas. Kiddushin 21a

the one agrees with the Rabbis, the other with R. Simeon.[1] One [Baraitha] taught: He [who sells a house in a walled city] may borrow and redeem, and redeem half. Another taught: He may not borrow and redeem, nor redeem half. There is no difficulty: the latter agrees with the Rabbis, the former with R. Simeon.

(Mnemonic; Harash, Habash, Zeman.)[2] R. Aha, son of Raba, said to R. Ashi: It[3] can be refuted: as for one who sells a house in a walled city, that[4] is because his privilege is impaired, that he can never redeem it [any longer];[5] will you say the same of him who sanctifies, whose privilege is great, that he can redeem it for ever?[6] — R. Aha Saba [the Elder] remarked to R. Ashi: Because one can say: Let the argument revolve, and infer it by what is common [to both. Thus!] Let him who sells 'a field of possession' prove it, whose privilege is great, that he can redeem it for ever, and yet he may not borrow and redeem, or redeem half. As for him who sells 'a field of possession', that is because his rights are impaired, in that he [cannot] redeem it immediately. Then let one who sells a house in a walled city prove it.[7] And thus the argument revolves: the feature of one is not that of the other. What is common to both [cases] is that they[8] may be redeemed, and he [the vendor] cannot borrow and redeem, nor redeem half. So may I also adduce the case of one who sanctifies [an inherited field]: it may be redeemed, and he cannot borrow and redeem, nor redeem half. Mar Zutra son of R. Mari said to Rabina: This may be refuted. What is their common feature? That their privileges are impaired. for they [cannot] redeem it in the second year;[9] will you say [the same] of him who sanctifies, seeing that his privilege is strong to redeem in the second year? — Rabina answered him: Because one may reply. Let a Hebrew slave sold to a heathen prove it: his rights are unimpaired. for he may be redeemed in the second year, and yet he cannot borrow and redeem, nor redeem by half.[10]

R. Huna b. Hinena propounded of R. Shesheth: If one sells a house in a walled city, can [the house] be redeemed by relations or not? Do we learn the meaning of 'his redemption' from 'a field of possession':[11] just as 'a field of possession' cannot be half redeemed, yet can be redeemed by relations,[12] so this too cannot be half redeemed, yet can be redeemed by relations; or perhaps, 'redemption' is written only in reference to half,[13] but not in reference to relations? — It cannot be redeemed [by relations], answered he. He objected before him: And in all [the land of your possession] ye shall effect a redemption for the land:[14] this is to include houses and Hebrew slaves.[15] Surely that means houses in a walled city? — No. It means houses in villages. But of houses in villages it is explicitly stated, they shall be reckoned with the fields of the country?[16] — That is to make an obligation,[17] and is in accordance with R. Eliezer. For it was taught: [If thy brother be waxen poor, and sell some of his possessions, then shall his kinsman that is next unto him come,] and shall redeem that which his brother hath sold:[18] that is an option.[19] You say, an option: yet perhaps it is not so, but an obligation? Hence it is taught: And if a man have no kinsman.[20] But is there a man in Israel who has no kinsman?[21] Hence it must refer to him who has [a kinsman,] who [however] refuses to repurchase it, [thus shewing] that he has [merely] an option. R. Eliezer said: 'and he shall redeem that which his brother hath sold' [implies] an obligation. You say, an obligation; yet perhaps it is not so, but an option? — Hence it is taught: and in all . . . ye shall effect a redemption.[22] The Rabbis said to R. Ashi, or as others state, Rabina said to R. Ashi: On the view that it includes houses in walled cities, it is well;[23] but on the view that it includes houses in villages, why 'in all'?[24] This is indeed a difficulty.

Abaye raised an objection before him: Why is 'he shall redeem him,' 'he shall redeem him,' 'he shall redeem him', stated three times?[25] To include all cases of redemption, that they are to be redeemed in this order.[26] Surely that refers to houses in walled cities and Hebrew slaves? — No: to houses in villages and 'fields of possession'. 'Houses in villages and fields of possession!' these are explicitly provided for, 'they shall be reckoned with the fields of the country'? — It is as R. Nahman b. Isaac said [elsewhere], to teach that the nearer the relation, the greater his precedence; so here too, it is to shew that the nearer the relation, the greater is his precedence.[27] Whereon was R. Nahman's dictum stated? — On what was propounded: Can a Hebrew slave sold to an Israelite be redeemed by kinsmen or not? On Rabbi's view, that is no question, since he said: He who cannot be redeemed by these [sc. relations] can be redeemed by [the passage of] years,[28] thus proving that he cannot be redeemed. Our question is on the opinion of the Rabbis. What is the law? Do we infer 'sakir', 'sakir'[29] and do not interpret [the emphasis of, one of his brethren] may redeem him;[30] or perhaps,

'may redeem him' implies him, but not another?[31] — Come and hear:' 'In all . . . ye shall effect a redemption': this is to include houses and Hebrew slaves. Surely that means houses in a walled city, and Hebrew slaves sold to Israelites? No; it means Hebrew slaves sold to heathens. But of a Hebrew slave sold to a heathen it is explicitly stated, or his uncle, or his uncle's son, may redeem him?[32] —

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(1) R. Shesheth's answer having been deduced from R. Simeon's dictum. — R. Simeon holds that the reason of a Scriptural law must be sought, and when found it may modify it and provide a basis for other laws; but the Rabbis disagree. Hence R. Simeon argues that one's very disabilities require compensating privileges, and finds this embodied in the laws of the sanctification of 'a field of possession', from which the same principles are applied to analogous cases. Whereas the Rabbis argue that when Scripture impairs one's privileges in one direction they are weakened in all, a minori, the sanctification of an inherited field being explicitly excepted by Scripture.

(2) Harash — R.AHa son of Raba to R. Ashi; Habash = R.AHa Saba said to R. ASHi; Zeman = Mar Zutra son of R. Mari said to Rabina.

(3) The argument in the Baraitha cited above that would derive the case of one who sanctifies from the sale of a house in a walled city.

(4) Sc. his inability to borrow and redeem, and redeem half.

(5) After the first year; Lev. XXV, 30.

(6) I.e., until jubilee, if the Temple Treasurer has not sold it in the meanwhile.

(7) He can redeem it immediately, and yet cannot borrow etc.

(8) The properties.

(9) One who sells an inherited field cannot redeem it before the third year; and the vendor of a house in a walled city cannot redeem it after the first year.

(10) As supra 20b.

(11) For the quotations v. p. 96, n. 3.

(12) Lev. XXV, 25.

(13) And find sufficient for his redemption (Lev. XXV, 26); 'sufficient' shews that the whole must be redeemed.

(14) Ibid. 24.

(15) That they can be redeemed by relations.

(16) Ibid. 31; i.e., the same law applies to them as to 'a field of possession.

(17) Not only have the relations the right, but also the duty of redemption.

(18) Ibid. 25.

(19) Lit., 'a permitted thing'.

(20) Ibid. 26.

(21) Every Jew must have relatives, if he goes back far enough.

(22) This emphasis — since it is already stated elsewhere — proves that redemption is a duty.

(23) Since redemption by relations is not mentioned there.

(24) Which implies even in those cases where it is not explicitly provided for.

(25) In reference to the redemption of a Jewish slave from a heathen master: Ibid. 48, 49.

(26) This is assumed to mean that in all cases where redemption is stated it may be by relatives.

(27) I.e., in the same order of priority as the kinsmen enumerated in Lev. XXV, 48, 49.

(28) Supra, 15b, q.v.

(29) V. p. 92, n. 5; hence he can be redeemed by kinsmen.

(30) Ibid. 48, referring to a Hebrew slave sold to a heathen.

(31) Sc. a Hebrew slave sold to an Israelite.

(32) Ibid. 49.

Talmud - Mas. Kiddushin 21b

That is to make it an obligation, and even on R. Joshua's view.[1] Come and hear: Why is 'he shall redeem him,' 'he shall redeem him,' 'he shall redeent him,' stated three times? To include all cases of redemption, that they must be redeemed in this order. Surely that refers to houses in walled cities, and Hebrew slaves sold to Israelites? — No: to houses in villages and fields of possession. 'Houses

in villages'! but there it is explicitly stated: 'they shall be reckoned with the fields of the country'? — Said R. Nahman b. Isaac: It is to teach, the nearer the kinsman, the greater his precedence. HE WHOSE EAR IS BORED IS ACQUIRED BY BORING. For it is written, then his master shall bore his ear through with an awl, etc.[2]

AND ACQUIRES HIMSELF BY JUBILEE OR BY HIS MASTER'S DEATH. For it is written: 'and he shall serve'[2] him — but not his son or daughter; for ever' — until the eternity of jubilee.[3]

Our Rabbis taught: '[With] an awl': I only know [that he can be bored with] an awl. Whence do I know to extend [the law to] a prick,[4] thorn, needle, borer, or stylus? From the verse, then thou shalt take,[5] which includes everything that may be taken by hand: this is the opinion of R. Jose son of R. Judah. Rabbi said: Just as an awl is specified, as being of metal, so must everything [used for this purpose] be of metal. Alternatively, [thou shalt take] the awl[6] is to teach[7] [that] the great awl [is meant].[8] R. Eleazar said: Judan Berabbi[9] used to expound: When it [his ear] was bored, only the lobe was bored. But the Sages maintained: A Hebrew slave, [who is] a priest, cannot be bored, as he is thereby blemished;[10] and should you say that the lobe is bored, how is he thereby blemished?[11] Hence he was bored through the upper part of his ear. Wherein do they differ? — Rabbi interprets [by the method of] general propositions and particularizations.[12] [Thus:] 'Then thou shalt take' — this is a generalization;[13] 'an awl' — this is a specification: 'through his ear unto the door' is again a generalization. Now [in a sequence of] generalization, specification and generalization, you can include[14] only what is similar to the specification: just as the specification is explicit as of metal, so must everything [used for this purpose] be of metal. R. Jose interprets [by the method of] amplification and limitation.[15] [Thus:] Then thou shalt take — this is an amplification;[16] an awl — this is a limitation; . . . through his ear unto the door is again an amplification. [A sequence of] amplification, limitation and amplification extends [the law to] everything. What is included? All things. And what is excluded? Chemicals.[17]

The Master said: "'The awl" is to teach that the great awl [is meant].' How is this implied? — As Raba said: [Therefore the children of Israel eat not the sinew of the hip which is upon the hollow of] the thigh[18] implies the right thigh;[19] so here too, 'the awl' implies the most distinguished of awls.

'R. Eleazar said: Judan Berabbi used to expound: When it [his ear] was bored, only the lobe was bored. But the Sages maintained: A Hebrew slave [who is] a priest, cannot be bored, because he is thereby blemished.' Then let him be blemished! — Rabbah son of R. Shila said: Scripture saith, and he shall return unto his own family:[20] i.e., to the established rights of his family.[21]

The Scholars propounded: A Hebrew slave [who is] a priest — can his master give him a heathen bondwoman?[22] Is it an anomaly,[23] and so there is no difference between priests and Israelites; or perhaps, priests are different, since the Writ imposes additional precepts upon them?[24] — Rab said: It is permitted; Samuel ruled: It is forbidden. R. Nahman said to R. 'Anan: When you were at Mar Samuel's academy you wasted your time in chess.[25] Why did you not refute him with this: 'But the Sages maintained: A Hebrew slave, a priest. cannot be bored, as he is thereby blemished.' Now if you say that his master cannot give him a heathen bondmaid,it[26] follows because we require [that he should say]. I love my master, my wife. and my children,[27] which is absent. Nothing more is possible.[28]

The scholars propounded: May a priest take a 'a woman of goodly form'?[29] Is it an anomaly.[30] and so there is no difference between priests and Israelites: or perhaps. priests are different, since the Writ imposes additional precepts upon them? — Rab said: He is permitted; while Samuel maintained, He is forbidden. With respect to the first intercourse there is universal agreement that it is permitted, since the Torah only provided[31] for man's evil passions;[32] their dispute refers to the second intercourse. Rab ruled: It is permitted; and Samuel ruled,it is forbidden. Rab ruled: It is

permitted: since it was [once] allowed, it remains so. But Samuel said, it is forbidden; because she is a proselyte, and so ineligible to [marry] a priest. Others state, with respect to the second intercourse it is generally agreed that it is forbidden, since she is a proselyte. Their dispute refers to the first intercourse: Rab maintained, It is permitted, since the Torah only provided for man's evil passions. Whilst Samuel ruled: that it is forbidden: where one can read, then thou shalt bring her home to thine house,[33] we also read, and seest among the captives. [etc.];[34] but where we cannot read: 'Then thou shalt bring her home to thine house,' we do not read: 'and seest among the captives [etc.].'

Our Rabbis taught: 'And thou seest among the captives' — when taking her captive;[35] a woman — even married; 'of beautiful countenance' — the Torah only provided for human passions: it is better for Israel to eat flesh of

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(1) Who maintained that the redemption of an inherited field by relations is merely a privilege.

(2) Ex. XXI, 6.

(3) V. supra 17b.

(4) I.e., a sharpened piece of wood.

(5) Deut. XV, 17, likewise referring to the boring of a slave.

(6) Lit., translation; E.V. disregards the def. art. of the text.

(7) Lit., 'bring'.

(8) This is explained below.

(9) Berobbi, Beribbi, a contraction of Be Rabbi, was a title of scholars, generally applied to disciples of R. Judah ha-Nasi (Rabbi par excellence) and his contemporaries, but also to some of his predecessors, and occasionally to the first Amoraim (Jast. s.v.); v. Nazir (Sonc. ed.) p. 64. n. 1.

(10) And unfit for service in the Temple.

(11) A hole in the lobe is not a blemish.

(12) In all cases such as the one under discussion Rabbi regards the verse as consisting of a generalization followed by a specification and then again by a generalization. In that case we say that the generalization includes only what is similar to the specification, as explained in the text.

(13) I.e., it implies anything that may be taken, as above.

(14) Lit., 'judge'.

(15) I.e., the general term is an amplification, extending the law to all things; the limitation that follows limits the law to such things as are similar to itself; hence these two alone are sufficient to arrive at the result deduced by Rabbi. Consequently, if a further amplification is added, it includes even dissimilar things, while the limitation can only exclude one or two things which are entirely unlike, v. Shebu. (Sonc. ed.) p. 12, n. 3.

(16) Extending the law to anything that may be taken.

(17) A chemical, e.g., an acid, may not be placed on the ear to burn it through.

(18) Gen. XXXII, 33.

(19) The def. art. implies the well-known, the most important, hence the right, which is the stronger side.

(20) Lev. XXV, 41.

(21) But if he is bored, he loses his established rights of officiating in the Temple.

(22) To produce slaves.

(23) That a heathen bondwoman may be given to any Hebrew slave.

(24) Hence they have a higher degree of sanctity.

(25) Lit., 'you played in chess'; Iskumdre (the 'Aruk reads: iskundre) Pers. iskodar, **; v. Perles, Etymologische Studien, p. 113. R. Han. translates: dog-racing. Krauss, T.A. III, 113 regards it as the dice (Wurfel) in various games of chance.

(26) The law that a Hebrew slave who is a priest is not bored.

(27) Ex. XXI, 5.

(28) This refutation is absolute.

(29) V. Deut. XXI, 11. A priest may not marry a proselyte: how is it here?

(30) Lit., 'a new,' unexpected law.

(31) Lit., 'spoke'.

(32) The permission to take a beautiful captive is a concession to human failings, which priests share equally with Israelites.

(33) Deut. XXI, 12, i.e., take her permanently.

(34) Ibid. 11; i.e., permission to satisfy one's lust.

(35) Permission is granted only if the woman was originally taken for lust, but not if she was taken for enslavement.

Talmud - Mas. Kiddushin 22a

[animals] about to die, yet [ritually] slaughtered, than flesh of dying animals which have perished;[1] 'and thou hast a desire' — even if she is not beautiful; 'unto her' — but not her and her companion;[2] 'and thou shalt take' — thou hast marriage rights[3] over her;[4] 'to thee to wife,' [teaching] that he must not take two women, one for himself and another for his father, or one for himself and another for his son: 'then thou shalt bring her home [to thine house].' teaching that he must not molest her on the [field of] battle.[5]

Our Rabbis taught: But if the servant shall plainly say,[6] he must say and reiterate [it]. If he declares [thus] at the beginning of the sixth year. but not at the end, he is not bored, for it says. 'I will not go out free': [hence] he must say it when about to depart. If he says it at the end of the six[th year], but not at the beginning, he is not bored, for it is said: 'But If the slave shall plainly say': he must say it while still a slave.

The Master said: 'If he declared [thus] at the beginning of the six[th year] but not at the end, he is not bored, for it is said: I will not go out free; [hence] he must say it when about to depart.' Why choose [to learn this] from 'I will not go out free': deduce it because we require [that he shall say]. 'I love my master, my wife, and my children,' which is absent.[7] Furthermore, 'if he says it at the end of the six[th year], but not at the beginning, he is not bored, for it is said . . . "the slave"': is he then not a slave at the end of the sixth year?[8] — Said Raba: [It means,] At the beginning of the last perutah['s worth of service], and at the end thereof.[9]

Our Rabbis taught: If he has a wife and children, but his master has no wife and children, he may not be bored, for it is said, because he loveth thee and thine house.[10] If his master has a wife and children, but he has no wife and children, he may not be bored, for it is said: 'I love my master, my wife, and my children'. If he loves his master but his master does not love him, he may not be bored, for it is said: 'because he is well with thee.'[11] If his master loves him but he does not love his master,[12] he may not be bored, for it is said: 'because he loveth thee'. If he is an invalid but his master is no invalid, he may not be bored, for it is said, because he is well with thee.[13] If his master is an invalid but he is no invalid, he may not be bored, for it is said, with thee.[14]

R. Bibi b. Abaye propounded: What if both are invalids? Do we require, 'with thee' [to be applicable], and it is; or perhaps we require, 'because he is well with thee,' which is absent? The question stands.

Our Rabbis taught: 'Because he is well with thee': he must be with [i.e., equal to] thee in food and drink, that thou shouldst not eat white bread and he black bread, thou drink old wine and he new wine, thou sleep on a feather bed and he on straw. Hence it was said: Whoever buys a Hebrew slave is like buying a master for himself.

Our Rabbis taught: Then he shall go out from thee, he and his children with him:[15] R. Simeon said: if he is sold, are then his sons and daughters[16] sold?[17] Hence [we learn] that the master is liable for his children's keep.[18] Similarly you read: If he is married, then his wife shall go out with him:[19] R. Simeon said: If he is sold, is then his wife sold? Hence we learn that the master is responsible for his wife's keep. Now, both are necessary. For if we were informed [this] of his children, [I would

say] that is because they cannot work for a living;[20] but as for his wife, who can work for a living, I would say: Let her earn her keep. While if we were informed [this] of his wife, that is because it is not meet for her to go begging; but as for his children, for whom it may be seemly to go begging,[21] I might say: It is not so. Hence both are necessary.

Our Rabbis taught:

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(1) Without ritual slaughter. The first too is repulsive, but sanctioned.
(2) The warrior must not take two.
(3) Lit., 'taking'.
(4) Though she is a heathen, and does not voluntarily accept conversion. — Also, she can only be taken as a legal wife.
(5) Nevertheless one is able to bridle his desire in the knowledge that he will be able to satisfy it at home. Rashi. — War cannot be humanized, nor primitive passions subdued. Yet the Rabbis endeavoured to curb them as far as possible and minimize their evil effects: the captive was to be kindly treated, given the full legal status of a wife, and unmolested in actual battle, — possibly because in cool blood he would altogether recoil from his intentions.
(6) Ex. XXI, 5: 'plainly' is expressed in Hebrew by the doubling of the verb.
(7) The passage is now assumed to mean: if he declares thus at the beginning of the six years.
(8) I.e., on the last day of his term.
(9) When there is no longer left for him a perutah's worth of labour to perform, he is no longer regarded as slave.
(10) Deut. XV, 26; 'thine house'= household, i.e., a wife and children.
(11) Ibid.
(12) Yet he desires to remain on account of his wife and children.
(13) 'Well' understood in the sense of healthy.
(14) I.e., just as thou art.
(15) Lev. XXV, 41.
(16) 'And daughters' is absent in the 'Aruk and in Rashi's commentary on the Pentateuch, where this is quoted.
(17) Why state that they go out?
(18) And at Jubilee they 'go out', i.e., his liability ceases.
(19) Ex. XXI, 3.
(20) Lit., 'work and eat' — the reference is to minors.
(21) Being minors, they suffer no disgrace thereby. — The existence of house-to-house begging in Talmudic times follows from certain passages: Pe'ah, VIII, 7; Shab. 2a, 151b; Sifre, Deut. 116 and elsewhere. But women did not beg, and in consequence it was held more meritorious to support a needy woman than a man (Hor. III, 7; J.D. 251, 8).

Talmud - Mas. Kiddushin 22b

If it were stated, ['Then thou shalt take an awl,] and place his ear unto the door,'[1] I would think, Let a hole be bored against his ear through the door; [hence,] only the door, but not his ear. 'Not his ear!' is it not written: 'and his master shall bore his ear through with an awl':[2] — But I would say, the ear is to be bored outside and then placed on the door and a hole bored through the door opposite the ear:[3] therefore it is stated, ['and thou shalt thrust it] through his ear unto the door'. How so? He continues boring until the door is reached.

'The door': I understand [from this,] whether it is removed [from its hinges] or not: therefore it is stated, ['unto the door, or unto] the doorpost';[4] just as the doorpost must be standing,[5] so must the door be standing.

Rabban Johanan b. Zakkai used to expound this verse as precious stone.[6] Why was the ear singled out[7] from all the other limbs of the body? The Holy One, blessed be He, said: This ear, which heard my Voice on Mount Sinai when I proclaimed, For unto me the children of Israel are servants, they are my servants,[8] and not servants of servants, and yet this [man] went and acquired a master for himself[9] — let it be bored! R. Simeon b. Rabbi too expounded this verse as a precious stone. Why

were the door and doorpost singled out from all other parts[10] of the house? The Holy One, blessed be He, said: The door and the doorpost, which were witnesses in Egypt when I passed over the lintel and the doorposts and proclaimed, For unto me the children of Israel are servants, they are my servants,[11] and not servants of servants, and so I brought them forth from bondage to freedom, yet this [man] went and acquired a master for himself — let him be bored in their presence!

MISHNAH. A HEATHEN SLAVE IS ACQUIRED BY MONEY, DEED, OR BY HAZAKAH,[12] AND REACQUIRES HIMSELF BY MONEY THROUGH THE AGENCY OF OTHERS,[13] AND BY DEED, THROUGH HIS OWN AGENCY:[14] THIS IS R. MEIR'S VIEW. THE SAGES MAINTAIN: BY MONEY, THROUGH HIS OWN AGENCY, AND BY DEED, THROUGH THE AGENCY OF OTHERS;[15] PROVIDING THAT THE MONEY IS FURNISHED BY OTHERS.[16] GEMARA. How do we know this? — Because it is written: And ye shall make them [the heathen slaves] an inheritance for your children after you, to possess as an inheritance;[17] just as a 'field of possession' is acquired by hazakah,[18] so is a heathen slave acquired by money, deed, or hazakah. If so, just as 'a field of possession' reverts to its [original] owner at jubilee, so should a heathen slave revert to his [former] owner at jubilee? Therefore it is stated, of them shall ye take your bondmen for ever.[19]

A Tanna taught: [He may be acquired] by halifin[20] too. And our Tanna?[21] — What is absent in the case of movables he teaches; what is present in the case of movables he does not teach.[22]

Samuel said: A heathen slave may be acquired by meshikah.[23] How so? If he [the purchaser] seizes him [the slave] and he goes to him, he acquires him; if he [merely] calls him and he goes to him, he does not acquire him. As for our Tanna, it [the omission of meshikah] is well: what is absent in the case of movables he teaches; what is present in the case of movables he does not teach.[24] But according to the outside Tanna,[25] let meshikah be taught?[26] — He teaches only what applies to both land and movables, but meshikah, which is possible in the case of movables but not of land, he does not teach. 'How so? If he seizes him and he goes to him he acquires him; if he [merely] calls him and he goes to him, he does not acquire him.' But it was taught: How [is an animal acquired] by mesirah?[27] If he seizes it by its hoof, hair, the saddle which is upon it, the saddle-bag upon it, the halter in its mouth, or the bell round its neck, he acquires it. How [does one acquire] by meshikah? He calls it and it comes, or he strikes it with a stick and it runs before him, immediately it lifts a foreleg and a hindleg, he acquires it. R. Assi-others state, R. Aha — said: It must walk its full length before him![28] — I will tell you: an animal walks by its master's volition; a slave, by his own.[29] R. Ashi said: A slave who is a minor is as an animal.[30]

Our Rabbis taught: How [is a heathen slave acquired] by hazakah? If he unlooses his shoes for him [the purchaser], or carries his baggage after him to the baths; if he undresses, washes him, anoints,[31] scrapes,[32] dresses him, puts on his shoes, or lifts him, he acquires him. R. Simeon said: Let hazakah not be greater than lifting, for lifting acquires everywhere. What does he mean? — Said R. Ashi: [The first Tanna implies,] if he [the slave] lifts his master, he acquires him; if his master lifts him, he does not acquire him. Thereupon R. Simeon observed: Hazakah should not be greater[33] than lifting, seeing that lifting acquires everywhere.[34]

Now that you say that if he lifts his master he acquires him — if so, a heathen bondmaid should be acquired by intercourse?[35] — When do we say this, when one derives pleasure and the other pain;[36] but here both derive pleasure. Then what can be said of unnatural intercourse?[37] Said R. Ahaiy b. Adda of Aha:[38] Who is to tell us that both do not derive pleasure? Moreover, it is written, [Thou shalt not lie with mankind] with the lyings of a woman:[39] thus the Writ compared unnatural to natural intercourse.

R. Judah the Indian was a proselyte who had no heirs. He fell sick and Mar Zutra went and paid

him a sick visit.[40] Seeing him in extremis[41] he said to his [R. Judah's] slave, 'Remove me my shoes and take them to my house'.[42] Some maintain, He [the slave] was an adult:[43]

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(1) Deut. XV, 17: that is the translation if the preposition ב and the conjunction קרשו removed from באזנו and ובדלת respectively.

(2) Ex. XXI, 6.

(3) I.e., from the other side of the door (Rashi).

(4) Ibid.

(5) Otherwise it is not a doorpost.

(6) [The phrase apart from the older interpretation 'pearl' has been also taken to denote (a) according to the method of the Dorshe Hamuroth (v. Sot. Sonc. ed. p. 80, n. 7.); (b) a 'changed' or 'figurative' meaning. V. Lauterbach J.Z. J.Q.A. (N.S.) I. pp. 503ff.] I.e., he deduced from it an important ethical principle — man's freedom.

(7) Lit., 'different'.

(8) Lev. XXV, 55.

(9) When he might have been free.

(10) Lit., 'vessels'.

(11) Though this was not said then, it does in fact summarize the purpose of Israel's liberation from Egyptian bondage.

(12) V. Glos. The latter two even if the money has not been paid; then the purchase price is an ordinary debt, which does not affect the validity of the transaction.

(13) They must give the money to his master to purchase his freedom. But if they give it to him even with the stipulation that his master shall have no rights therein, it is the master's, because R. Meir holds that a heathen slave cannot legally acquire anything without passing it on to his master.

(14) He himself must receive the deed of emancipation.

(15) Who receive the deed for him.

(16) The money is given to him specifically for that purpose, and he gives it to his master. But if the slave finds money, or has it given him, it belongs to his master.

(17) Lev. XXV, 46.

(18) Like all other landed property.

(19) Ibid.

(20) V. Glos.

(21) Why does he omit halifin?

(22) The three methods of acquisitions taught are all ineffective for ordinary movables, whereas halifin can acquire these too.

(23) V. Glos.

(24) Meshikah gives a title to movables.

(25) I.e., the Tanna of the Baraitha, which was not included in Rabbi's compilation of the Mishnah, but taught 'without'.

(26) If Samuel is right, just as halifin is taught.

(27) V. Glos.

(28) Thus, when an animal comes in answer to a call it is acquired; why not a slave?

(29) Even when he obeys a call, he does so by his own desire, unless the master forcibly seizes him.

(30) He has no volition of his own and therefore may be acquired by a summons.

(31) Massaging with oil was an essential part of the bath. It was and is common in the Orient, and amongst the Romans and Greeks, and had its cause in the hot climate, which causes all living bodies to emit an unpleasant odour; v. Krauss, T.A., I, 229 and 233.

(32) With a kind of brush to tone up the circulation.

(33) More effective.

(34) Lifting is one of the methods of acquiring movables: there, of course, the purchaser lifts the article to be acquired. Hence here too, if the master lifts the slave, i.e., the article to be acquired, he gains a title to him.

(35) Which is also a form of lifting.

(36) I.e., the slave does an act of servitude from which he personally derives no pleasure.

(37) Where only the male derives pleasure.

(38) [A village near Mount Hermon, Horowitz. I. S. Palestine. s.v.]

(39) Lev. XVIII, 22: lit., translation; 'lyings' is understood to refer to two forms of coition, natural and unnatural.

(40) Lit., 'to enquire concerning him'.

(41) Lit., 'he saw that the world weighed very heavily upon him.'

(42) He wished the slave to be in his service when his master died, so as to acquire him by hazakah.

(43) And Mar Zutra wished that he should not be without a master for a single moment at his master's death, as he would thereby become free.

Talmud - Mas. Kiddushin 23a

one [R. Judah] departed to death, and the other [the slave] departed [from his former master] to life.[1] Others maintain, He was a minor, and this was not in accordance with Abba Saul. For it was taught: If a proselyte dies [without heirs] and Israelites take possession of his property, which includes slaves, whether adults or minors, they gain their liberty.[2] Abba Saul said: Adults acquire their freedom, but as for minors, whoever takes possession of them [even afterwards] gains a title to them.[3]

AND REACQUIRES HIMSELF BY MONEY etc. . . . BY MONEY ONLY THROUGH THE AGENCY OF OTHERS, but not through his own. What are the circumstances? Shall we say, without his [the slave's] knowledge? Then consider: we know that R. Meir maintains, It is to a slave's disadvantage to leave his master for freedom;[4] and we learned: One may obtain a privilege for a person in his absence, but cannot so act to his disadvantage.[5] Hence it obviously means with his knowledge [consent], and we are informed this: only through the agency of others [can he be emancipated thus,] but not through his own, thus proving that a slave has no rights of acquisition apart from his master.[6] If so, cite the second clause: BY DEED THROUGH HIS OWN AGENCY: only through his own agency, but not through that of others. But if with his consent, why not through the agency of others? And should you answer, what is meant by THROUGH HIS OWN AGENCY? Through his own agency too, and we are thus informed that his deed [of emancipation] and his hand [i.e., the right to acquire for himself] come simultaneously[7] — But it was not taught so? For it was taught: By deed through his own agency, but not that of others: this is R. Meir's view? — Said Abaye: After all, [it means] without his knowledge. Yet money is different: since he [the master] may acquire him [the slave] against his will, he can liberate him[8] against his will. If so, the same applies to deed? — This deed is separate and that deed is separate.[9] But here too, this money is separate and that money is separate?[10] — The impress is nevertheless the same.[11] Raba said: In the case of money, its receipt by the master effects it [his liberation]: but as for deed, its receipt by others effects it.[12]

THE SAGES MAINTAIN: BY MONEY THROUGH HIS OWN AGENCY. Only through his own agency, but not through the agency of others? Why? Granted that it is without his knowledge, yet consider: we know that the Rabbis hold that it is to his advantage to go out from his master's authority to liberty, and we learnt: You may obtain a privilege for a person in his absence, but can act to his disadvantage only in his presence. And should you answer, what is meant by THROUGH HIS OWN AGENCY? Through his own agency too, and we are thus informed that a slave has rights of acquisition independently of his master. — If so, cite the second clause: BY DEED, THROUGH THE AGENCY OF OTHERS, [implying] but not through his own: but it is an establish — ed law that his deed and hand come simultaneously?[13] And should you answer, what is the meaning of, THROUGH THE AGENCY OF OTHERS? Through the agency of others too, and we are thus informed that it is to the slave's advantage to leave his master for freedom: if so, they should be combined and taught together: By money and by deed through the agency of others or his own? — But [it means this:] By money, both through the agency of others and his own; by deed, through the agency of others but not his own, and it agrees with R. Simeon b. Eleazar. For it was taught: R. Simeon b. Eleazar said: By deed too only through the agency of others, but not his own.[14] Thus there are three differing opinions in the matter.[15]

Rabbah said: What is R. Simeon b. Eleazar's reason? — He learns the meaning of 'lah' [to her] here from a [married] woman:[16] just as a woman [is not freed] until she withdraws the divorce into a domain that is not his [her husband's],[17] so a slave too [is not freed] until he withdraws his deed [of emancipation] into a domain that is not his [the master's].

Rabbah propounded:

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(1) I.e., with the death of R. Judah he automatically passed into Mar Zutra's possession.

(2) Having been for a moment without a master, they remain permanently free.

(3) Hence Mar Zutra's care that they should be in his service at the actual moment of death does not agree with Abba Saul's view. So Rashi, on the basis of the reading in current edition. Alfasi, Asheri, and R. Tam read: and this was (even) in accordance with Abba Saul. Though they could not gain their liberty, he put them into his service lest another take possession of them.

(4) For as the slave of a priest he may eat terumah, which is now forbidden him. Again, as a slave he is permitted to live with a heathen bondmaid: this too will now be forbidden. — These are the reasons given in Git.11b.

(5) Such an action being invalid.

(6) As explained in the note on the Mishnah, q.v.

(7) In the very moment of taking the deed he is free, and hence can accept it on his own behalf. Otherwise, his acceptance would be just as though his master held it, and he would not be free.

(8) Lit., 'give him possession' — of himself.

(9) The wording of the two deeds, purchase and manumission, are different: consequently the same reasoning does not apply.

(10) Being given for different purposes.

(11) There is nothing in the coins themselves to shew their different purposes.

(12) In the case of money the master accepts it on his own behalf, not on that of the slave's; therefore the latter's consent is unnecessary. But deed is accepted by others on the slave's behalf; therefore his consent is required.

(13) V. p. 111, n. 1.

(14) He does not hold that the deed and his rights of acquisition come simultaneously.

(15) (i) R. Meir: By money, through the agency of others, even without his knowledge, but not through his own; and by deed through his own agency but not of others. (ii) R. Simeon b. Eleazar: Both by money and deed, through the agency of others but not his own. (iii) The Rabbis in our Mishnah: Both by money and deed, through the agency of others and his own. Hence both are not combined because the second clause is not the Rabbis' statement but R. Simeon b. Eleazar's.

(16) Here: a bondmaid . . . whose freedom was not given (to) her (lah) — Lev. XIX, 20; a married woman; then he shall write (to) her (lah) a bill of divorcement; Deut. XXIV, 1.

(17) As it is written, and give it in her hand (ibid.), and she does not belong bodily to her husband.

Talmud - Mas. Kiddushin 23b

According to R. Simeon b. Eleazar,[1] can a heathen slave appoint an agent to receive his deed of emancipation from his master:[2] since he deduces 'lah', 'lah', from a [married] woman, he [the slave] is as a married woman:[3] or perhaps, a woman, who can accept the divorce herself, can also appoint an agent; whereas a slave, who cannot accept his deed of emancipation himself, cannot[4] appoint an agent either! After propounding, he solved it himself: We deduce 'lah', 'lah', from a [married] woman, [hence] he is as a married woman. If so, when R. Huna son of R. Joshua said: These priests are agents of the All-Merciful One, for should you think they are ours, is there aught which we ourselves may not do while they may do [it on our behalf]?[5] — is there not? What of a slave, who cannot accept his deed of manumission himself, can yet appoint an agent? — But that [analogy] is fallacious: an Israelite has no connection with the laws of sacrifices at all;[6] whereas a slave has a connection with deeds of manumission. For it was taught: It appears correct that a slave can accept his companion's deed from his companion's master, but not from his own.[7]

PROVIDING THAT THE MONEY IS FURNISHED BY OTHERS. Shall we say that they differ in this: R. Meir holds, A slave has no powers of acquisition distinct from his master, nor a wife distinct from her husband; whereas the Rabbis maintain, A slave can acquire independently of his master and a wife of her husband? — Said Rabbah in R. Shesheth's name: All hold that a slave cannot acquire independently of his master, nor a wife of her husband. But the circumstances are here that a stranger gave him[8] a maneh, saying, 'On condition that your master has no right to it.' R. Meir maintains, When he says to him, 'Acquire [it,]' the slave acquires it and [ipso facto] his master; and when he says to him, 'on condition [etc.],' he says nothing.[9] Whereas the Rabbis hold, Since he stipulates, 'on condition,' the stipulation is effective.[10] But R. Eleazar said: In such a case all agree that the slave acquires it and [ipso facto] his master. But the circumstances are here that a stranger gave him a maneh, saying: 'On condition that you obtain your freedom therewith.' R. Meir holds that when he says to him, 'Acquire [it],' the slave acquires it and [ipso facto] his master; when he says: 'on condition,' he says nothing. Whereas the Rabbis maintain, He did not give possession of it [even] to him [the slave], since he said to him, 'Only on condition that you gain your freedom therewith.'

Now, R. Meir is self contradictory, and the Rabbis likewise. For it was taught:

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(1) Who maintains that a slave cannot receive his own deed.

(2) Tosaf. gives two interpretations: (i) Obviously, as stated above, another person must accept it on his behalf. This, however, may be only if the slave does not explicitly appoint him his agent, but if he does, he becomes legally as himself, and just as he himself cannot accept the deed, his agent cannot either. (ii) When another person accepts it on his behalf, must he be his agent, just as the person who accepts a woman's divorce on her behalf must be distinctly appointed by her for that purpose? If so, on the view that it is to the slave's advantage to be freed, the agency is tacitly assumed: while if we hold that it is to his disadvantage, he must be expressly appointed. Or possibly, he does not act in the character of an agent at all, since the slave himself could not have accepted it. In that case, not only is an express appointment unnecessary, but even if the slave actually protests against it, his protest is unavailing.

(3) And just as she can appoint an agent, so can he (or, so must he — v. preceding note).

(4) Or, need not.

(5) V. Ned. 35b. The question is: When a priest offers a sacrifice on behalf of an Israelite, does he act as his agent or as God's? The practical difference is where an Israelite vows to derive no benefit from a certain priest: on the first alternative, the priest may not offer his sacrifices for him; on the second, he may.

(6) He cannot offer a sacrifice for himself or for another Israelite.

(7) In the first case the deed leaves the master's possession, but not in the second.

(8) Lit., 'caused him to acquire'.

(9) I.e., the stipulation is invalid.

(10) Hence he can be liberated by money through his own agency.

Talmud - Mas. Kiddushin 24a

A woman cannot redeem second tithe without [adding] a fifth. R. Simeon b. Eleazar said on R. Meir's authority: A woman can redeem second tithe without [adding] a fifth.[1] Now, how is this meant? Shall we say, [she redeems it] with her husband's money, the second tithe also being her husband's — then she merely acts as her husband's agent.[2] But if with her money[3] and his tithe, the Divine Law said, [And if] a man [will redeem aught of his tithe, then he shall add there to the fifth part thereof],[4] but not his wife?[5] Hence it surely refers to such a case, viz., that a stranger gave her a maneh, and said,'On condition that you redeem the tithe therewith,' and thus we learn that they hold contrary opinions.[6] — Said Abaye: Then reverse it.[7] Raba said: After all, you need not reverse it, but here the reference is to tithe which came [to her] from her father's estate,[8] R. Meir following his opinion that tithe is sacred property,[9] so that her husband does not acquire it.[10] The Rabbis too are in accord with their view that tithe is secular property, [the usufruct of which] her husband acquires. Therefore she is [merely] deputising for her husband.

A Tanna taught: He [the heathen slave] goes out [free] through [the loss of] his eye, tooth, and projecting limbs which do not return.[11] Now, as for [the loss of] his tooth or eye, it is well: these are written.[12] But how do we know [the loss of] the projecting limbs? — By analogy with tooth and eye: just as these are patent blemishes, and do not return, so [is he freed for the loss of] all [limbs which are] patent blemishes and do not return. But let us say that 'tooth' and 'eye' are two laws[13] which come as one,[14] and whenever two verses come as one, they do not illumine [other cases].[15] — Both are necessary. For had the All-Merciful mentioned 'tooth' [only], I would have argued, [It refers] even

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(1) Second tithe produce was eaten in Jerusalem, or it was redeemed and the money expended in Jerusalem. When one redeemed his own, he added a fifth of its value, but not when he redeemed second tithe belonging to another, unless the owner deputed him. It is assumed that this Baraitha refers to the crops of her husband's field.

(2) And must certainly add a fifth.

(3) Money, the principal of which by the terms of the marriage settlement belonged to her, while her husband enjoyed its usufruct. This money, and all other property held by a wife on the same terms, are designated 'property of plucking' (v. Glos. s.v. mulug).

(4) Lev. XXVII, 31.

(5) I.e., his wife ranks as a stranger.

(6) To those they hold on the question of a slave's freedom. — The rights of a slave and a woman are similar: either they can both acquire independently or both can not.

(7) The first Tanna rules that she does not add a fifth; R. Meir holds that she must add a fifth.

(8) Lit., 'the house of the wife'. I.e., she inherited it as her father's heir. Property acquired by a woman after marriage is likewise 'property of plucking'.

(9) Lit., 'money'.

(10) V. infra 52b and 54b. Since it really belongs to God, the Rabbis did not enact that the husband should enjoy its usufruct; hence it is entirely her own, and when she redeems it with her husband's money, no fifth is necessary. (For redeeming one's own tithe with money belonging to another is the same in law as redeeming another Person's tithe with one's own money.)

(11) Lit., 'tips of limbs'. Once lost, just as the eyes and teeth.

(12) Ex. XXI, 26f.

(13) Lit., 'verses'.

(14) I.e., to teach the same thing. For this analogy could be drawn only if one were mentioned.

(15) For otherwise, only 'eye' or 'tooth' should have been mentioned, and by analogy the other, as well as all limbs the loss of which has the same result, would be included.

Talmud - Mas. Kiddushin 24b

to a milk tooth;[1] therefore the All-Merciful wrote 'eye'.[2] And had the All-Merciful written 'eye', I would have thought,just as the eye is created with him, so must all [for whose loss he is emancipated] be created with him [i.e., at birth], but not a tooth. Thus both are necessary.[3] But let us say, [And] if [a man] smite[4] — that is a general proposition;[5] 'the tooth . . . the eye' — that is a specification; and in a general proposition followed by a specification the former includes only that contained in the latter: hence, only 'tooth' and 'eye' but nothing else! — 'He shall let him go free' is another general proposition. And in a sequence of generalization, specification and generalization, you can only include[6] what is similar to the specification: just as the specification is explicit as a patent blemish and does not return, so for all [limbs whose loss are] patent blemishes and do not return [the slave is freed]. If so, [say] just as the specification is explicit as a patent blemish, ceases to do its work,[7] and does not return, so for all [limbs whose loss are] patent blemishes, cease to function, and do not return [the slave is freed]! Why [then] was it taught: If he [the master] plucked out his [the slave's] beard and thereby loosened his [jaw.] bone,[8] the slave is liberated on their account?[9] — 'He shall let him go free' is an amplification.[10] But if it is an amplification, even if he

struck his hand and it withered, but it will ultimately heal,[11] he should also [be freed]? Why was it taught: If he struck his hand and it withered, but it will ultimately heal, the slave is not freed on its account? — If so,[12] of what use are 'tooth' and 'eye'?[13]

Our Rabbis taught: On account of all these[14] a slave gains his freedom, yet he needs a deed of emancipation:[15] this is R. Simeon's opinion. R. Meir said: He does not need one. R. Eleazar said: He does need one; R. Tarfon said: He does not need one. R. Akiba said: He needs one. Those who sought to make a compromise before the Sages said: R. Tarfon's view is preferable in respect of tooth and eye, seeing that the Torah conferred the privilege [of freedom] upon him [as compensation];[16] and R. Akiba's view in respect of other limbs, since it is a punishment of the Sages [that the slave is freed]. 'A punishment'? Surely [Scriptural] verses are [here] expounded![17] — But [say thus:] since it is an exposition of the Sages.[18]

What is R. Simeon's reason? — He learns the meaning of 'sending' here from a [married] woman:[19] just as a woman [is sent forth] by deed, so is a slave too [sent forth] by deed. And R. Meir?[20] — Were 'to freedom' written at the end [of the verse, it would be] as you say;[21] since, however, it is written: 'to freedom shall he send him away', it implies that he is free at the very outset.[22]

Our Rabbis taught: If he smites his eye and blinds it, [or] his ear, and deafens it, the slave goes out [to freedom] on their account; near[23] his eye, so that he cannot see, [or] near his ear, and he can not hear,[24] the slave does not go out [free] on their account. R. Shaman said to R. Ashi: Are we to assume that sound is nothing?[25] But Rami b. Ezekiel learnt: If a cock stretches its head into the cavity of a glass vessel, crows there and breaks it, he [its owner] must pay for it in full. Also, R. Joseph said: The scholars of Rab[26] said: If a horse neighs or an ass brays and breaks utensils in a house, he [their owner] must pay for half the damage![27] — Man is different, he replied; since he is an intelligent being, he frightens himself.[28] As it was taught: If one frightens his neighbour,[29] he is exempt by the law of man, yet liable by the law of Heaven.[30] E.g., if he blows into his ear and deafens him, he is exempt; but if he seizes him, blows into his ear, and deafens him, he is liable.

Our Rabbis taught: If he strikes his eye and dims it,[31] [or] his tooth, and loosens it: if he can [nevertheless] still use them, the slave does not go out free on their account; if not, the slave goes out free on their account. Another [Baraitha] taught: If his eye [sight] was dim, and he [altogether] blinds him,[32] or his tooth was loose, and he knocks it out: if he could use them before, the slave goes out free on their account; if not, the slave does not go free on their account. Now, both are necessary. For if we were taught the first [only], [I would say] that is because his eyesight was originally sound and now it is weak; but here [in the second Baraitha], seeing that his eyesight was impaired before too, I would say [that he does] not [go free]. And if we were taught the second: that is because he completely blinds him; but there [in the first Baraitha] that he does not completely blind him, l would say [that he does] not [go free]. Hence both are necessary. Our Rabbis taught: If his master is a doctor and he asks him to paint his eye [with an ointment], and he blinds him,[33] [or] to drill his tooth, and he knocks it out, he laughs at his master and goes out free. R. Simeon b. Gamaliel said: and he destroy it[34] [implies], only when he intends to destroy. And the Rabbis: how do they employ 'and he destroy it'? — They need it for what was taught: R. Eleazar said: If he inserts his hand in his bondmaid's womb[35] and blinds the child within her, he is free [from punishment].[36] What is the reason? — Because Scripture said: 'and he destroy it', [implying], only when he intends to destroy it. And the other?[37] — He deduces this from 'and he destroy it', [instead of] 'and he destroy'.[38] And the other? — He does not interpret 'he destroy', [and] 'he destroy it'.[39]

R. Shesheth said: If he has a blind eye and he [the master] removes it, the slave is freed on its account. And a Tanna supports this: Perfection[40] and male sex are required in animals[41] but not In birds. I might think, [even] if its wing is palsied, its foot cut off, or its eye picked out [the bird is still

fit]: therefore it is said: And if [the burnt sacrifice be . . .] of fowls,[42] but not all fowls.[43]

R. Hiyya b. Ashi said in Rab's name: If he had

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(1) Which does return; e.g., if the slave was a minor.

(2) Just as an eye does not return, so must the tooth also be one which does not return.

(3) And therefore they are not two verses with the same purpose.

(4) Ex. XXI, 26f.

(5) Implying that the slave is freed for the destruction of any limb.

(6) Lit., 'judge'.

(7) The eye is blinded and the tooth cannot masticate.

(8) This appears to be the meaning of the phrase, and is so understood in J.D. 267, 30, where, 'from the jaw' is added. Jast. s.v. דלדל translates: he loosened a tooth in the slave's jaw. But there seems no sufficient reason for translating עצם here as tooth.

(9) Though the bone still functions.

(10) Not merely a generalization, and therefore it teaches the inclusion of bodily hurts which are not completely similar to the loss of an eye or tooth.

(11) Lit., 'return' — to its normal state.

(12) That nothing at all is excluded.

(13) Hence it must be to exclude injuries which are not permanent.

(14) Viz., the twenty-four projecting limbs.

(15) To legalise his marriage with a free Jewess.

(16) Therefore no deed is required.

(17) To prove the inclusion of other limbs too. Hence they too have Scriptural force.

(18) I.e., the law is derived by Rabbinical exegesis. — The requirement of a deed is only a Rabbinical measure, lest his former master reclaim him as his slave. Hence it is unnecessary in the case of his tooth and eye, for all know that Scripture gave him his freedom. But not all are aware of the Rabbinical exegesis which extended the law to other limbs too; hence the slave needs a document to prove his freedom. — R. Tam. V. also below for another explanation.

(19) Here: To freedom shall he send him away (yeshallehenu); a married woman: then he shall write her a bill of divorce. and send her (we-shillehah, the same verb as yeshallehenu) out of his house — Deut. XXIV, 1.

(20) Does he not accept this exegesis?

(21) For then one might argue: he shall send him — in the manner that a woman is sent away, viz., by deed — and only then is he free.

(22) I.e., as soon as he is assaulted he automatically becomes free, and hence no deed is required. — Now, this can apply only to the loss of his eye or tooth, which are distinctly stated in that verse. But the other limbs are included only because 'he shall send him away' is an extension (v. supra); hence in respect of those, R. Simeon's exegesis, assimilating the freedom of a slave to that of a woman, may still hold good. Therefore those who compromised ruled that a deed is unnecessary when he loses his eye or tooth, but is necessary in all other cases (Riba in Tosaf.).

(23) Lit., 'against'.

(24) I.e., he forcibly strikes a wall or any other object near his ear, and the shock or noise paralyses his optical or aural nerves, rendering him blind or deaf.

(25) Because he was blinded by sound he is not freed.

(26) Be Rab may either mean the students of Rab's college, which he founded and which continued to flourish several centuries after his death, or, scholars in general.

(27) V. B.K. 18b. Thus second is a positive action, for which liability is incurred.

(28) He should be able to control his nerves.

(29) Thereby causing damage.

(30) I.e., legally, he is exempt; morally, he is liable. This proves that in law he is not regarded as having caused the damage.

(31) Seriously impairing his eyesight, but not blinding him.

(32) Lit., 'it'.

(33) Accidentally.

(34) Ex. XXI, 26.

(35) Lit., ‘bowels’ — in order to deliver her of child.

(36) The child, on birth, is not emancipated. There he does not intend doing anything to its eye at all, but here he does.

(37) R. Simeon b. Gamaliel: does he not admit that the word is needed for such a case?

(38) ‘And he destroy’ implies that he must intend to destroy: ‘and he destroy it’ implies that even if he is doing something to it, his intention must be destructive.

(39) I.e., ‘it’ has no particular significance.

(40) I.e., freedom from blemish.

(41) For burnt-offerings.

(42) Lev. I, 14 ‘of is partitive, excluding some fowls.

(43) Thus, though blindness does not disqualify, the loss of a blind eye does. A similar principle operates in the case of a slave.

Talmud - Mas. Kiddushin 25a

an additional [freak] finger and he [his master] cut if off, the slave goes out free. Said R. Huna: Provided that it is counted upon the hand.[1]

[Some] scholars of Nizunia[2] absented themselves from R. Hisda's session.[3] Thereupon he instructed R. Hamnuna, ‘Go put them under the ban.’[4] He went and said to them, ‘Why did you[5] not attend the session?’ ‘Why should we attend?’ replied they, ‘when we ask him questions which he cannot answer?’ ‘Have you ever asked me anything,’ he retorted: ‘which I could not solve?’ [Thereupon] they asked him: What if a slave's stones are castrated by his master, is it an open blemish or not? As he was unable to answer it,[6] they said to him, ‘What is your name?’ ‘Hamnuna,’ he replied. ‘You are not Hamnuna, but Karnuna,’ jeered they.[7] When he came before R. Hisda, he said to him: They asked you a Mishnah. For we learnt: As to the twenty-four tips of limbs of a man, none of these become unclean on account of raw flesh.[8] And these are they: the tips of the fingers of the hands and [the toes of] the feet, the tips of the ears, the tip of the nose, the tip of the membrum, and the nipples of a woman;[9] R. Judah said: Also those of a man. Now, it was taught thereon: For [the loss of] all these a slave obtains his freedom. Rabbi said: For castration too; Ben ‘Azzai said: [For] the [loss of the] tongue too.[10]

The master said: ‘Rabbi said: For castration too.’ Castration of what: shall we say: Castration of the membrum? But that is identical with the [loss of the] membrum. Hence it surely means castration of the stones.[11]

‘Rabbi said: Castration too’. And Rabbi, [does he] not [include] the tongue? But the following contradicts it. If he [a priest] is sprinkling,[12] and the sprinkling[-water] spurts on to his [the unclean man's] mouth, — Rabbi said: He has [validly] besprinkled him;[13] but the Sages maintain: He has not [validly] besprinkled him. Surely that means upon his tongue?[14] — No: upon his lips. ‘Upon his lips!’ but that is obvious? — I might have thought, sometimes his lips are tightly pressed together.[15] Hence we are informed [that they are still regarded as exposed]. But it was taught: on his tongue? Moreover, it was taught: and if the greater length of the tongue was removed;[16] Rabbi said: [even] the greater length of the speaking part of the tongue![17] — But [answer thus:] Rabbi said: Castration too,[18] and the tongue goes without saying. Ben ‘Azzai said: [The loss of the] tongue, but not castration. Then to what does ‘too’ refer?[19] — To the first clause.[20] If so, Ben ‘Azzai's statement should have been given priority? — The Tanna [first] heard Rabbi's view and inserted it[21] [in the teaching]; then he learnt Ben ‘Azzai's view and inserted it, while the teaching remained unchanged.[22]

‘Ulla said: All agree in the matter of uncleanliness that the tongue is [considered] exposed as far as reptiles are concerned. What is the reason? The Divine Law said: And whomsoever [he that hath the issue] toucheth,[23] and this too can be touched. With respect to tebilah[24] it is as hidden.[25] What is

the reason? Scripture saith, then he shall bathe his flesh in water:[26] just as the flesh is exposed, so must all [which requires contact with the water] be exposed. They differ in respect to sprinkling: Rabbi compares it to uncleanliness, whereas the Rabbis compare it to tebillah. And both differ on this verse: And the clean person shall sprinkle upon the unclean [etc.].[27] Rabbi holds, [the verse reads thus:] And the clean person shall sprinkle upon the unclean on the third day, and on the seventh day and purify him.[28] Whereas the Rabbis maintain, [the verse is read thus:] and on the seventh day he shall purify him, and he shall wash his clothes and bathe himself in water.[29] And the Rabbis too: let it be compared with uncleanliness? — purification should be learned from purification.[30] And Rabbi: let it be compared to tebillah? — 'And he shall wash his clothes' disconnects the subject.[31]

Now, does Rabbi hold that it [the tongue] is as concealed in respect of tebillah? But Rabin said in the name of R. Adda in R. Isaac's name: It once happened that a bondmaid of Rabbi's household performed tebillah, ascended [from the water], and a bone was found between her teeth, whereupon Rabbi ordered her [to perform] a second tebillah.[32] — Granted that we do not require the water to enter, we insist that there shall be room for it to enter.[33] And it is in accordance with R. Zera, who said: Whatever is fit for [perfect] mixing, the mixing is not indispensable; whatever is not fit for [perfect] mixing, the mixing is indispensable.[34] [

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(1) I.e., it is on a level with the other fingers and in the same row.

(2) A town lying close to Sura. Obermeyer, op. cit., p. 298.

(3) [Who became head of the School of Sura after the death of Rab Judah.]

(4) Lit., 'cause them to withdraw' and live in retirement — a mild form of excommunication. Presumably he knew that their absence was due to dissatisfaction with his teaching methods.

(5) Lit., 'the Rabbis'.

(6) Lit., 'he did not have it in his hand'.

(7) Rashi connects Karnuna with karona, the market: 'you have frittered your time away in the market place, gossiping, otherwise you could have answered us.' Tosaf. Ham-nuna = a hot fish; Kar-nuna = a cold fish. 'you are a cold fish, not hot' — your knowledge is lifeless.

(8) V. Lev. XIII, 10: 'and there be quick raw flesh in the rising'.

(9) Each being counted separately, we have twenty-four, apart from the woman's addition,

(10) Because it is seen when one peaks; hence its loss is a patent blemish.

(11) That is the conclusion of R. Hisda's reply.

(12) V. Num. XIX, 17, 19.

(13) I.e., he is clean, though the sprinkling must be upon the revealed parts of his body.

(14) Shewing that Rabbi regards the tongue as an exposed limb, and thus contradicting his exclusion of the tongue in the case of a slave.

(15) And they ceased to be exposed. — At this stage, that may be assumed as the reason of the Sages.

(16) In the case of a firstling, that is a blemish, which permits the animal to be eaten as hullin (q.v. Glos).

(17) There too, exposed blemishes are required, and we see that Rabbi regards the loss of the tongue as such.

(18) Though the testicles are always hidden.

(19) Ben 'Azzai said: 'The loss of the tongue too'; this appears an addition to Rabbi's ruling, but it is now obvious that it cannot be.

(20) I.e., the enumeration preceding Rabbi's statement.

(21) Lit., 'fixed it'.

(22) Lit., 'it did not move from its place', i.e., it was not altered so as to give Ben 'Azzai's statement the precedence it logically requires.

(23) Lev. XV, 11; though this refers to a zab (v. Glos.), the same holds good of defilement by a reptile, and this verse shews that it must touch an exposed part of the person.

(24) V. Glos.

(25) In tebillah, the whole of the exposed part of a person must come into contact with the water; but not the tongue, for it is regarded as concealed.

(26) Ibid.13.

(27) Num. XIX, 29.

(28) By linking 'the unclean' with 'purify him', he deduces that whatever part can become unclean may be validly sprinkled; hence the tongue is included.

(29) They connect 'shall purify' i.e., sprinkle, with 'bathe himself, i.e., tebillah. Hence sprinkling must be on the same part which needs tebillah, thus excluding the tongue.

(30) . I.e., the two phrases bearing on cleanliness must be coupled.

(31) Therefore 'shall purify' cannot be linked with 'bathe himself.'

(32) Which shews that the water must enter the mouth.

(33) I.e., though the water need not pass through the crevices between the teeth, yet it must be possible, whereas the bone rendered it impossible.

(34) In Men. 103b it is stated: A meal offering of more than sixty 'esronim ('isaron pl. 'esronim = one tenth of an ephah) cannot be offered in one utensil, because it cannot be perfectly mixed with the oil. Hence if sixty-one 'esronim are vowed, sixty are brought in one vessel, and one in another. Now the Talmud objects, But we learnt that the offering is valid even if not mixed at all? R. Zera's dictum is the answer, and the same principle applies here.

Talmud - Mas. Kiddushin 25b

This[1] is disputed by Tannaim. And that which is bruised, or crushed, or broken, or cut [ye shall not offer unto the Lord][2] — all these refer to the stones: that is R. Judah's opinion. To the stones and not to the membrum![3] But all these refer to the stones too: that is R. Judah's opinion. R. Eliezer b. Jacob said: They all refer to the membrum.[4] R. Jose said: 'Bruised and crushed' refer to the stones too,[5] whereas 'broken or cut' refer only to the membrum but not to the stones.[6]

MISHNAH. LARGE CATTLE[7] ARE ACQUIRED BY MESIRAH[8] SMALL CATTLE[9] BY LIFTING: THIS IS THE OPINION OF R. MEIR AND R. ELIEZER.[10] BUT THE SAGES RULE: SMALL CATTLE ARE ACQUIRED BY MESHIKAH.

GEMARA. Rab lectured in Kimhunia:[11] Large cattle are acquired by meshikah. Samuel, meeting Rab's disciples, said to them, Did Rab rule that large cattle are acquired by meshikah? But we learnt: BY MESIRAH, and Rab too [previously] ruled, by mesirah! Did he then retract from that [view]? — He ruled in accordance with this Tanna. For it was taught: But the Sages maintain, Both [large cattle and small] are acquired by meshikah. R. Simeon said: Both by lifting. R. Joseph demurred: If so, how can an elephant be acquired, according to R. Simeon? — Said Abaye to him: By halifin, or by renting its place.[12] R. Zera said: He [the purchaser] brings four utensils and places them under its feet.[13] Then you may infer from this that when the purchaser's utensils are in the vendor's domain [and a bought commodity is placed in them] the purchaser obtains a title.[14] — The reference here is to an alley.[15]

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(1) The question whether castration of testicles is a patent blemish and so frees the slave.

(2) Lev. XXII, 24.

(3) Surely if the membrum is cut or broken it is a patent blemish!

(4) But not to the testicles, which in his view are concealed and do not disqualify the animal.

(5) As then they are more noticeable.

(6) For these are less noticeable. — A slave is freed when his master blemishes him in such a way that an animal would thereby be unfit for a sacrifice, and thus the question of his stones is disputed by these Tannaim.

(7) Of the bovine race — cows, oxen, etc.

(8) Delivery, the vendor gives it over to the purchaser.

(9) Sheep, goats etc.

(10) So the reading in cur. edd. S. Strashun and Alfasi read Eleazar, the reference being to R. Eleazar h. Shammua', a contemporary of R. Meir.

(11) Neubauer, Geographie, p. 397 identifies Kimhunia with Gamach, a town in upper Armenia; Obermeyer, op. cir. p.

296, (v. also n. 4. a.l.) rejects this identification and places it in the vicinity of Sura.

(12) It then becomes his temporarily, and the elephant too; v. Mishnah on 26a.

(13) I.e., causes the elephant to step upon them; he is then regarded as having placed it in his utensils, so acquiring it.

(14) For presumably the elephant was standing in the vendor's grounds. But this question is disputed in B.B. 85a.

(15) Adjoining a public thoroughfare: this is a 'no man's land'.

Talmud - Mas. Kiddushin 26a

Alternatively, [this refers] to bundles of faggots.[1]

MISHNAH. PROPERTY WHICH OFFERS SECURITY[2] IS ACQUIRED BY MONEY, BY DEED OR BY HAZAKAH. [PROPERTY] WHICH DOES NOT OFFER SECURITY[3] CAN BE ACQUIRED ONLY BY MESHIKAH. PROPERTY WHICH DOES NOT OFFER SECURITY MAY BE ACQUIRED IN CONJUNCTION WITH PROPERTY WHICH PROVIDES SECURITY BY MONEY, DEED, OR HAZAKAH;[4] AND IT OBLIGATES THE PROPERTY WHICH PROVIDES SECURITY, TO TAKE AN OATH CONCERNING THEM.[5]

GEMARA. BY MONEY: Whence do we know it? — Said Hezekiah: Scripture saith, men shall acquire fields with money.[6] Yet perhaps [the purchase is invalid] unless there is a deed [too], since it continues, and subscribe the deeds, and attest them? — Were 'acquire' written at the end, it would be as you say; now, however, that 'acquire' is written at the beginning,[7] money gives a title, while the deed is merely evidence.[8]

Rab said: This was taught only of a place where a deed is not indited; but where it is, money alone gives no title. Yet if he [the vendee] distinctly stipulates,[9] it is so.[10] E.g., when R. Idi b. Abin bought land he used to say: 'If I wish, I acquire it by money; if I wish, I acquire it by deed.' [Thus:] 'If I wish, I acquire it by money,' so that should you desire to retract [after I have paid], you cannot. 'And if I wish, I acquire it by deed,' so that should I desire to withdraw,[11] I can.

AND BY DEED. How do we know it? Shall we say, because it is written, and subscribe the deeds, and attest them, and call witnesses[12] — but you have said that the deed is merely evidence? — But from this verse, so I took the deed of purchase.[13]

Samuel said: This was taught only of a deed of gift. But in the case of sale, no title is obtained until the money is paid.[14] R. Hamnuna objected: By deed: E.g., if he [the vendor] writes for him [the vendee] on paper or a shard,[15] even if worth less than a perutah. 'My field is sold unto you,' 'my field is given unto you,' it is sold and gifted![16] — He raised the objection. and he answered it: This refers to one who sells his field because of its poor quality.[17] R. Ashi said: He really wished to present it to him as a gift; why then did he indite it with the phraseology of purchase? In order to strengthen his rights therein.[18]

AND BY HAZAKAH. How do we know it? — Said Hezekiah: Scripture saith, and dwell in the cities that ye have taken:[19] how did ye take it? By dwelling therein.[20] The School of R. Ishmael taught: And ye shall possess it, and dwell therein:[21] whereby shall ye possess it? By dwelling therein.

PROPERTY WHICH DOES NOT PROVIDE SECURITY CAN BE ACQUIRED ONLY BY MESHIKAH. Whence do we know it? — Because it is written, and if thou sell aught unto thy neighbour, or buy of thy neighbour's hand,[22] [intimating] that an article is acquired [by passing] from hand to hand.[23] But according to R. Johanan, who maintained, By Biblical law, money gives a title,[24] what can be said? — The Tanna teaches the Rabbinical enactment.[25]

PROPERTY WHICH DOES NOT PROVIDE SECURITY [etc.]. How do we know it? — Said Hezekiah, Because Scripture saith, And their father gave them gifts . . . with fenced cities in Judah.[26] The scholars propounded: Need they [the movables] be heaped up [upon the land] or not?[27] — Said R. Joseph, Come and hear: R. Akiba said: Land, whatever its size, is liable to pe'ah[28] and first fruits,[29]

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(1) Not less than three handbreadths high. When he causes the elephant to step upon them, he is regarded as having lifted it.

(2) Real estate which may be mortgaged for debts, and remain liable to seizure even if subsequently sold.

(3) I.e., movables, because the creditor cannot distrain upon them if sold.

(4) If one sells land and movables, as soon as the purchaser acquires the land by one of these three methods, the movables automatically become his. — Hazakah, lit., 'taking possession,' e.g., if the vendee performs some small labour therein, such as digging, threshing, closing or making a gap in its fences.

(5) In litigation over real estate, no oath is administered; whereas for movables it is. In a dispute concerning both, since an oath is taken for the latter, it is taken for the former too.

(6) Jer. XXXII, 44.

(7) I.e., before the mention of deeds,

(8) Of the sale.

(9) That either money or deed shall suffice. [Tosaf. Ri: either the vendor or buyer, whoever makes the terms, is at an advantage.]

(10) Lit., 'he has stipulated'.

(11) After paying, but before the deed is drawn up.

(12) Jer. XXXII, 44.

(13) Ibid. 11; this shews that the deed itself consummates the purchase.

(14) Unless otherwise stipulated (Rashi).

(15) Shards were used for this purpose in very ancient times: v. Krauss, T.A. 111, 147f, and n. 113a, 1.

(16) Thus the deed suffices even for a sale. — The meaning is assumed to be, it is sold or gifted.

(17) Being anxious to get rid of it, he is desirous that the deed itself shall consummate the transaction, so that the vendee may not withdraw.

(18) Should the donor's creditors seize it for debt, the recipient would be able to claim its value, as stated in the deed, from him. Hence it is literally meant: it is both sold and gifted.

(19) Jer. XL, 10.

(20) I.e., by hazakah, possession.

(21) Deut. XI, 31.

(22) Lev. XXV, 14.

(23) I.e., by meshikah.

(24) In the case of movables.

(25) That only meshikah gives a title. The reason of the enactment was this: should money itself transfer the purchase to the vendee, even before he takes possession, and a fire break out on the vendor's premises where the goods lie, he will not trouble to save them. V. B.M. 47b.

(26) II Chron. XXI, 3; thus, they acquired the gifts, which were movables, in conjunction with the fenced cities, sc. real estate.

(27) When they are to be acquired along with it.

(28) V. Glos.

(29) V. Deut. XXVI, 2.

Talmud - Mas. Kiddushin 26b

[is fit] for a prosbul[1] to be written thereon, and that property which does not provide security [movables] shall be acquired along with it. But if you say: They must be heaped thereon, for what is a very small piece of land fit? — R. Samuel b. Bisna explained it in R. Joseph's presence: E.g., if he sticks a needle therein.[2] Said R. Joseph to him. You annoy us:[3] has the Tanna troubled to teach us

about a needle! — Said R. Ashi: who tells us that he did not suspend a pearl on it, worth a thousand zuz?

Come and hear: R. Eleazar said: It once happened that a certain Meronite[4] in Jerusalem had a large quantity of movables, which he desired to give away. He was thereupon informed that he had no other means but to transfer them along with land. What did he do? He went and bought beth sela'[5] near Jerusalem and declared: 'The north of this belongs to So-and-so, and together with it go a hundred sheep and a hundred barrels';[6] on his death his directions were carried out. But if you say: They [the movables] must be heaped up thereon, for what is beth sela' fit? — Do you think that by beth sela' literally a sela' [coin] is meant? What is sela'? A large area; and why was it called sela'? Because it was as hard as a rock.[7]

Come and hear: For Rab Judah said in Rab's name: It once happened that a certain man who fell ill in Jerusalem (that is in accordance with R. Eleazar's view) — others state, he was in good health, which agrees with the Rabbis[8] — had a large quantity of movables, which he desired to dispose of as a gift. Thereupon he was told that he had no other option but to transfer it along with land. What did he do? He went and purchased [a field] a quarter [kab's sowing] in area[9] and declared: 'Let a square handbreadth[10] belong to So-and-so, and with it go a hundred sheep and a hundred barrels':[11] on his death, the Sages confirmed his testimony. Now, if you say that they [the movables] must be heaped up thereon, for what is a square handbreadth fit? — The reference here is to money.[12] Reason too supports this. For should you think that a hundred sheep and a hundred barrels are meant literally, he should have transferred them by barter![13] What then: money? Then he could have transferred it to him by meshikah? But [it must mean] that the recipient is absent; then here too,[14] it means that the recipient is absent. Then he should have transferred it to him by another?[15] — He could not rely thereon, fearing that the other would steal and consume it. Then what is meant by 'he had no other option'? — It means this: in view [of the fact] that he has no confidence [in a stranger], there is no other course but to transfer it in virtue of real estate.

Come and hear: Rabban Gamaliel and some elders were once travelling in a ship. Said Rabban Gamaliel to the elders, 'Let the tenth which I am to measure out

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(1) V. Glos. The prosbul was a deed whereby a creditor transferred his debts to the Beth din, which were then regarded as though already collected from the debtor, so that the seventh year did not cancel them. This was done only if the debtor possessed land. — This measure was instituted by Hillel, who saw that people refused to lend money when the seventh year was approaching, with consequent hardships for the poor; v. Git. 36a.

(2) Which is acquired along with the land.

(3) Or, insolent man!

(4) A townsman of Meron in Galilee, south of Giscala. The reading here and in the MS. F of B.B. 156b is מדוני .

(5) This may have several meanings: (i) a piece of land the size of a sela', the coin; (ii) a piece of land comprising just one rock, upon which it would be impossible to place anything; and (iii) a piece of rocky soil. The first or second is assumed to be meant.

(6) In B.B. 156b it continues: and the south part to So-and-so, etc.

(7) So that it could be bought very cheaply.

(8) R. Eleazar maintains that a gift, even if made by a very sick person on point of death, is not validly transferred by mere words, but the recipient must perform an act of acquisition. Hence the following story can refer even to a sick person. But the Rabbis hold this unnecessary in the case of a sick person, whose verbal testimony suffices; hence what is related must have happened to a man in good health.

(9) On the basis that two sela'im (twelve kabs) of seed are required for 5,000 sq. cubits; 'Er. 23b.

(10) A handbreadth one sixth of a cubit.

(11) And the recipient acquired the land by one of the recognised methods.

(12) He gave them money worth all that, and money could actually be placed thereon.

(13) Halifin v. Glos. Coin cannot be so acquired (B.M. 46a).

(14) I.e., even if sheep and barrels are meant literally.
(15) Who would accept it on his behalf.

Talmud - Mas. Kiddushin 27a

be given to Joshua,[1] and its place [where it is lying] be rented to him; and the other tenth which I am to measure out be given to Akiba b. Joseph, that he shall acquire it on behalf of the poor,[2] and its place be rented to him'.[3] This proves that they must be heaped up thereon.[4] — [No:] there it was different, for he did not wish to give them trouble.[5] Come and hear: For Raba b. Isaac said in Rab's name: There are two [different kinds of] deeds. [Thus: If a man declares,] 'Acquire a title to this field on behalf of So-and-so, and indite a deed for him,'[6] he can retract from the deed[7] but not from the field. [But if he stipulates,] 'on condition that you indite a deed for him,' he can retract from both the deed and the field.[8] R. Hiyya b. Abin said in R. Huna's name: There are three [kinds of] deeds. Two, as just stated. The third: If the vendor anticipates [payment] and indites a deed for him [the vendee], in accordance with what we learnt: A deed may be written for the vendor[9] even though the vendee is not with him,[10] then as soon as he takes possession of the land, the deed is vested [in the vendee] wherever it is.[11] This proves that they need not be heaped up thereon![12] — A deed is different, as it is the bit of the land.[13] But thereon it was taught: This is [an example of] what we learnt, PROPERTY WHICH DOES NOT PROVIDE SECURITY MAY BE ACQUIRED IN CONJUNCTION WITH PROPERTY WHICH PROVIDES SECURITY BY MONEY, BY DEED OR BY HAZAKAH. This proves that they need not be heaped up thereon! This proves it.

The scholars propounded: Is 'by dint' [thereof] necessary or not?[14] — Come and hear: For all these [cases] are taught,[15] and yet 'by dint of is not mentioned. And on your view; is 'Let him acquire it' taught?[16] But it must mean, only when he says: 'Acquire it'; then here too, [it may mean] only when he says: 'By dint of.'[17] Now, the law is: they need not be heaped thereon, whereas 'Acquire it,' and 'By dint of are essential.

The scholars propounded: What if the field is sold and the movables are gifted?[18] — Come and hear: 'The tenth which I am to measure out to be given to Joshua and its place be rented to him.' This proves it.[19]

The scholars propounded: What if the field [is transferred] to one person, and the movables to another?[20] — Come and hear: 'A tenth which I am to measure out be given to Akiba b. Joseph, that he shall acquire it on behalf of the poor, and its place be rented to him.'[21] [This does not solve it:] What is meant by 'rented'? Rented for the tithe.[22] Alternatively, R. Akiba was different, for he was the hand of the poor.[23]

Raba said: This was taught[24] only if he [the purchaser] had paid the money for them all. But if he had not paid the money for them all, he acquires only to the extent of his money. It was taught in agreement with Raba. The power of money is superior to that of a deed, and the power of a deed is superior to that of money. The power of money is superior [etc.], in that hekdesh[25] and the second tithe[26] are redeemed therewith, which is not so in the case of deed.[27] And the power of a deed is superior, for a deed can free an Israelite daughter,[28] which does not hold good of money. And the power of both is superior to that of hazakah, and the power of hazakah is superior to that of both. The power of both is superior [etc.], in that both give a title to a Hebrew slave, which is not so in the case of hazakah. And the power of hazakah is superior to that of both: For with hazakah, if A sells B ten fields [situate] in ten countries, as soon as B takes possession[29] of one, he acquires all.

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(1) I.e., R. Joshua b. Hanania, who was a Levite.
(2) It was either the third or the sixth year after the year or release (shemittah), when a tithe must be given to the poor. R. Akiba was the charity overseer.

(3) And they were to obtain a title in virtue of the place. — Rashi states: R. Gamaliel had forgotten to separate the tithes before leaving home, nor had he authorized his household to do so, and he was afraid that they might eat thereof before his return. Tosaf.: It was the time when all tithes had to be given up (likewise at the end of the third and the sixth years: though the tithes were separated before, they might be kept in the house of the Israelite until then), and R. Gamaliel chose this way of giving it. In that case it would appear that the tithes had already been separated, but the phrase, 'which I am to measure out' suggests otherwise; v. Rashal and Maharsha. v. B.M. (Sonc. ed.) p. 62 and notes.
(4) Otherwise, why specify the particular spot where they lie?
(5) The place being rented to them, they could remove the tithes at their convenience. But had he rented some other place to them, he might have wanted the spot where they were lying.
(6) As evidence of ownership.
(7) Should he say: 'I do not wish him to have proof that the field is his.'
(8) For they are interdependent.
(9) Viz., my field is sold to X.
(10) Either where the vendee has already formally obtained a title thereto, or, according to Abaye, even without it, the mere attesting of such a deed causing the transfer.
(11) Though not actually on the land.
(12) For fuller notes v. B.B. (Sonc. ed.) p. 309.
(13) Like the bit used for leading a horse. I.e., the deed is valueless in itself, but a part of the land transaction, of which it is evidence. But other movables, valuable in themselves, possibly need not be heaped up on the land.
(14) אגב i,e., must the vendor or donor state that the movables are to be acquired in virtue of the land?
(15) On 26b: a hundred sheep etc.
(16) Though it is certain that that must be said.
(17) And they are omitted because they are taken for granted.
(18) Can the latter be acquired through the former?
(19) For the tithe was gifted, whereas the place was rented, which is a temporary sale.
(20) Can one say: 'Acquire the field, and in virtue thereof let So-and-so acquire the movables'?
(21) Thus the tenth was for the poor, while the place was rented to R. Akiba.
(22) And no other purpose. Hence it was really rented to the poor.
(23) I.e., he was their representative.
(24) That movables are acquired along with land.
(25) The plural hekdashoth, sacred objects, viz., animals dedicated to the altar which had subsequently received a blemish, or any object consecrated for Temple use.
(26) V. p. 4, n. 4.
(27) The writing of a deed obligating the owner with their redemption value does not redeem them.
(28) From the marriage bond, viz., divorce.
(29) By means of hazakah, which is the meaning of hehezik.

Talmud - Mas. Kiddushin 27b

When is this? If he has paid him for all; but if he has not paid the money for all, he gains a title only to the extent of his money. This supports Samuel. For Samuel said: If A sells B ten fields [situate] in ten countries, as soon as B takes possession of one, he then acquires all. Said R. Aha, son of R. Ika: The proof is: if he delivered him ten cows [tied] by one cord,[1] and said to him, 'Acquire them': would he not acquire then, [all]?[2] — How compare? he objected. There the tie is in his hand,[3] whereas here the tie is not in his hand. Others state, R. Aha, son of R. Ika, said: The proof that he does not acquire [them all][4] is: if he delivered him ten cows [tied] by one cord and said to him, 'Acquire this one: would he acquire them all?[5] — How compare: there they are separate entities; but here, The earth is one block.[6]

AND THEY OBLIGATE THE PROPERTY etc. 'Ulla said: How do we derive [the law of] the superimposed oath[7] from the Torah? — Because it is said: And the woman shall say: Amen, Amen.[8] And we learnt: To what does she say: Amen? Amen to the curse,[9] Amen to the oath,[10] Amen that

[she was] not [unfaithful] by this man,[11] Amen that [she was] not [unfaithful] by any other man.[12] Amen that I did not go aside as an arusah, a nesu'ah, when waiting for the yabam,[13] or as a kenusah.[14] Now, how is this arusah meant? Shall we say that he [the arus] warned her[15] when an arusah and makes her drink [the bitter waters][16] likewise as an arusah, — but we learnt: An arusah and one who waits for the yabam neither drink nor receive their kethubah:[17] why? Because the Divine Law said, [and if thou hast not gone aside to uncleanliness,] being under thy husband,[18] which [condition] is absent![19] But if it means that he warned her as an arusah, she privily closeted herself [with the man against whom she was warned] likewise when an arusah, and he makes her drink when a nesu'ah[20] — then can the water test her? Surely Scripture said: And the man shall be free from iniquity,[21] [which means,] when the husband himself is free from sin, water tests his wife; if the husband himself is not free from sin, water cannot test his wife![22] Hence [it is possible only] by means of superimposition.[23]

Now, we have found this [a superimposed oath] in the case of sotah,[24] which belongs to ecclesiastical law.[25] How do we know it of civil law? — The School of R. Ishmael taught: A minori: if we superimpose [an oath] in the case of a sotah,

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(1) Lit., 'bit'.

(2) E.g., if he seized one of them by its hair (Tosaf.). [Or by taking hold of the cord, on the view (supra 25b), that large cattle are acquired by Mesirah (Tosaf. Ri)].

(3) The animals are all tied together.

(4) In contradiction to Samuel.

(5) Surely not.

(6) All land is regarded as ultimately connected.

(7) I.e., an oath which would not be taken by itself, except in conjunction with another which must be taken in any case?

(8) Num. V, 22; this refers to the priest's adjuration concerning the charge of adultery.

(9) Ibid. 21.

(10) Ibid. 19.

(11) With whom she was now accused of having committed adultery.

(12) I.e., that she was not unfaithful in general.

(13) In the period between her husband's death and either her marriage, (yibum) or her emancipation (halizah) from the yabam.

(14) Lit., 'gathered in,' the designation of a yebamah after her marriage to the yabam.

(15) Lit., 'was jealous of her'; v. ibid.14; i.e., he formally expressed his jealousy in the presence of two witnesses and forbade her to closet herself privily with the object of his suspicions.

(16) V. Num. V, 24.

(17) I.e., they are divorced or given halizah, but forfeit their marriage settlements.

(18) Ibid. 19.

(19) For neither may live with her husband (viz., the arus or yabam) until the marriage ceremony is completed.

(20) I.e., after his warning was ignored, he completed and consummated the marriage, and then subjected her to the water ordeal. — If a woman disregards her husband's warning he must not live with her; hence he himself sinned in consummating the marriage.

(21) Ibid. 31.

(22) This interpretation is put upon the sentence because in its literary sense it is unnecessary; why would we have thought that the husband bears blame?

(23) I.e., it is impossible that an oath shall be taken by itself for misconduct whilst an arusah. She can swear in the first place only because she is charged with adultery when a nesu'ah, and upon this another oath is superimposed, viz., that she was not unfaithful as an arusah too.

(24) A wife charged with adultery, v. Glos.

(25) **איסורא** , lit., 'prohibition,' is used in contradistinction to tbunn money, i.e., civil law dealing with financial questions only.

though it [the oath] cannot be demanded of her on the evidence of one witness [only];[1] then in the case of a monetary claim, where a demand [for an oath] can be made on the evidence of one witness,[2] it surely follows that we superimpose [an oath]. Now, we have thus learnt this of a positive claim; how do we know it of a case of doubt?[3] — It was taught: R. Simeon b. Yohai said: An oath was ordered without [the Temple Court],[4] and an oath was ordered within [the Temple Court]: just as in the oath decreed within, doubt was made equal to certainty;[5] so also in the oath decreed without, doubt was made equal to certainty.

How far does the superimposed oath [go]? — Said Rab Judah in Rab's name: Even if he demands of him, 'Swear to me that you are not my slave.'[6] But he indeed is placed under the ban! For it was taught: If one calls his neighbour 'slave',[7] let him be placed under the ban; 'mamzer',[8] . . . he receives forty [lashes]; 'wicked', [rasha'] he may strive[9] against his very livelihood![10] — But, said Raba: [He may demand of him:] 'Swear to me that you were not sold to me as a Hebrew slave'. But that is a proper claim? he owes him money![11] — Raba follows his general view. For Raba said: A Hebrew slave belongs bodily [to his master].[12] If so, it is the equivalent of land?[13] — I might have thought, Only land is it usual for people to sell secretly: had he sold it, it would not be generally known; but as for this,[14] had he sold himself, it would have been known.[15] Therefore we are informed [that it is not so].

MISHNAH. WHATEVER CAN BE USED AS PAYMENT FOR ANOTHER OBJECT, AS SOON AS ONE PARTY TAKES POSSESSION THEREOF, THE OTHER ASSUMES LIABILITY FOR WHAT IS GIVEN IN EXCHANGE.[16] HOW SO? IF ONE BARTERS AN OX FOR A COW, OR AN ASS FOR AN OX, AS SOON AS ONE PARTY TAKES POSSESSION, THE OTHER BECOMES LIABLE FOR WHAT IS GIVEN IN EXCHANGE.[17]

GEMARA. What is the barter? Money![18] Then this proves that coin can become [an object of] barter.[19] — Said Rab Judah: This is its meaning: Whatever is assessed as the value of another object,[20]

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(1) At least two witnesses must testify to her closeting herself (v. Sotah 2a).

(2) If A claims money from B and produces one witness to support his claim, B must swear that it is false; Sheb. 40a.

(3) E.g., A and B are partners in a business; when they come to dissolve partnership, A cannot demand that B shall swear that he did not purloin anything from the business, in order to satisfy his doubts. If, however, B is bound to swear on account of another matter, he must swear on this too. Now, it cannot be argued that this too follows a fortiori from sotah, where the charge of adultery is likewise only doubtful. For the principal oath in connection with sotah is entirely due to doubt; hence the superimposed oath is likewise. But in money matters the principal oath is imposed for a positive claim only.

(4) All oaths provided for in Scripture were taken without the Temple Court, except the oath of a sotah.

(5) In respect of swearing a superimposed oath.

(6) And if he must in any case swear on another matter, he must swear on this too.

(7) Probably as a result of his liaison with a heathen bondmaid.

(8) Bastard; v. Glos.

(9) Lit., 'descend'.

(10) So Rashi, V. also MGWJ. Festschrift, 1934, p. 127, n. 1; also the whole art. a.l. Buchler, Familienreinheit u. Sittlichkeit im zweiten Jahrundert, which discusses this Baraitha at considerable length.

(11) I.e., he is really claiming his service, which is an ordinary monetary claim, and there is nothing remarkable in the defendant's having to take a superimposed oath. Hence this is not a fitting answer to the question, 'How far does a superimposed oath go?'

(12) V. supra, p. 70, n. 2. Hence it is not an ordinary claim of money.

(13) For a heathen slave, belonging bodily to his master, ranks as real estate (v. supra 22b) and the same will apply to a

Hebrew slave according to Raba's dictum. But then it is already stated in the Mishnah.

(14) The claim under discussion.

(15) Lit., 'It has a sound.' Hence the claim is prima facie false, and no superimposed oath is taken, for this too requires some verisimilitude (Tosaf.).

(16) I.e., for the halipin, or barter thereof.

(17) Even before it actually reaches his hands.

(18) For it is assumed that WHATEVER CAN BE USED AS PAYMENT refers to, or at least includes, money. Hence the Mishnah teaches: If A exchanges a cow for B's money, the money not being given as payment but as barter, just as an ox might have been given, immediately A receives the money, B accepts the risks of anything that may happen to the cow, which is now in his possession. That is so, notwithstanding that had the money been given as payment, A's receipt thereof would not have transferred ownership of the cow to B.

(19) This is disputed by Amoraim in B.M. 46a, hence the Mishnah refutes the opposing view.

(20) I.e., anything but money, which needs no assessment.

Talmud - Mas. Kiddushin 28b

as soon as one party takes possession, the other assumes liability for what is given in exchange. This follows too from the statement, HOW SO? IF ONE BARTERS AN OX FOR A COW, OR AN ASS FOR AN OX. This proves it. Now, on the original hypothesis, that coin can effect a barter, what is meant by HOW SO?[1] — It means this: And produce too can effect a barter. HOW SO? IF ONE BARTERS AN OX FOR A COW, OR AN ASS FOR AN OX, as soon as one party takes possession, the other assumes liability for what is given in exchange. Now, this agrees with R. Shesheth, who maintained: Produce can effect a barter. But on R. Nahman's view, viz., that produce cannot effect a barter, what can be said? — It means this: Money sometimes ranks as [an object of] barter. HOW SO? IF ONE BARTERS THE MONEY OF AN OX FOR A COW, OR THE MONEY OF AN ASS FOR AN OX.[2] What is the reason? — He agrees with R. Johanan, who said: Biblically speaking, money effects a title. Why then was it decreed that only meshikah gives possession? As a precautionary measure, lest he say to him, 'Your wheat was burnt in the loft.'[3] Now, the Rabbis enacted a preventive measure only for a usual occurrence, but not for an unusual occurrence.[4] Now, according to Resh Lakish, who maintains that meshikah is explicitly required by Biblical law: it is well if he agrees with R. Shesheth, who rules [that] produce can effect a barter; then he can explain it as R. Shesheth. But if he holds with R. Nahman, that produce cannot effect a barter, whilst money does not effect a title [at all], how can he explain it?[5] — You are forced to say that he agrees with R. Shesheth.[6]

MISHNAH. THE SANCTUARY'S[7] TITLE TO PROPERTY [IS ACQUIRED] BY MONEY; THE TITLE OF A COMMON MAN TO PROPERTY BY HAZAKAH.[8] DEDICATION TO THE SANCTUARY IS EQUAL TO DELIVERY TO A COMMON PERSON. GEMARA. Our Rabbis taught: How is the Sanctuary's title [acquired] by money? If the [Temple] treasurer pays money for an animal, even if the animal is at the world's end, he acquires it; whereas a common person gains no title until he performs meshikah. How is dedication to the Sanctuary equal to delivery to a common person? If one declares, 'This ox be a burnt-offering,' 'This house be hekdesh,' even if they are at the world's end, it [hekdesh] acquires them; whereas a common person gains no title[9]

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(1) I.e., why is an instance given which does not illustrate the use of money as barter?

(2) E.g., A sells an ox to B for a certain sum of money, and B takes possession, thereby becoming indebted to A for the purchase price. Then B says: 'I will give you a cow for the purchase price of the ox,' to which A agrees. Now, though this is theoretically a fresh transaction, viz., B sells a cow to A, the money owing by B for the ox being regarded as though delivered to him by A for the cow, and it is a principle that the delivery of money alone does not consummate a purchase, it does so here, and neither can retract, i.e.,it is barter, not payment.

(3) V. p. 126, n. 7.

(4) Such a transaction as described in note 2; consequently, the Biblical law operates.

(5) For, as we have seen, on the original hypothesis either of these is involved.

(6) The whole passage occurs again in B.M. 46a-b.

(7) Lit., 'the Highest'.

(8) This is explained in the Gemara.

(9) In similar circumstances.

Talmud - Mas. Kiddushin 29a

until he performs meshikah or hazakah. If one [a common person] performs meshikah with it when it is worth a maneh,[1] but has no time to redeem it [pay the money] until it rises to two hundred [zuz,] he must pay two hundred.[2] What is the reason? — [Scripture saith,] Then he shall pay the money, and it shall be assured to him.[3] If he performs meshikah when it is worth two hundred and has no time to redeem it until it falls to a maneh, he must pay two hundred. What is the reason? — That the rights of a layman should not be stronger[4] than those of hekdesh.[5] If he redeems it when it is worth two hundred, and has no time to perform meshikah before it falls to a maneh, he must pay two hundred.[6] What is the reason? — [Scripture saith,] 'Then he shall pay the money, and it shall be assured to him.' If he redeems it at a maneh, and has no time to perform meshikah before it rises to two hundred, what he has redeemed is redeemed, and he pays only a maneh. Why? here too, let us say: The rights of a layman should not be stronger than those of hekdesh?[7] — Must not a common person submit [to the curse,] 'He who punished [etc.]?'[8] MISHNAH. ALL OBLIGATIONS OF THE SON UPON THE FATHER,[9] MEN ARE BOUND, BUT WOMEN ARE EXEMPT. BUT ALL OBLIGATIONS OF THE FATHER UPON THE SON, BOTH MEN AND WOMEN ARE BOUND. ALL AFFIRMATIVE PRECEPTS LIMITED TO TIME,[10] MEN ARE LIABLE AND WOMEN ARE EXEMPT. BUT ALL AFFIRMATIVE PRECEPTS NOT LIMITED TO TIME ARE BINDING UPON BOTH MEN AND WOMEN. AND ALL NEGATIVE PRECEPTS, WHETHER LIMITED TO TIME OR NOT LIMITED TO TIME, ARE BINDING UPON BOTH MEN AND WOMEN; EXCEPTING, YE SHALL NOT ROUND [THE CORNERS OF YOUR HEADS],[11] NEITHER SHALT THOU MAR [THE CORNER OF THY BEARD],[12] AND, HE SHALL NOT DEFILE HIMSELF[13] TO THE DEAD.[14]

GEMARA. What is the meaning of ALL OBLIGATIONS OF THE SON UPON THE FATHER? Shall we say, all which the son is bound to perform for his father? Are then women [i.e., daughters] exempt? But it was taught: [Every man, his mother and his father ye shall fear:][15] 'every man:' I know this only of a man; whence do I know it of a woman? When it is said: 'Every man, his mother and his father ye shall fear' — behold, two are [mentioned] here.[16] — Said Rab Judah: This is the meaning: ALL OBLIGATIONS OF THE SON, [WHICH LIE] UPON THE FATHER to do to his son, MEN ARE BOUND, BUT WOMEN [MOTHERS] ARE EXEMPT. We thus learnt [here] what our Rabbis taught: The father is bound in respect of his son, to circumcise, redeem,[17] teach him Torah, take a wife for him, and teach him a craft. Some say, to teach him to swim too, R. Judah said: He who does not teach his son a craft, teaches him brigandage, 'Brigandage'! can you really think so! — But it is as though he taught him brigandage.[18]

'To circumcise him.' How do we know it? — Because it is written: And Abraham circumcised his son Isaac.[19] And if his father did not circumcise him, Beth din[20] is bound to circumcise him, for it is written: Every male among you shall be circumcised.[21] And if Beth din did not circumcise him, he is bound to circumcise himself, for it is written: And the uncircumcised male who will not circumcise the flesh of his foreskin, that soul shall be cut off.[22]

How do we know that she [the mother] has no such obligation? — Because it is written, ['And Abraham circumcised his son . . .] as God had commanded him': 'him,' but not 'her' [the mother]. Now, we find this so at that time;[23] how do we know it for all times?[24] — The School of R. Ishmael taught: whenever 'command' is stated,[25] its only purpose is to denote exhortation for then and all

time.[26] Exhortation, as it is written. But charge Joshua, and encourage him, and strengthen him.[27] Then and for all time, as it is written, front the day that the Lord gave commandment, and onward throughout your generations.[28]

'To redeem him.' How do we know it? — Because it is written, and all the firstborn of man among thy sons shalt thou redeem.[29] And if his father did not redeem him, he is bound to redeem himself, for it is written, [nevertheless the firstborn of man] thou shalt surely redeem.[30] And how do we know that she [his mother] is not obliged [to redeem him]? — Because it is written, thou shalt redeem [tifdeh] [which may also be read] thou shalt redeem thyself [tippadeh]: one who is charged with redeeming oneself is charged to redeem others; whereas one who is not charged to redeem oneself is not charged to redeem others. And how do we know that she is not bound to redeem herself?[31] — Because it is written, thou shalt redeem [tifdeh], [which may be read] thou shalt redeem thyself the one whom others are commanded to redeem, is commanded to redeem oneself: the one whom others are not commanded to redeem is not commanded to redeem oneself. And how do we know that others are not commanded to redeem her? — Because the Writ saith, 'and all the firstborn of man among thy sons shalt thou redeem':'[32] 'thy sons', but not thy daughters.

Our Rabbis taught: If there is himself to redeem[33] and his son to redeem, he takes precedence over his son. R. Judah said: His son precedes him, for the precept in respect to the latter lies [primarily] upon his father, whereas that concerning his son lies [primarily] upon himself. Said R. Jeremiah: All agree,

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(1) A hundred zuz.

(2) This refers to an article sold by hekdesh. A common person has to perform meshikah, as for an ordinary secular article; nevertheless he gains no title if it advances in price before he pays.

(3) But not before. Actually there is no such verse; but v. B.M. (Sonc. ed.) p. 321, n. 1: the deduction will likewise be from 'shekel', i.e., the shek,el alone (viz., money) gives the title. But in Shab. 128a s.v. i,bu Tosaf. states that the deduction is from Lev. XXVII, 19: then he shall add the fifth part of the money of thy estimation unto it, and it shall be assured to him,

(4) Lit.,'stricter'.

(5) For meshikah of secular property immediately vests the title in the purchaser, rendering him liable for its full value as at the time of meshikah.

(6) I.e., he cannot claim a rebate.

(7) And in a private transaction the vendor can retract if the article appreciates after the money is paid but before meshikah.

(8) V. B.M. 44a; though the vendor may withdraw, a curse is pronounced: 'He who punished the generation of the flood . . . will punish him who does not stand by his word.'

(9) The meaning of this is discussed in the Gemara.

(10) Literally, caused by the time. Which are performed at particular times or seasons.

(11) Lev. XIX, 27.

(12) Ibid.

(13) Ibid. XXI, 1.

(14) In the Mishnaic language these are turned into substantives by the use of bal (not) joined to the second pers. impf. of the relevant verb. — These ordinances are binding upon men only.

(15) Lev. XIX, 3.

(16) I.e., the Plural 'ye'.

(17) If the son is a firstborn.

(18) Having no occupation, he must take to theft.

(19) Gen. XXI, 4.

(20) V. Glos.

(21) Gen. XVII. 10; this is command in general terms, not particularly to the father, and hence is applied to Beth din.

(22) Ibid. 14.

(23) That Abraham, not Sarah, was commanded.
(24) Lit., 'for generations'.
(25) As here: as God had commanded him.
(26) Lit., 'for immediately and for generations'. [Rashi renders: to denote exhortation, to be zealous in the fulfilment of the command, that it comes into force immediately, and that it is binding for all generations.]
(27) Deut. III ,28.
(28) Num. XV, 23.
(29) Ex. XIII, 13.
(30) Num. XVIII, 15. The deduction is from the emphatic 'surely', expressed in Hebrew by the doubling of the verb.
(31) Though 'among thy sons' is explicitly stated, the verse may imply that a father is bound to redeem his son only, but the daughter must redeem herself when she grows up.
(32) Ex. XXXIV, 20.
(33) His father not having done so.

Talmud - Mas. Kiddushin 29b

if only five sela's are available, he takes precedence over his son. What is the reason? A precept affecting his own person is more important. They differ when there are five sela's [worth of property] sold[1] and five sela's free. R. Judah holds: A debt decreed in Scripture is as one indited in a bond:[2] hence, with these five sela's [that are free] he redeems his son, while the priest goes and seizes the five sela's [worth] that is sold on account of himself [the father]. But the Rabbis maintain, A debt decreed in Scripture is not as one indited in a bond; therefore a precept touching his own person is more important.[3]

Our Rabbis taught: If one has his son to redeem and the duty of making the festival pilgrimage,[4] he must [first] redeem his son and then make the Festival pilgrimage. R. Judah said: He must first make the Festival pilgrimage and then redeem his son, for the one is a passing precept[5] whereas the other is not a passing precept. As for R. Judah, it is well, the reason being as he states. But what is the reason of the Rabbis? — Because Scripture states: All the firstborn of thy sons thou shalt redeem,[6] and only then is it stated, and none shall appear before me empty.[7]

Our Rabbis taught: How do we know that if one has five [firstborn] sons by five wives, he is bound to redeem them all? From the verse: 'All the firstborn of thy sons thou shalt redeem.' But that is obvious, [since] the Divine Law made it dependent upon the opening of the womb?[8] — I might have argued, Let us learn the meaning of 'firstborn' here from inheritance.[9] Just as there, the beginning of his strength [is meant], so here too;[10] therefore we are informed [that it is not so].

'To teach him Torah.' How do we know it? — Because it is written. And ye shall teach them your sons.[11] And if his father did not teach him, he must teach himself, for it is written, and ye shall study.[12] How do we know that she [the mother] has no duty [to teach her children]? — Because it is written, we-limaddetem [and ye shall teach], [which also reads] u-lemadetem [and ye shall study]:[13] [hence] whoever is commanded to study, is commanded to teach; whoever is not commanded to study, is not commanded to teach. And how do we know that she is not bound to teach herself? — Because it is written, we-limaddetem [and ye shall teach] — u-lema — detem [and ye shall learn]: the one whom others are commanded to teach is commanded to teach oneself; and the one whom others are not commanded to teach, is not commanded to teach oneself. How then do we know that others are not commanded to teach her? — Because it is written: 'And ye shall teach them your sons' — but not your daughters.[14]

Our Rabbis taught: If he has himself to teach and his son to teach, he takes precedence over his son. R. Judah said: If his son is industrious, bright,[15] and retentive,[16] his son takes precedence over him. Thus R. Jacob, son of R. Aha b. Jacob, was once sent by his father [to study] under Abaye. On

his return he [his father] saw that his learning was dull. 'I am better than you,' said he to him; 'do you [now] remain here, so that I can go'. Abaye heard that he was coming. Now, a certain demon haunted Abaye's schoolhouse, so that when [only] two entered, even by day, they were injured. He [Abaye] ordered, 'Let no man afford him hospitality;[17] perhaps a miracle will happen [in his merit].' So he [R. Aha b. Jacob] entered and spent the night in that schoolhouse, during which it [the demon] appeared to him in the guise of a seven-headed dragon. Every time he [the Rabbi] fell on his knees [in prayer] one head fell off. The next day he reproached them: 'Had not a miracle occurred, you would have endangered my life.'

Our Rabbis taught: If one has to study Torah and to marry a wife, he should first study and then marry. But if he cannot [live] without a wife, he should first marry and then study. Rab Judah said in Samuel's name: The halachah is, [A man] first marries and then studies. R. Johanan said: [With] a millstone around the neck, shall one study Torah! Yet they do not differ: the one refers to ourselves [Babylonians]; the other to them [Palestinians].[18]

R. Hisda praised R. Hamnuna before R. Huna as a great man. Said he to him, 'When he visits you, bring him to me. When he arrived, he saw that he wore no [head-]covering.[19] 'Why have you no head-dress?' asked he. 'Because I am not married,' was the reply. Thereupon he [R. Huna] turned his face away from him. 'See to it that you do not appear before me [again] before you are married,' said he. R. Huna was thus in accordance with his views. For he said: He who is twenty years of age and is not married spends all his days in sin. 'In sin' — can you really think so? — But say, spends all his days in sinful thoughts.

Raba said, and the School of R. Ishmael taught likewise: Until the age of twenty, the Holy One, blessed be He, sits and waits. When will he take a wife? As soon as one attains twenty and has not married, He exclaims, 'Blasted be his bones!'[20]

R. Hisda said: The reason that I am superior to my colleagues is that I married at sixteen.[21] And had I married at fourteen,

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(1) [Before the birth of his son, v. Tosaf.]

(2) Hence the five sela's he owes for his own redemption is like a written liability, contracted before he sold the land, and therefore his creditor, i.e., the priest to whom the redemption money is due, can distrain upon this property.

(3) For a creditor can distrain upon mortgaged property that is sold only if he holds a note against the debt.

(4) On Passover, Pentecost, and Tabernacles every male was to visit the Temple at Jerusalem: Deut. XVI, 16.

(5) When the Festival is gone it cannot be carried out.

(6) Ex. XXXIV, 20.

(7) Ibid. With reference to the Festival pilgrimage.

(8) Ibid. 19.

(9) Here, as stated; inheritance: Deut. XXI, 17: Bur he shall acknowledge . . . the firstborn, by giving him a double portion of all that he hath; for he is the beginning of his strength.

(10) I.e., his own firstborn.

(11) Deut. XI, 19.

(12) Deut. V, 1. The education of children in olden times was in their parents' hands, organized teaching being for adults only. The defects of this system were obvious, and schools were established in Jerusalem and later in the provinces for children from the ages of six or seven and upwards. These reforms are variously ascribed to R. Simeon b. Shetah and the High Priest Joshua b. Gamala; v. Halevy, Doroth I, 111, p. 466 and note a.l.

(13) [So Rashi. The derivation may however be based on the analogy of Deut. XI, 9 and V, 1.]

(14) Differing opinions were held on the desirability of educating women. R. Eliezer's strong opposition is well-known (Sot. III, 4), though the probability is that he referred to advanced Talmudic education only. The laws referring to women's obligation to certain prayers imply that they must have been instructed in the elements of Judaism at least; and it is noteworthy that in the ideal state ascribed to Hezekiah's reign, women were fully educated (Sanh. 94b).

(15) Var. lec. filled (with a desire to learn).
(16) Lit., 'his learning endures in his hand.'
(17) Lit., 'lodging place', so that he might be compelled to spend the night in the academy.
(18) Rashi: The Babylonian scholars used to travel to Palestine, the home of the Mishnah; hence they were free of household worries, and so might marry before study. But the Palestinians, studying at home and bearing family responsibilities, could make no progress if married, and so they were bound to study first. Tosaf. reverses the interpretation.
(19) A sudarium with which married men used to cover their heads. V. supra p. 29, n. 5.
(20) [MS.M. תיפח נפשו , 'May he be blasted'.]
(21) So that my mind was entirely free for study.

Talmud - Mas. Kiddushin 30a

I would have said to Satan, An arrow in your eye.[1] Raba said to R. Nathan b. Ammi: Whilst your hand is yet upon your son's neck,[2] [marry him], viz., between sixteen and twenty-two. Others state, Between eighteen and twenty-four. This is disputed by Tannaim. Train up a youth in the way he should go:[3] R. Judah and R. Nehemiah [differ thereon]. One maintains, ['Youth' means] between sixteen and twenty-two; the other affirms, Between eighteen and twenty-four.

To what extent is a man obliged to teach his son Torah? — Said Rab Judah in Samuel's name: E.g., Zebulun, the son of Dan, whom his grandfather taught Mikra [Scripture], Mishnah, Talmud,[4] halachoth and aggadoth.[5] An objection is raised: If he [his father] taught him Mikra, he need not teach him Mishnah; whereon Raba said: Mikra means Torah?[6] — Like Zebulun b. Dan, yet not altogether so. Like Zebulun b. Dan, whom his grandfather taught: yet not altogether so, for whereas there [he was taught] Mikra, Mishnah, Talmud, halachoth and aggadoth, here [i.e., as a general rule] Mikra alone [suffices].

Now, is the grandfather under this obligation? Surely it was taught: And ye shall teach them your sons,[7] but not your sonsð sons. How then do I interpret[8] [the verse], and thou shalt make them known unto thy sons, and thy sons' sons?[9] As shewing that to him who teaches his son Torah, the Writ ascribes merit as though he had taught him, his son and his son's son until the end of all time![10] — He agrees with the following Tanna. For it was taught: 'And ye shall teach them your sons': hence I only know, your sons. How do I know your sons sons? From the verse: 'and thou shalt make them known unto thy sons and thy sons' sons'. If so, why state, 'thy sons'? — To teach: 'thy sons, but not thy daughters.

R. Joshua b. Levi said: He who teaches his grandson Torah, the Writ regards him as though he had received it [direct] from Mount Sinai, for it is said; 'and thou shalt make them known unto your sons and your sons' sons', which is followed by, that is the day that thou stoodest before the Lord thy God in Horeb.[11] R. Hiyya b. Abba found R. Joshua b. Levi wearing a plain cloth upon his head[12] and taking a child to the synagogue [for study].[13] 'What is the meaning of all this?' he demanded.[14] 'Is it then a small thing,' he replied: 'that it is written: 'and thou shalt make them known to your sons and your sons' sons'; which is followed by, that is the day that thou stoodest before the Lord thy God in Horeb'? From then onwards R. Hiyya b. Abba did not taste meat[15] before revising [the previous day's lesson] with the child and adding [another verse]. Rabbah son of R. Huna did not taste meat until he took the child to school.

R. Safra said on the authority of R. Joshua b. Hanania: What is meant by, and thou shalt teach them diligently [we-shinnantem] unto thy children?[16] Read not we-shinnantem, but we-shillashtem: [you shall divide into three]: one should always divide his years into three: [devoting] a third to Mikra, a third to Mishnah, and a third to Talmud. Does one then know how long he will live? — This refers only to days.[17]

The early [scholars] were called soferim[18] because they used to count all the letters of the Torah.[19] Thus, they said, the waw in gahon[20] marks half the letters of the Torah; darosh darash,[21] half the words; we-hithggalah,[22] half the verses. The boar out of the wood [mi-ya'ar] doth ravage it:[23] the 'ayin of ya'ar[24] marks half of the Psalms.[25] But he, being full of compassion, forgiveth their iniquity,[26] half of the verses.

R. Joseph propounded: Does the waw of gahon belong to the first half or the second? Said they [the scholars] to him, Let a Scroll of the Torah be brought and we will count them! Did not Rabbah b. Bar Hanah say,[27] They did not stir from there until a Scroll of the Torah was brought and they counted them? — They were thoroughly versed in the defective and full readings,[28] but we are not.

R. Joseph propounded: Does wehithgalah belong to the first half or the second? Said Abaye to him, For the verses, at least, we can bring [a Scroll] and count them! — In the verses too we are not certain. For when R. Aha b. Adda came,[29] he said: In the West [Palestine] the following verse is divided into three: And the Lord said unto Moses, Lo, I come unto thee in a thick cloud [etc.].[30]

Our Rabbis taught: There are five thousand, eight hundred and eighty-eight verses in the Torah;[31] the Psalms exceed this by eight;[32] while Chronicles[33] are less by eight.

Our Rabbis taught: And thou shalt teach them diligently[34] [means] that the words of the Torah shall be clear-cut in your mouth, so that if anyone asks you something, you should not shew doubt and then answer him, but [be able to] answer him immediately, for it is said,

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(1) I defy you! being absolutely free from impure thoughts. In the Bible, Satan has the general connotation of adversary (v. I Kings V, 18; I Sam. XXIX, 4; Ps. CIX, 4), and at first he is not regarded as a distinct being. In Job, however, he does appear so, viz., as the celestial prosecutor; but even then, he cannot act independently, but requires God's permission. It is only later that he appears as an independent agent (I Chron. XXI, 2). The early portions of the Talmud mention him very rarely. but gradually belief in him spread. the popular concepts possibly forcing their way upwards from the lower classes. V. J.E. art. Satan.

(2) While you have yet power and influence over him.

(3) Prov. XXII, 6; i.e., marry him.

(4) The discussion of the Mishnah.

(5) V. Glos.

(6) The Pentateuch. In the earliest terminology we find Torah and Mikra opposed, the former referring to the Pentateuch and the latter to the other Books of the Bible (v. J.E., 'Bible, Canon', III, 142); here they are identified.

(7) Deut. XI, 19.

(8) Lit., 'fulfil'.

(9) Ibid. IV, 9.

(10) Lit., 'generations'.

(11) Ibid. 10.

(12) But not a sudarium, V. supra p. 142, n. 2,

(13) In Talmudic times the teaching took place in the synagogue.

(14) Why was he so hasty to go out as not to don Proper headgear?

(15) [אומצא, a piece of grilled meat usually taken at breakfast].

(16) Deut. VI, 7.

(17) Rashi: two days in the week to Mikra, two to Mishnah, and two to Talmud. Tosaf., more plausibly: each day itself should be divided into three. — Actually, scholars have always confined themselves to Talmud: but as the Babylonian Talmud is an amalgam of the three, this dictum is held to be fulfilled; v. Sanh. 24a. Furthermore, the early part of the morning liturgy contains passages from all three.

(18) Rashi quotes, and the families of scribes — Soferim — which dwelt at Jabez; I Chron. II, 55. The term is generally applied to the band of Scholars from the Babylonian exile, who propagated the knowledge of the Torah and interpreted

it.

(19) To safeguard the correctness of the text. Soferim is taken in the original sense of its root safar, ‘to count’.

(20) Whatsoever goeth upon the belly (iujd) — Lev. XI, 42.

(21) Lev. X, 16: And Moses diligently enquired after — darosh darash — the goat of the sin-offering.

(22) Lev. XIII, 33: we-hithggalah, then he shall be shaven. [In M.T. the words ‘he placed on him’ (Lev. VIII, 8) is given as the middle verse.]

(23) Ps. LXXX, 14.

(24) יער .

(25) It is not stated whether letters or words are meant: S. Strashun observes that he counted the words, and found that the first half exceeds the second by nearly 2,000; hence the reference is to letters, and there is such a reading too.

(26) Ps. LXXVIII, 38.

(27) On another occasion.

(28) E.g., the long i and long o are sometimes indicated by a yod and waw respectively; then the reading is called ‘full’; sometimes they are omitted; then it is called defective.

(29) From Palestine to Babylon.

(30) Ex. XIX, 9.

(31) I.e., the Pentateuch. In M.T. we have 5,845. [The difference is explained by the fact that the Palestinian had more verses than the Babylonian. v. Ned. (Sonc. ed.) p. 118. n. 7. and Graetz MGWJ XXXIV. pp. 97ff.]

(32) Tosaf. observes that even if the Psalms are divided into verses of three words, there are still more in the Pentateuch. [The M.T. has 2,527, and the difference could be accounted as in the case of the Pentateuch. The difficulty however remains in regard to Chronicles where M.T. has only 1,765.]

(33) Wilna Gaon emends: Daniel and Chronicles.

(34) Weshinnantam < shannen, to be keen.

Talmud - Mas. Kiddushin 30b

say unto wisdom, Thou art my sister;[1] and it is also said, Bind them upon thy fingers; write them upon the table of thine heart;[2] and it is also said: As arrows are in the hand of a mighty man, so are the children of thy youth;[3] and it is also said, sharp arrows of the mighty;[4] and it is also said: Thine arrows are sharp; the peoples fall under thee;[5] and it is also said: Happy is the man that hath his quiver full of them; They shall not be ashamed, when they speak with their enemies in the gate.[6] What is meant by ‘with their enemies in the gate’? — Said R. Hiyya b. Abba, Even father and son, master and disciple, who study Torah at the same gate[7] become enemies of each other; yet they do not stir from there until they come to love each other, for it is written, [Wherefore it is said it, the book of the wars of the Lord,] love[8] is be-sufah;[9] read not ‘be-sufah’ but ‘be-sofah’.[10]

Our Rabbis taught: We-samtem[11] [reads] sam tam [a perfect remedy]. This may be compared to a man who struck his son a strong blow, and then put a plaster on his wound, saying to him, ‘My son! As long as this plaster is on your wound you can eat and drink at will, and bathe in hot or cold water, without fear. But if you remove it, it will break out into sores.’ Even so did the Holy One, blessed be He, speak unto Israel: ‘My children! I created the Evil Desire,[12] but I [also] created the Torah, as its antidote; if you occupy yourselves with the Torah, you will not be delivered into his hand, for it is said: If thou doest well,[13] shalt thou not be exalted?[14] But if ye do not occupy yourselves with the Torah, ye shall be delivered into his hand, for it is written, sin coucheth at the door.[15] Moreover, he is altogether preoccupied with thee [to make thee sin], for it is said, and unto thee shall be his desire.[16] Yet if thou wilt, thou canst rule over him, for it is said, and thou shalt rule over him.[16]

Our Rabbis taught: The Evil Desire is hard [to bear], since even his Creator called him evil, as it is written, for that the desire of man's heart is evil from his youth.[17] R. Isaac said: Man's Evil Desire renews itself daily against him, as it is said, [every imagination of the thoughts of his heart] was only evil every day.[18] And R. Simeon b. Levi[19] said: Man's Evil Desire gathers strength against him daily and seeks to slay him, for it is said: The wicked watcheth the righteous, and seeketh to slay him;[20]

and were not the Holy One, blessed be He, to help him [man], he would not be able to prevail against him, for it is said: The Lord will not leave him in his hand.[21]

The School of R. Ishmael taught: My son, if this repulsive [wretch][22] assail thee, lead him to the schoolhouse: if he is of stone, he will dissolve; if iron, he will shiver [into fragments], for it is said: Is not my word like as fire? saith the Lord,' and like a hammer that breaketh the rock in pieces?[23] If he is of stone, he will dissolve, for it is written: Ho, everyone that thirsteth, come ye to the waters;[24] and it is said: The waters wear the stones.[25]

'To take a wife for him.' How do we know it? — Because it is written: Take ye wives, and beget sons and daughters; and take wives for your sons, and give your daughters to husbands.[26] As for [marrying] his son, it is well, for it rests with him;[27] but with respect to his daughter, does it then rest with him?[28] — This is his meaning: Let her be dowered, clothed and adorned, that men should eagerly desire her.[29] 'To teach him a craft.' Whence do we know it? — Said Hezekiah: Scripture saith, See to a livelihood with the wife whom thou lovest.[30] If 'wife' is literal, [this teaches,] just as he [the father] is bound to take a wife for him, so is he bound to teach him a craft [for a livelihood]; if it is [a metaphor for] Torah, then just as he is bound to teach him Torah, so is he bound to teach him a craft.

'And some say, [He must teach him] to swim in water too. What is the reason? — His life may depend on it.

'R. Judah said: He who does not teach him a craft teaches him brigandage. "Brigandage"! can you think so? — But it is like teaching him brigandage'. Wherein do they differ? — They differ where he teaches him business.[31]

BUT ALL OBLIGATIONS OF THE FATHER UPON THE SON etc., What is meant by 'ALL OBLIGATIONS OF THE FATHER UPON THE SON? Shall we say, all precepts which the father is bound to perform for his son — are then women bound thereby? But it was taught: 'The father is obliged in respect of his son, to circumcise and redeem him': only the father, but not the mother? — Said Rab Judah, This is its meaning: All precepts concerning a father, which are incumbent upon a son to perform for his father, both men and women are bound thereby. We have [thus] learnt here what our Rabbis taught: [Ye shall fear every man his father, and his mother]:[32] 'man,'I know it only of man; how do I know it of woman?[33] When it is said: 'Ye shall fear,' two are mentioned. If so, why state man? A man possesses the means to fulfil this, but a woman has no means of fulfilling this, because she is under the authority of others.[34] R. Idi b. Abin said in Rab's name: If she is divorced, both are equal.[35] Our Rabbis taught: It is said: Honour thy father and thy mother;[36] and it is also said: Honour the Lord with thy substance:[37] thus the Writ assimilates the honour due to parents to that of the Omnipresent. It is said: 'Ye shall fear every man his father, and his mother'; and it is also said: The Lord thy God thou shalt fear, and him thou shalt serve;[38] thus the Writ assimilates the fear of parents to the fear of God. It is said: And he that curseth his father, or his mother, shall surely be put to death;[39] and it is also said: Whosoever curseth his God shall bear his sin:[40] thus the Writ assimilates the blessing[41] of parents to that of the Omnipresent. But in respect of striking, it is certainly impossible.[42] And that is but logical,[43] since the three[44] are partners in him [the son].

Our Rabbis taught: There are three partners in man, the Holy One, blessed be He, the father, and the mother. When a man honours his father and his mother, the Holy One, blessed be He, says: 'I ascribe [merit] to them as though I had dwelt among them and they had honoured Me.'

It was taught: Rabbi said: It is revealed and known to Him Who decreed, and the world came into existence,[45] that a son honours his mother more than his father,

(1) Prov. VII, 4; be as clear in your wisdom — i.e., learning — as in the knowledge that your sister is interdicted to you. Or possibly the deduction is from the second half of the verse: and call understanding thy familiar friend — i.e., be fully versed and familiar therein.
(2) Prov. VII, 3.
(3) The disciples, Ps. CXXVII, 4.
(4) The scholars, Ibid. CXX, 4.
(5) Ps. XLV, 6.
(6) PS. CXXVII, 5.
(7) I.e., at the same academy. Alternatively, in the same subject.
(8) והב , connected by a play on words with אהב , to love.
(9) Num. XXI, 24.
(10) 'At the end thereof.' 'The book of the wars of the Lord' — i.e., disputations on Biblical interpretation — eventually leads to love.
(11) Deut. XI, 18: Therefore shall ye lay up (we-samtem) these my words etc.
(12) Thus Cain defended himself for murdering Abel by arguing that God himself had implanted the evil desire in him (Tan., Bereshit, 25, ed. Buber, p. 10). It is generally understood as man's evil impulses. Occasionally it is personified, as here, and identified with Satan (B.B. 16a); on the other hand, in Ber. 16b it is clearly distinguished as a separate entity.
(13) I.e., engagest in the study of the Torah.
(14) Gen. IV, 7; sc. above the Evil Desire.
(15) Gen. IV, 7; so the E.V. Possibly the Talmud translates: at the door of sin-i.e., when one yields to the Evil Desire — one lies lost — i.e., becomes its slave.
(16) Ibid.
(17) Gen. VIII, 21.
(18) Ibid. VI, 5.
(19) In Suk. 52a the reading is: R. Simeon b. Lakish.
(20) Ps. XXXVII, 32.
(21) Ibid. 33.
(22) The Evil Desire.
(23) Jer. XXIII, 29.
(24) Isa. LV, 1; i.e., the Torah.
(25) Job XIV, 19.
(26) Jer. XXIX, 6.
(27) Lit., 'it is in his hand'- one can always find a bride for his son.
(28) One cannot easily obtain a husband for his daughter. How then does Jeremiah say, and give your daughters to husbands?
(29) Lit., 'spring upon her'.
(30) Ecc. IX, 9.
(31) The first Tanna, though mentioning a craft, merely desires a means of livelihood, and includes business too. But R. Judah's emphasis on a craft shews that he does not consider business sufficient. — In a country living by agriculture and industry R. Judah thought commerce too precarious. V. Krauss, T.A. 250-252 on trade. He makes the interesting point (p. 252) that whilst reference is frequently made to a po'el batel פועל בטל , an unemployed landworker, one never hears of an unemployed artisan.
(32) Lev. XIX, 3.
(33) That a daughter too must fear her parents.
(34) Viz., her husband, who may render it impossible for her to shew due reverence to her parents.
(35) The duty rests upon her just as much as upon her brother.
(36) Ex. XX, 12.
(37) Prov. III, 9.
(38) Deut. VI, 13.
(39) Ex. XXI, 17.
(40) Lev. XXIV, 15.

(41) A euphemism for cursing.
(42) To assimilate them, for the Almighty cannot be struck.
(43) That parents should be likened to the Almighty.
(44) God, father and mother.
(45) Viz., God: this phrase is liturgical.

Talmud - Mas. Kiddushin 31a

because she sways him by words; therefore the Holy One, blessed be He, placed the honour of the father before that of the mother. It is revealed and known to Him Who decreed, and the world came into existence, that a son reverences his father more than his mother, because he teaches him Torah, therefore the Holy One, blessed be He, put the fear [reverence] of the mother before that of the father.

A tanna[1] recited before R. Nahman: When a man vexes his father and his mother, the Holy One, blessed be He, says: 'I did right in not dwelling among them, for had I dwelt among them, they would have vexed Me.'

R. Isaac said: He who transgresses in secret is as though he pressed the feet of the Shechinah for it is written: Thus saith the Lord, The heaven is my throne, and the earth is my footstool.[2] R. Joshua b. Levi said: One may not walk four cubits with haughty mien,[3] for it is said, the whole earth is full of His glory.[4] R. Huna son of R. Joshua would not walk four cubits bareheaded, saying: The Shechinah is above my head.

A widow's son asked R. Eliezer: If my father orders, 'Give me a drink of water,' and my mother does likewise, which takes precedence? 'Leave your mother's honour and fulfil the honour due to your father,' he replied: 'for both you and your mother are bound to honour your father.'[5] Then he went before R. Joshua, who answered him the same. 'Rabbi,' said he to him, 'what if she is divorced?' — 'From your eyelids it is obvious that you are a widow's son,'[6] he retorted: 'pour some water for them into a basin, and screech for them like fowls!'[7]

'Ulla Rabbah[8] lectured at the entrance to the Nasi's house:[9] What is meant by, All the kings of the earth shall make admission unto Thee, O Lord, For they have heard the words of Thy mouth?[10] Not the word of Thy mouth, but 'the words of Thy mouth' is said. When the Holy One, blessed be He, proclaimed, Iam [the Lord thy God] and Thou shalt have none [other Gods before me],[11] the nations of the world said: He teaches merely for His own honour. As soon as He declared: Honour thy father and thy mother,[12] they recanted and admitted [the justice of] the first command [too]. Raba said, [This may be deduced] from the following: The beginning of Thy word is true:[13] 'the beginning of Thy word,' but not the end![14] But from the latter portion of Thy declaration it may be seen that the first portion is true.[15] It was propounded of R. 'Ulla: How far does the honour of parents [extend]? — He replied: Go forth and see what a certain heathen, Dama son of Nethinah by name, did in Askelon. The Sages once desired merchandise from him, in which there was six-hundred-thousand [gold denarii] profit, but the key was lying under his father, and so he did not trouble him.[16] Rab Judah said in Samuel's name: R. Eliezer was asked: How far does the honour of parents [extend]? — Said he, Go forth and see what a certain heathen, Dama son of Nethinah by name, did in Askelon. The Sages sought jewels for the ephod, at a profit of six-hundred-thousand [gold denarii] — R. Kahana taught: at a profit of eight-hundred-thousand — but as the key was lying under his father's pillow, he did not trouble him. The following year the Holy One, blessed be He, gave him his reward. A red heifer was born to him in his herd.[17] When the Sages of Israel went to him [to buy it], he said to them, 'I know you, that [even] if I asked you for all the money in the world you would pay me. But I ask of you only the money which I lost through my father's honour.' Now, R. Hanina observed thereon, If one who is not commanded [to honour his parents], yet does so, is thus

[rewarded], how much more so one who is commanded and does so! For R. Hanina said: He who is commanded and fulfils [the command], is greater than he who fulfils it though not commanded.[18]

R. Joseph[19] said: Originally, I thought, that if anyone would tell me that the halachah agrees with R. Judah, that a blind person is exempt from the precepts,I would make a banquet[20] for the Rabbis, seeing that I am not obliged, yet fulfil them. Now, however, that I have heard R. Hanina's dictum that he who is commanded and fulfils [the command] is greater than he who fulfils it though not commanded; on the contrary, if anyone should tell me that the halachah does not agree with R. Judah, I would make a banquet for the Rabbis.

When R. Dimi came,[21] he said: He [Dama son of Nethinah] was once wearing a gold embroidered silken cloak and sitting among Roman nobles, when his mother came, tore it off from him, struck him on the head, and spat in his face, yet he did not shame her.

Abimi, son of R. Abbahu recited: One may give his father pheasants as food, yet [this] drives him from the world; whereas another may make him grind in a mill

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(1) V. Glos. s.v. (b).
(2) Isa. LXVI, 1. By transgressing secretly he avers that God's presence is not there, and thus would confine the feet of the Shechinah into a narrower place than what they occupy, viz., the whole earth.
(3) Lit., ‘upright stature.
(4) Ibid. VI, 3.
(5) This does not imply that the husband need not honour his wife (v. B.M., Sonc. ed., p. 352, n. 4) but that the wife must obey her husband, just as a son his father.
(6) The eyelids having fallen out with weeping — probably not to be taken literally, but he sensed that the question was merely theoretical.
(7) A sarcastic answer.
(8) Or, the Great ‘Ulla.
(9) It would seem to have been a public place where popular lectures were given.
(10) Ps. CXXXVIII, 4.
(11) Ex. XX, 2f.
(12) Ibid. 12.
(13) Ps. CXIX, 160.
(14) Surely not!
(15) I.e., just.
(16) To wake him to take the key. The Jerusalem adds that his father's feet were lying on the chest containing the merchandise and so he could not break it.
(17) V. Num. XIX.
(18) V. A.Z. (Sonc. ed.) p. 6, n. 1.
(19) He was blind.
(20) Lit., ‘a festival’.
(21) V. p. 46, n. 6.

Talmud - Mas. Kiddushin 31b

and [this] brings him to the world to come![1]

R. Abbahu said: E.g., my son Abimi has fulfilled the precept of honour. Abimi had five ordained sons[2] in his father's lifetime, yet when R. Abbahu came and called out at the door, he himself speedily went and opened it for him, crying, ‘Yes, yes,’[3] until he reached it. One day he asked him, ‘Give me a drink of water.’ By the time he brought it he had fallen asleep. Thereupon he bent and stood over him until he awoke. It so happened that Abimi succeeded in interpreting, A song of

Asaph.[4]

R. Jacob b. Abbahu asked Abaye: 'I, for instance, for whom my father pours out a cup [of wine] and my mother mixes it[5] on my returning from the school, what am I to do'?[6] — 'Accept it from your mother,' he replied: 'but not from your father; for since he is a scholar, he may feel affronted.'[7]

R. Tarfon had a mother for whom, whenever she wished to mount into bed, he would bend down to let her ascend;[8] (and when she wished to descend, she stepped down upon him).[9] He went and boasted thereof in the school. Said they to him, 'You have not yet reached half the honour [due]: has she then thrown a purse before you into the sea without your shaming her?'

When R. Joseph heard his mother's footsteps he would say: 'I will arise before the approaching Shechinah.'

R. Johanan said: Happy is he who has not seen them.[10] R. Johanan's father died when his mother conceived him, and his mother died when she bore him. And Abaye was likewise. But that is not so, for Abaye said, my Mother told me. . ! — That was his foster-mother. R. Assi had an aged mother. Said she to him, 'I want ornaments.' So he made them for her. 'I want a husband.' — 'I will look out for you. 'I want a husband as handsome as you.' Thereupon he left her and went to Palestine. On hearing that she was following him he went to R. Johanan and asked him, 'May I leave Palestine[11] for abroad?'[12] 'It is forbidden,' he replied. 'But what if it is to meet my mother?' 'I do not know', said he. He waited a short time and went before him again. 'Assi', said he, 'you have determined to go; [may] the Omnipresent bring you back in peace.' Then he went before R. Eleazar and said to him, 'Perhaps, God forbid, he was angry?' 'What [then] did he say to you?' enquired he. 'The Omnipresent bring you back in peace', was the answer. 'Had he been angry', he rejoined, 'he would not have blessed you'. In the meanwhile he learnt that her coffin was coming.[13] 'Had I known', he exclaimed: 'I would not have gone out.'

Our Rabbis taught: He must honour him in life and must honour him in death. 'In life', e.g., one who is heeded in a place on account of his father should not say: 'Let me go, for my own sake', 'Speed me, for my own sake', or 'Free me, for my own sake', but all 'for my father's sake.' 'In death', e.g., if one is reporting something heard from his mouth, he should not say: 'Thus did my father say', but, 'Thus said my father, my teacher, for whose resting place may I be an atonement.'[14] But that is only within twelve months [of his death].[15] Thereafter he must say: 'His memory be for a blessing, for the life of the World to come.'

Our Rabbis taught: A Sage must change his father's name and his teacher's name, but the interpreter does not change his father's name and his teacher's name.[16] Whose father? Shall we say, the father of the interpreter?[17] — Is then the interpreter not obliged [to honour his parents]? — But, said Raba, [it means] the name of the Sage's father or the name of the Sage's teacher. As when Mar, son of R. Ashi, lectured at the college sessions; he said [to the interpreter]: My father, my teacher [said thus], whereas his interpreter said: Thus did R. Ashi say.[18]

Our Rabbis taught: What is 'fear' and what is 'honour'?[19] 'Fear' means that he [the son] must neither stand in his [the father's] place nor sit in his place, nor contradict his words, nor tip the scales against him.[20] 'Honour" means that he must give him food and drink, clothe and cover him, lead him in and out. The Scholars propounded:

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(1) The Jerusalem Talmud amplifies this. A man once fed his father on pheasants (which were very expensive). On his father's asking him how he could afford them, he answered: 'What business is it of yours, old man; grind (i.e., chew) and eat!' On another occasion it happened that a man was engaged in grinding in a mill, when his father was summoned for royal service. Said his son to him, 'Do you grind for me, and I will go in your stead, the royal service being very hard.'

(2) Ordination (Heb. semichah, lit., 'laying of the hands') was the conferment of authority to exercise Rabbinical functions.
(3) I.e., I am coming to open it.
(4) Ps. LXXIX, 1. The whole psalm is a lament for the defilement of the Temple and a series of national disasters. Hence the question arises, surely the superscripture should have been, 'A dirge of Asaph'? By divine inspiration Abimi explained it that Asaph uttered song because the Almighty had allowed His wrath to be appeased by the defilement and other indignities which the Temple had suffered. Otherwise, only the total destruction of His people would have sufficed. So Rashi, quoting some anonymous commentators. Tosaf., quoting the Midrash, explains it otherwise.
(5) Their wines were diluted, being too strong to be drunk neat.
(6) Am I to permit it, or do I fail in the honour due to them?
(7) Though he loves you and does it willingly, he may feel that his son should not permit a scholar to perform these services for him.
(8) By stepping upon him.
(9) The passage between brackets is omitted in Asheri and Alfasi.
(10) His parents, because it is so difficult to honour them adequately. — Of course, he is not to be understood literally. Also, it was a form of self comfort for not having known his parents.
(11) Lit., 'the land,' par excellence, the familiar designation of Palestine.
(12) Lit., 'outside the land'.
(13) She died on the way.
(14) [May I make atonement for all the punishment in the Hereafter that may have to come upon him. (Rashi).]
(15) [It is held that punishment in the Hereafter does not extend beyond the first twelve months after death.]
(16) When scholars lectured, they did not speak directly to their audiences, but through the medium of interpreters, to whom they whispered their statements and who in turn spoke them aloud to the assembled congregations frequently with embellishments of their own. Now, the Sage, when whispering to the interpreter a teaching he heard from his father, must not refer to his father by name but by the formula 'my father and teacher'; but the interpreter need not do so.
(17) If the Sage cites a dictum of the interpreter's father.
(18) But not: Thus said the Sage's father.
(19) Referring to Lev. XIX, 2: Ye shall fear every man his mother, and his father; and Ex. XX, 12: Honour thy father, etc.
(20) Should his father be in dispute with another scholar, his son must not side with his opponent (Rashi). In J.D. 240, 2, it is translated: he must not make a decision in deference to his view, i.e,, if his father differs from another scholar, he must not even say: I agree with my father. — These last two, however, hold good only in the father's presence, but otherwise he may state his view freely; yet even then, it is preferable that he should avoid mentioning his father's name when refuting his view, if possible.

At whose expense?[1] Rab Judah said: The son's. R. Nahman b. Oshaia said: The father's. The Rabbis gave a ruling to R. Jeremiah — others state, to R. Jeremiah's son — in accordance with the view that it must be at the father's expense. An objection is raised: It is said: Honour thy father and thy mother;[2] and it is also said: Honour the Lord with thy substance:[3] just as the latter means at personal cost,[4] so the former too. But if you say: At the father's [expense], how does it affect him?[5] — Through loss of time.[6]

Come and hear: Two brothers, two partners, a father and son, a master and disciple, may redeem second tithe for each other,[7] and may feed each other with the poor tithe.[8] But if you say, at the son's expense, he is thus found to fulfil his obligations with what belongs to the poor? — This refers only to an extra quantity.[9] If so, could it be taught thereon, R. Judah said: A curse may alight upon him who feeds his father with poor tithe! But if the reference is to an extra quantity, what does it matter?[10] — Even so, the matter is humiliating [to the father].

Come and hear: R. Eliezer was asked: How far does the honour of parents [extend]? — Said he: That he should take a purse, throw it in his presence into the sea, and not shame him.[11] But if you say, at the father's expense,[12] what does it matter to him? — It refers to a potential heir. As in the case of Rabbah son of R. Huna: R. Huna tore up silk in the presence of his son Rabbah, saying: 'I will go and see whether he flies into a temper or not. But perhaps he would get angry,[13] and then he [R. Huna] would violate, Thou shalt not put a stumbling-block before the blind?[14] — He renounced his honour for him.[15] But he [R. Huna] violated, Thou shalt not destroy [the trees thereof. . .]?[16] — He did it in the seam.[17] Then perhaps that was why he displayed no temper? — He did it when he was [already] in a temper.[18]

R. Ezekiel taught his son Rami: If criminals condemned to be burnt [become mixed up] with others sentenced to be stoned, R. Simeon said: They are executed[19] by stoning, because burning is severer. Thereupon Rab Judah his son said to him: Father, teach it not thus. For, why state the reason because burning is severer? This follows from the fact that the majority are for stoning.[20] But teach it thus: If [criminals condemned] to be stoned are mixed up with [others sentenced] to burning. Said he to him, If so, consider the second clause: But the Sages say: They are executed by burning, because stoning is severer. But why particularly because stoning is severer: deduce it from the fact that the majority are to be burnt? — There, he answered him, the Rabbis oppose[21] R. Simeon: As to what you say that burning is severer, that is not so, stoning being severer. Said Samuel to Rab Judah: Keen scholar![22] speak not thus to your father. For it was taught: If one's father is [unwittingly] transgressing a precept of the Torah, he must not say to him, 'Father, thou transgressest a Biblical precept', but, 'Father, it is thus written in the Torah.' 'It is thus written in the Torah' — but he surely grieves him?[23] But he must say to him, 'Father, such and such a verse Is written in the Torah.'[24]

Eleazar b. Mathia said: If my father orders me, 'Give me a drink of water', while I have a precept to perform, I disregard[25] my father's honour and perform the precept, since both my father and I are bound to fulfil the precepts. Issi b. Judah maintained: If the precept can be performed by others, it should be performed by others, while he should bestir himself for his father's honour. Said R. Mattena: The halachah agrees with Issi b. Judah.

R. Isaac b. Shila said in R. Mattena's name in the name of R. Hisda: If a father renounces the honour due to him, it is renounced; but if a Rabbi renounces his honour, it is not renounced. R. Joseph ruled: Even if a Rabbi renounces his honour, it is renounced, for it is said: And the Lord went before them by day.[26] Said Raba: How compare! There, with respect to the Holy One, blessed be He, the world is His and the Torah is His; [hence] He can forego His honour.

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(1) Lit., ‘from whose’ — must he feed him, etc.
(2) Ex. XX, 12.
(3) Prov. III, 9.
(4) Lit., ‘defect in the purse’.
(5) His pocket — i.e., what personal loss is there?
(6) Lit., ‘work’.
(7) With their own money, and need not add a fifth, as is the case when one redeems his own second tithe (v. Lev. XXVII, 31). Now, though these are closely attached, they are nevertheless separate persons, and so e.g., when the master redeems for his disciple, he is not regarded as redeeming his own.
(8) E.g., if the father is poor, the son may give him poor tithe.
(9) The son must furnish him with an average quantity of food, if his father needs more, he may give him poor tithe.
(10) Surely there is no objection to it!
(11) Supra 31a. There a different answer is quoted; v. 31b, in the story of R. Tarfon.
(12) So that the purse referred to is his father's.
(13) And in his anger affront his father (Rashi).
(14) Lev. XIX, 14. By causing him to fail in the honour due to him, R. Huna would violate this injunction, which is interpreted as meaning that one must not lead another into sin.
(15) So that even if his son affronted him, he would not transgress.
(16) Deut. XX, 19; this is a general prohibition against causing unnecessary damage.
(17) As it could be easily resewn, there was no real damage.
(18) When he could not have noticed this, and yet he did not affront his father.
(19) Lit., ‘judged’.
(20) For, ‘if criminals condemned to be burnt become mixed up with others sentenced to be stoned,’ implies that the latter are in the majority, as the smaller number is lost (i.e., mixed up) in the larger.
(21) Lit., ‘say to’.
(22) Others translate: man of long teeth, v. B.K. (Sonc. ed.) p. 60, n. 1.
(23) For it is the same as telling him that he is transgressing.
(24) Not directly stating the law, but leaving it for his father to understand. This does not shame him.
(25) Lit., ‘lay aside’.
(26) Ex. XIII, 21. Thus the Almighty renounced His honour and constituted Himself their Guide.

Talmud - Mas. Kiddushin 32b

But here, is then the Torah his [the Rabbi's]?[1] Subsequently Raba said: Indeed, the Torah is his [the scholar's], for it is written, and in his law doth he meditate day and night.[2]

But that is not so. For Raba was serving drink at his son's wedding, and when he offered a cup to R. Papa and R. Huna son of R. Joshua, they stood up before him; but [when he offered] R. Mari and R. Phineas son[3] of R. Hisda, they did not stand up before him. Thereupon he was offended and exclaimed: ‘Are these Rabbis and the others not!’[4] It also happened that R. Papa was serving drink at the wedding of Abba Mar, his son; when he offered a cup to R. Isaac son of Rab Judah, he did not rise before him, whereupon he was offended![5] — Even so, they should have shewn him respect.

R. Ashi said: Even on the view that if a Rabbi renounces his honour it is renounced, yet if a Nasi[6] renounces his honour, his renunciation is invalid. An objection is raised: It once happened that R. Eliezar, R. Joshua and R. Zadok were reclining[7] at a banquet of Rabban Gamaliel's son,[8] while Rabban Gamaliel was standing over them and serving drink. On his offering a cup to R. Eliezer, he did not accept it; but when he offered it to R. Joshua, he did. Said R. Eliezer to him, ‘What is this, Joshua: we are sitting, while Rabban Gamaliel is standing over us and serving drink!’ ‘We find that even a greater than he acted as servitor’, he replied: ‘Abraham was the greatest man of his age,[9] yet it is written of him, and he stood over them.[10] And should you say that they appeared to him as Ministering Angels — they appeared to him only as Arabs.[11] Then shall not R. Gamaliel Berabbi[12]

stand over us and offer drink! Said R. Zadok unto them: 'How long will you disregard the honour of the Omnipresent and occupy yourselves with the honour of men! The Holy One, blessed be He, causeth the winds to blow,[13] the vapours to ascend, the rain to fall, the earth to yield, and sets a table before every one; and we — shall not R. Gamaliel Berabbi stand over us and offer drink'! — But if stated, it was thus stated: R. Ashi said: Even on the view that if a Nasi renounces his honour it is valid, yet if a king renounces his honour it is not, for it is said, thou shalt surely set a king over thee,[14] teaching that his authority[15] shall be over thee.[16]

Our Rabbis taught: Thou shalt rise up before the hoary head;[17] I might think, even before an aged sinner; therefore it is said, and honour the face of a zaken,[18] and 'zaken' can only refer to a Sage,[19] for it is said: Gather unto me seventy men of the elders of Israel.[20] R. Jose the Galilean said: 'Zaken' [means] only he who has acquired wisdom,[21] for it is said: The Lord possessed me [sc. wisdom personified] as the beginning of his way.[22] I might think that one might stand up before him [even] at a great distance: therefore it is written, . . . thou shalt rise up, and thou shalt honour,[23] [implying], I ordered one to rise up only where it confers honour.[24] I might think that one must honour him with money,[25] therefore it is written: 'thou shalt rise up and thou shalt honour': just as rising up involves no monetary loss, so does honouring also mean without monetary loss. I might think that one must rise up before him out of a privy or a bathhouse, therefore it is written 'thou shalt rise up and thou shalt honour', [implying] I ordered to rise up only in a place where it confers honour. I might think that one may shut his eyes as though he has not seen him: therefore it is taught, . . . thou shalt rise up, and thou shalt fear thy God:[26] of what is known to the heart only it is said, and thou shalt fear thy God.[27] R. Simeon b. Eleazar said: How do we know that the Sage must not trouble [the people]?[28] From the verse, . . . old man and thou shalt fear.[29] Issi b. Judah said: Thou shalt rise up before the hoary head implies even any hoary head,[30] But is not R. Jose the Galilean identical with the first Tanna? — They differ in respect to a young sage: the first Tanna holds that a young sage is not [included in the precept], whereas R. Jose the Galilean holds that he is. What is R. Jose the Galilean's reason? — He can tell you: should you think as the first Tanna asserts, if so, the All-Merciful should have written: 'Thou shalt rise up before the hoary headed zaken and honour [him]'; why did the All-Merciful divide them? To teach that the one [hoary head] is not identical with the other [zaken], and vice versa. This proves that even a young sage [is included]. And the first Tanna?[31] — That is because it is desired to place 'old man' in proximity to 'and thou shalt fear'.[32] Now, what is the first Tanna's reason? — Should you think as R. Jose the Galilean maintains, if so, the All-Merciful should have written,

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(1) Surely not. A Rabbi is honoured on account of his learning, which comes from the Almighty; hence he cannot renounce his honour.

(2) Ps. I, 2; Raba makes his refer to the student of the Law, Thus: at first, 'But his delight is in the law of the Lord'; having studied it, he acquires it for himself and it becomes his law.

(3) Var. lec., 'sons', making it refer to R. Mari too.

(4) 'You consider yourselves too great to rise: are then the others not Rabbis too?'

(5) But if a scholar can renounce his honour, these had in fact done so by serving the drink at all; why then did they resent it that honour was not shewn them?

(6) V. Glos.

(7) People were reclining in ancient days at meals.

(8) Rabban Gamaliel was the Nasi.

(9) Lit., 'generation'.

(10) Gen. XVIII, 8; referring to the three angels who appeared to him by the oaks of Mamre.

(11) According to Talmudic tradition, when he bade them wash their feet (ibid. v. 4) it was because he suspected them of being Arabs, who worship the dust of their feet.

(12) Supra p. 101, n. 8.

(13) This phrase is now liturgical, but that 'wind' is used instead of 'winds'.

(14) Deut. XVII, 15.

(15) Lit., ‘fear’,
(16) Hence he cannot renounce the honour and reverence due to him.
(17) Lev. XIX, 32.
(18) Ibid. E.V. old man.
(19) To the Rabbis one was not a Sage unless he was also upright (cf. Prov. IX, 10: The fear of the Lord is the beginning of wisdom).
(20) Num. XI, 16.
(21) Reading zaken as an abbreviation, Zeh kanah hokemah, this one has acquired wisdom.
(22) Prov. VIII, 22.
(23) Lev. XIX, 32. The words ‘thou shalt rise’ are made to apply to zaken.
(24) But no sense of being honoured is experienced when a person rises at a distance.
(25) I.e., by giving him money.
(26) Ibid.
(27) Ibid. 14. Man cannot know whether he sees or not, but God does. V. B.M. (Sonc. ed.) p. 348, nn. 4, 5.
(28) He must not intentionally pass by the masses, in order that they should rise, if he has an alternative route.
(29) By disregarding the accents, this is read as a prohibition to the Sage.
(30) Not particularly that of a scholar.
(31) How does he explain the dividing up of the verse?
(32) In accordance with the teaching of R. Simeon b. Eleazar.

Talmud - Mas. Kiddushin 33a

‘Thou shalt rise up before and honour the hoary head; thou shalt rise up before and honour the old man.ð And since It is not written thus, it follows that they are identical.[1]

The Master said: ‘I might think that one must honour him with money, therefore it is written: "thou shalt rise up and thou shalt honourð: just as rising up involves no monetary loss, so does honouring also mean without monetary loss.’ But is there no monetary loss involved in rising? Does it not refer [even] to him who is piercing pearls,[2] and whilst he rises up before him he is disturbed from his work?[3] — But rising is compared to honouring: just as honouring involves no cessation of work,[4] so rising too means such as involves no cessation of work. And honouring is compared to rising too: just as rising involves no monetary loss,[5] so honouring means such as involves no monetary loss. Hence it was said: Artisans may not rise[6] before scholars whilst engaged in their work. Must they not? But we learnt: All artisans rise before them, give them greeting,[7] and exclaim to them, ‘Our brethren, men of such and such a place, enter in peace.’[8] — Said R. Johanan: Before them they must stand up, yet before scholars they may not.

R. Jose b. Abin said: Come and see how beloved a precept is in its time;[9] for behold, they rose up before them, yet not before scholars. But perhaps it is different there, for otherwise you may cause them to offend in the future![10]

The Master said: ‘I might think that one must rise up before him out of a privy or a bath-house.’ Is it then not so? But R. Hiyya was sitting in a bath-house, when R. Simeon son of Rabbi passed by, but he did not rise before him, whereat he was offended and went and complained to his father, ‘I taught him two-fifths of the Book of Psalms,[11] yet he did not rise up before me!’ It also happened that Bar Kappara — others state, R. Ishmael son of R. Jose — was sitting in a bath-house, when R. Simeon b. Rabbi entered and passed by, yet he did not rise before him. Thereat he was offended and went and complained to his father. ‘I taught him two-thirds of a third of "The Law of Priests".’[12] Said he to him, ‘perhaps he was sitting and meditating thereon’.[13] Thus, it is only because he might have been sitting and meditating thereon; but otherwise, it would not be [excusable]? — There is no difficulty: the one refers to the inner chambers, the other to the outer chambers.[14] That is logical too. For Rabbah b. Bar Hanah said: One may meditate [on learning] everywhere except at the baths and in a

privy.[15] [That however does not follow:] maybe it is different when [done] involuntarily.[16]

'I might think one may shut his eyes as though he has not seen him.' Are we then dealing with the wicked! — But [say thus:] I might think that one may shut his eyes before the obligation arises,[17] so that when it does, he will not see him that he should stand up before him; therefore it is stated: 'thou shalt rise up and thou shalt fear'.

A Tanna taught: Which rising up shews honour? Say, that is four cubits.[18] Said Abaye: That was said only of one who is not his distinguished teacher;[19] but as for his teacher par excellence,[20] as far as his eyes reach.[21] Abaye used to rise as soon as he saw the ear of R. Joseph's ass approaching. Abaye was riding an ass, making his way on the bank of the River Sagya.[22] Now, R. Mesharsheya and other scholars were sitting on the opposite bank, and they did not rise before him. Thereupon he expostulated with them: 'Am I not your teacher par excellence!' 'It was thoughtlessness on our part, replied they to him.

'R. Simeon b. Eleazar said: How do we know that the Sage must not trouble [the people]? From the verse: "old man and thou shalt fear".' Abaye said: We have it [on tradition] that if he [the Sage] takes a circuitous route,[23] he will live [long]. Abaye took a circuitous route. R. Zera did likewise. Rabina was sitting before R. Jeremiah of Difti[24] when a certain man passed by without covering his head.[25] How impudent is that man! he exclaimed. Said he to him: Perhaps he is from the town of Mehasia,[26] where scholars are very common.[27]

'Issi b. Judah said: "Thou shalt rise up before the hoary head" implies even any hoary head.' R. Johanan said: The halachah is as Issi b. Judah. R. Johanan used to rise before the heathen[28] aged, saying: 'How many troubles have passed over these!' Raba would not rise up, yet he shewed them respect.[29] Abaye used to give his hand to the aged. Raba sent his messengers.[30] R. Nahman sent his guardsmen, [for] he said: 'But for the Torah, how many Nahman b. Abba[31] are there in the market place!'[32]

R. Aibu said in R. Jannai's name:

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(1) Hence one must actually be old in addition to learned.

(2) For stringing together.

(3) And piercing pearls (or perhaps diamond cutting) being highly paid work, this involves a monetary loss.

(4) Honouring implies to shew respect, speak with reverence, but not to cease from work.

(5) Since it does not, as just stated, involve cessation of work.

(6) This refers either to employees, in which case they may not rise up, since their time is not their own; or to men engaged on their own work, so that the passage must be translated, . . . need not (Tosaf.).

(7) Lit., 'enquire after their welfare'.

(8) This refers to those who brought their first fruits to the Temple, who were thus greeted by the workers in Jerusalem, v. Bik. III, 3.

(9) I.e., when it is being performed.

(10) If they are not shewn honour they may resent it, saying: 'They hold us of no account', and so not come again.

(11) So Rashi. Tosaf.: Two books of the five into which it may be divided, viz., Chs. I-XLI, XLII-LXXII, LXXIII-LXXXIX, XC-CVI, CVII-CL. Each of these divisions end with 'amen,' except the last, which marks the end of the book as a whole,

(12) תורת כהנים . The Midrashic exposition of Leviticus, so called because many of its laws refer to priests. It was presumably divided into three sections, and he had taught him two-thirds of one of these. — The work is also known as the Sifra. [Albeck, Untersuchungen uber die halakischen Midraschim, p. 89, n. 1, however, questions this identification, but regards the תורת כהנים as denoting the book of Leviticus itself.]

(13) And failed to notice you.

(14) In the inner chambers men are nude, and so exempt: in the outer they are clothed, and must pay their usual respects.

(15) Since the Rabbi suggested that they might have been meditating on their studies, they must have been in the outer chamber,
(16) They may have been in the inner chamber, yet involuntarily their thoughts wandered to their studies — not an unlikely supposition of men to whom the study of the Torah was one of the most vital objects in life.
(17) I.e., if he knows that the Sage is coming his way, but he has not arrived yet.
(18) When the Sage comes within four cubits of him he must rise, for then it is evident that he is rising in his honour.
(19) I.e., either a greater scholar than himself, even if he has never studied under him, or one of his own rank from whom he has learnt something, but not the greater part of his knowledge. Tosaf. Ri.
(20) His principal teacher.
(21) As soon as he comes into sight he must rise.
(22) Obermeyer. p. 225 suggests that סגיא is a corruption for סניא , or more correctly שניא or שוניא , an important canal passing Pumbeditha and joining the Euphrates with the Tigris.
(23) So as to avoid the assembly and save them the trouble of rising.
(24) Obermeyer, p. 197 conjectures that this is identical with Dibtha, in the neighbourhood of Wasit, north of Harpania.
(25) As a sign of respect; on headcovering v. supra 29b.
(26) A town near Sura on the Euphrates.
(27) There are so many, and they are met with so frequently, that the inhabitants fail to shew them proper respect. [Rashi's text reads: who are familiar with the Rabbis.]
(28) Lit., 'Aramean'.
(29) In speech.
(30) To help up the aged.
(31) [Read with MS.M., כי אנא ,' 'like me', instead of בר אבא , 'b. Abba'.]
(32) I.e., his pre-eminence was due solely to his learning, and therefore it was not meet that he himself should help up the aged.

Talmud - Mas. Kiddushin 33b

A scholar may rise before his master only morning and evening, that his glory may not exceed the glory of Heaven.[1] An objection is raised: R. Simeon b. Eleazar said: How do we know that a Sage must not trouble [the people]? From the verse: 'old man and thou shalt fear'. But if you say, morning and evening only, why should he not trouble [them]; It is an obligation! Hence it surely follows [that one must rise] all day? — No. After all, morning and evening only, yet even so, as far as possible, one should not trouble [the people].

R. Eleazar said: Every scholar who does not rise before his master is stigmatized as wicked, will not live long, and forget his learning, as it is said, but it shall not be well with the wicked, neither shall he prolong his days which are as a shadow, because he feareth not before God.[2] Now, I do not know what this fear is, but when it is said, [Thou shalt rise up before the hoary head . . .] and fear thy God,[3] then lo! fear means rising. But perhaps it means the fear of usury and [false] weights![4] — R. Eleazar infers [his dictum] from the use of pene ['before'] in both cases.[5]

The scholars propounded: What if his son is his teacher? Must he rise before his father? — Come and hear: For Samuel said to Rab Judah: Keen scholar![6] rise before your father![7] — R. Ezekiel was different, because he had [many] good deeds to his credit, for even Mar Samuel[8] too stood up before him. Then what did he tell him?[9] — He said thus to him: Sometimes he may come behind me;[10] then do you stand up before him,[11] and do not fear for my honour.

The scholars propounded: What if his son is his teacher; must his father stand up before him? — Come and hear: For R. Joshua h. Levi said: As for me, it is not meet that I should stand up before my son, but that the honour of the Nasi's house [demands it].[12] Thus the reason is that I am his teacher:[13] but if he were my teacher, I would rise before him.[14] — [No]. He meant thus: As for me, it is not meet that I should stand up before my son, even if he were my teacher, seeing that I am his father,

but that the honour of the Nasi's house [demands it].

The scholars propounded: Is riding the same as walking,[15] or not? — Said Abaye: Come and hear: If the unclean person sits under a tree and the clean person stands, he is defiled; if the unclean person stands under the tree and the clean person sits, he remains clean; but if the unclean person sat down, the clean one is defiled. And the same applies to a leprous stone.[16] Now, R. Nahman b. Cohen said: This proves that riding is the same as walking.[17] This proves it.[18]

The scholars propounded: Must one rise before a Scroll of the Law? — R. Hilkiah, R. Simon and R. Eleazar say: It follows a fortiori: if we rise before those who study it, how much more before that itself! R. Elai and R. Jacob b. Zabdi were sitting when R. Simeon b. Abba passed by, whereupon they rose before him. Said he to them: [You should not have risen;] firstly, because you are Sages, whereas I am but a haber:[19] moreover, shall then the Torah rise before its students![20] Now, he held with R. Eleazar, who said: A scholar must not stand up before his teacher when he [the disciple] is engaged in studying. Abaye condemned[21] this [teaching].

[And . . . when Moses went out unto the Tent . . . all the people rose up and stood . . .] and looked after Moses, until he was gone into the tent.[22] R. Ammi and R. Isaac, the Smith — one maintained: [It was] in a derogatory fashion; the other said: In a complimentary way. He who explained it in a derogatory fashion, as is known.[23] But he who interpreted it in a complimentary manner — said Hezekiah: R. Hanina son of R. Abbahu told me in R. Abbahu's name in the name of R. Abdimi of Haifa: When the Hakam [Sage][24] passes, one must rise before him [at a distance of] four cubits, and when he has gone four cubits beyond [him], he sits down; when an Ab Beth-din[25] passes, one must stand up before him as soon as he comes in sight,[26] and immediately he passes four cubits beyond he may sit down; but when the Nasi passes, one must rise as he comes in sight and may not sit down until he takes his seat, for It is written, [and all the people stood . . .] and looked after Moses, until he was gone into the tent.

ALL AFFIRMATIVE PRECEPTS LIMITED TO TIME etc. Our Rabbis taught: Which are affirmative precepts limited to time? Sukkah,[27] lulab,[28] shofar,[29] fringes,[30]

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(1) One rises only twice a day, morning and evening, in God's honour.

(2) Ecc. VIII, 13.

(3) Lev. XIX, 32.

(4) For there too fear of God is mentioned: Take thou no usury of him nor increase, but fear thy God (Lev. XXV, 36). In respect to false weights Rashi quotes, Thou shalt have a perfect and just weight (Deut. XXV, 15), but Tosaf. observes that fear of God is not mentioned there, and mentions the reading miksholoth , מכשולו , stumbling-blocks: the reference then is to Lev. XIX, 14: thou shalt not put a stumbling-block before the blind, but fear thy God. But S. Strashun explains that there is a misprint in Rashi, and the text to be quoted is, Just balances, just weights . . . shall ye have: I am the Lord your God. (Lev. XIX, 36). 'I am the Lord your God' implies fear; cf. B.M. 61b.

(5) But is not written In connection with usury. Though it is used in connection with the stumbling-block, yet shewing fear before God has more in common with rising before a Sage than refraining from putting a stumbling-block before the blind (Tosaf.).

(6) V. supra p. 156, n. 12.

(7) Though Rab Judah was his father's teacher, v. supra 32a.

(8) Samuel himself who was Rab Judah's teacher.

(9) Surely Rab Judah should have understood it himself, seeing that even his teacher rose before him.

(10) [MS.M.: Sometimes I may come behind him.]

(11) Though you have already risen once for me.

(12) His son had married into the Nasi's family.

(13) So it is assumed.

(14) Even apart from his high marriage connections. [The reference is probably to his son R. Joseph; cf. B.B. 10b.]

(15) So that disciples must rise before their teacher when he rides past.
(16) The reference is to a leper, who defiles a clean person when both are under the same covering overhead, but only if the leper is sitting. The boughs of a tree form such a covering. The same applies to a leprous stone. (Stones too could be leprous; v. Lev. XIV, 33-48.) If a man, bearing a leprous stone, sits under a tree, he defiles a clean man standing there; but if he stands with the stone, the other remains clean.
(17) For the stone itself is always, as it were, seated on its bearer, yet it defiles only if its bearer sits down, but not if standing. This proves that the bearer only is regarded. Hence if a leper is sitting on an animal which is standing or walking, he does not cause defilement, since the bearer (sc. the animal) is not sitting.
(18) The same applying to the problem under discussion.
(19) [A title of a non-ordained scholar in contradistinction to a Sage (חכים), an ordained scholar. R. Simeon (Shaman) b. Abba, through one cause or another, did not succeed in obtaining his Ordination, v. Sanh. 24a.]
(20) They were actually studying just then, so he referred to them as the Torah itself.
(21) Lit., 'cursed'.
(22) Ex. XXXIII, 8.
(23) Lit., 'as it exists'. It being a disparagement of Moses, the Talmud does not wish to elaborate thereon, but merely remarks that its meaning is known. It is explained in Shek. V, 13 and elsewhere: They said: 'See how thick his legs are, how fat his neck — all acquired out of our wealth!'
(24) V. Hor. (Sonc. ed.) p. 101, n. 8.
(25) Lit., 'father of Beth din,' v. loc. cit., n. 6.
(26) Lit., 'as far as his eyes see.'
(27) Lev. XXIII, 42: Ye shall dwell in booths (sukkoth) seven days.
(28) The taking of the palm-branch (lulab) together with three other species on the Festival of booths; v. ibid. 40.
(29) The ram's horn, to be blown on New Year; v. ibid. 24; Num. XXIX, 1.
(30) V. Num. XV, 38; this is limited to time, because fringes are unnecessary on night garments.

Talmud - Mas. Kiddushin 34a

and phylacteries.[1] And what are affirmative precepts not limited to time? Mezuzah,[2] 'battlement',[3] [returning] lost property,[4] and the 'dismissal of the nest.'[5]

Now, is this a general principle? But unleavened bread,[6] rejoicing [on Festivals],[7] and 'assembling',[8] are affirmative precepts limited to time, and yet incumbent upon women.[9] Furthermore, study of the Torah, procreation, and the redemption of the son, are not affirmative precepts limited to time, and yet women are exempt [therefrom]?[10] — R. Johanan answered: We cannot learn from general principles, even where exceptions are stated. For we learnt: An 'erub[11] and a partnership,[12] may be made with all comestibles, excepting water and salt. Are there no more [exceptions]: lo, there are mushrooms and truffles! But [we must answer that] we cannot learn from general principles, even where exceptions are stated.

AND AFFIRMATIVE PRECEPTS LIMITED TO TIME, WOMEN ARE EXEMPT. Whence do we know it? — It is learned from phylacteries: just as women are exempt from phylacteries, so are they exempt from all affirmative precepts limited to time. Phylacteries [themselves] are derived from the study of the Torah: just as women are exempt from the study of the Torah, so are they exempt from phylacteries. But let us [rather] compare phylacteries to mezuzah?[13] — phylacteries are assimilated to the study of the Torah in both the first section and the second;[14] whereas they are not assimilated to mezuzah in the second section.[15] Then let mezuzah be assimilated to the study of the Torah?[16] — You cannot think so, because it is written, [And thou shalt write them upon the mezuzah of thine house . . .] That your days may be multiplied:[17] do then men only need life, and not women! But what of sukkah, which is an affirmative precept limited to time, as it is written, ye shall dwell in booths seven days,[18] yet the reason [of woman's exemption] is that Scripture wrote ha-ezrah,[19] to exclude women,[20] but otherwise women would be liable? — Said Abaye, It is necessary: I would have thought, since it is written: 'ye shall dwell in booths seven days', 'ye shall dwell' [meaning]

even as ye [normally] dwell [in a house]: just as [normal] dwelling [implies] a husband and wife [together], so must the sukkah be [inhabited by] husband and wife![21] — But Raba said,

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(1) V. Deut. VI, 8; the reason is the same as that of fringes.

(2) V. ibid. 9. Mezuzah, doorpost, and then by transference, the receptacle containing 'these words' affixed to the doorpost.

(3) Deut. XXII, 8.

(4) Ex. XXIII, 4; Deut. XXII, 1-3.

(5) V. Deut. XXII, 6f.

(6) To eat which on the first evening of Passover is a positive command: Ex. XII, 18.

(7) Deut. XVI, 14.

(8) On the Festival of Tabernacles in the seventh year; v. Deut. XXXI, 12.

(9) The latter two explicitly include women; unleavened bread is deduced in Pes. 43b.

(10) Procreation is deduced in Yeb,65b; the others are deduced supra 29b.

(11) V. Glos.

(12) All the inhabitants of the same side street provided some foodstuff, e.g., flour, of which one large dish was prepared and placed in a court-yard of one of the houses. This turned all the court-yards into a single domain, and carrying from one into the other on the Sabbath was then permitted. That dish was called the 'erub (of court-yards). 'Erub means something which joins, combines, Fr. 'arab, to commingle. Similarly, several side streets could be combined.

(13) Which is obligatory upon women.

(14) The first section is Deut. VI, 4-9; the second: XI, 13-21; so-called because these are the first two of the four Pentateuchal passages contained in the phylacteries, and the only two written in the mezuzah. In the first section, Deut. VI, 7f: And thou shalt teach them diligently unto thy children . . . and thou shalt bind them for a sign upon thine hand. In the second section, XI. 18f: and ye shall bind them . . . and ye shall teach them etc.

(15) Phylacteries are mentioned in v. 18, and mezuzah in v. 20, so that v. 19, which treats of study, breaks the connection.

(16) Just as women are exempt from the latter, so from the former too. — Study and mezuzah are stated consecutively, viz., in vv. 19 and 20.

(17) Ibid, 21.

(18) Lev. XXIII, 42.

(19) R.V. 'homeborn'.

(20) Suk. 28a.

(21) Hence ha-ezrah teaches otherwise.

Talmud - Mas. Kiddushin 34b

It[1] is necessary [for another reason]: I might have thought, we derive [identity of law from the employment of] 'fifteen' here and in connection with the Feast of unleavened bread:[2] just as there, women are liable, so here too. Hence it is necessary.

But what of pilgrimage,[3] which is an affirmative command limited to time, yet the reason [of woman's exemption] is that Scripture wrote, [Three times in the year all] thy males [shall appear before the Lord thy God],[4] thus excluding women; but otherwise women would be liable? — It is necessary: I would have thought, we learn the meaning of 'appearance' from 'assembling'.[5]

Now, instead of deriving an exemption from phylacteries, let us deduce an obligation from [the precept of] rejoicing?[6] Said Abaye: As for a woman, her husband must make her rejoice.[7] Then what can be said of a widow?[8] It refers to her host.[9] Now, let us learn [liability] from [the precept of] 'assembling'?[10] Because unleavened bread and 'assembling' are two verses [i.e., precepts] with the same purpose,[11] and wherever two verses have the same purpose, they cannot throw light [upon other precepts].[12] If so, phylacteries and pilgrimage are also two verses with one purpose,[13] and cannot illumine [other precepts]? — They are both necessary: for had the Divine Law stated

phylacteries but not pilgrimage, I would have thought, let us deduce the meaning of 'appearance' from 'assembling'.[14] While had the Divine Law written pilgrimage but not phylacteries, I would have reasoned, Let phylacteries be assimilated to mezuzah.[15] Thus both are necessary.[16] If so, unleavened bread and 'assembling' are also necessary? — For what are they necessary? Now, if the Divine Law stated 'assembling' but not unleavened bread, it were well:[17] for I would argue, let us deduce 'fifteen', 'fifteen', from the feast of Tabernacles.[18] But let the Divine Law write unleavened bread, and 'assembling' is unnecessary, for I can reason, If it is incumbent upon children,[19] how much more so upon women! Hence it is a case of two verses with the same purpose, and they cannot throw light [upon other precepts].

Now, that is well on the view that they do not illumine [other cases]. But on the view that they do, what may be said?[20] Furthermore, [that] affirmative precepts not limited to time are binding upon women; how do we know it? Because we learn from fear:[21] just as fear is binding upon women, so are all affirmative precepts not limited to time incumbent upon women. But let us [rather] learn from the study of the Torah?[22] — Because the study of the Torah and procreation[23] are two verses which teach the same thing,[24] and wherever two verses teach the same thing, they do not illumine [others].

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(1) The deduction from ha-ezrah.

(2) Here, Lev. XXIII, 39: on the fifteenth day of the seventh month; Passover, ibid. 6: and on the fifteenth day of the same month is the feast of unleavened bread unto the Lord.

(3) Lit., 'appearance' — before the Lord on Passover, Pentecost and Tabernacles.

(4) Ex. XXIII, 17.

(5) 'Appearance' is mentioned in both cases. Pilgrimage, as quoted in last note; assembling, Deut. XXXI, 11f: when all Israel is come to appear before the Lord thy God. . . assemble the people, men and women, etc.

(6) That too is occasioned by the Season, yet is obligatory upon women; v. Deut. XVI, 14.

(7) I.e., the duty lies not on the woman herself, but on her husband, to make her rejoice.

(8) Who is explicitly mentioned in the same verse, q.v.

(9) Lit., 'the one with whom she dwells'. I.e., the master of the house where she lives must make her rejoice.

(10) Just as that is an affirmative precept limited to time and yet incumbent upon women, so are all etc.

(11) Lit., 'that come as one,' i.e., both are affirmative precepts occasioned by the season, and in both it is stated that they include woman.

(12) V. note 7.

(13) Both teaching that women are exempt.

(14) Just as the 'assembling' includes women, so does pilgrimage.

(15) Since they are written together, and so women are liable to the former as to the latter.

(16) The reason why two verses which teach the same thing cannot illumine other precepts is that if they were meant to do so one only would be sufficient, for the second could be deduced; and similarly all other precepts. But this obviously does not hold good when each is necessary in itself; in that case, therefore, both together throw light upon other cases.

(17) I.e., the latter would be unnecessary.

(18) Thus shewing that women are exempt from eating unleavened bread; v. supra.

(19) V. Deut. XXXI, 12, 'and the children'.

(20) Let us deduce liability of women in regard to all affirmative precepts limited to time.

(21) I.e., the precept to fear one's parents, Lev. XIX, 3, which, as deduced supra 29a, applies to both sexes.

(22) Which is occasioned by time and yet not obligatory upon women.

(23) Likewise not limited in time and not incumbent upon women.

(24) Viz., that women are exempt.

Talmud - Mas. Kiddushin 35a

But according to R. Johanan b. Beroka, who maintained, Concerning both [Adam and Eve] it is said: And God blessed them: and God said unto them, Be fruitful and multiply,[1] what can be said? — Because the study of the Torah and redemption of the firstborn are two verses with one purpose, and

such do not illumine [others]. But according to R. Johanan b. Beroka too, let procreation and fear be regarded as two verses with one purpose,[2] which do not illumine [other cases]?[3] — Both are necessary. For if the Divine Law wrote fear and not procreation, I would argue, The Divine Law stated, [Be fruitful, and multiply, and replenish the earth,] and conquer it: only a man, whose nature It is to conquer, but not a woman, as it is not her nature to conquer.[4] And if Scripture wrote procreation and not fear, I would reason: A man, who has the means to do this [sc. to shew fear to his parents] is referred to, but not a woman, seeing that she lacks the means to fulfil this;[5] and that being so, she has no obligation at all.[6] Thus both are necessary. Now, that is well on the view that two verses with the same teaching do not illumine [others]: but on the view that they do, what can be said?[7] — Said Raba, The Papunians[8] know the reason of this thing, and who is it? R. Aha b. Jacob. Scripture saith, And it shall be for a sign unto thee upon thine hand, and for a memorial between thine eyes, that the Torah of the Lord may be in thy mouth:[9] hence the whole Torah is compared to phylacteries: just as phylacteries are an affirmative command limited to time, and women are exempt, so are they exempt from all positive commands limited to time.[10] And since women are exempt from affirmative precepts limited to time, it follows that they are subject to those not limited to time.[11] Now, that is well on the view that phylacteries are a positive command limited to time; but what can be said on the view that they are not?[12] — Whom do you know to maintain that phylacteries are an affirmative precept not limited to time? R. Meir. But he holds that there are two verses with the same teaching, and such do not illumine [others].[13] But according to R. Judah, who maintains that two verses with the same teaching illumine [others], and [also] that phylacteries are a positive command limited to time, what can be said? — Because unleavened bread, rejoicing [on Festivals], and 'assembling' are three verses with the same teaching,[14] and such do not illumine [others].[15]

AND ALL NEGATIVE PRECEPTS etc. Whence do we know it? — Said Rab Judah in Rab's name, and the School of R. Ishmael taught likewise, Scripture saith, When a man or a woman shall commit any sin that men commit [. . . then that soul shall be guilty]:[16] thus the Writ equalised woman and man in respect of all penalties [decreed] in the Torah.[17] The School of R. Eliezer taught: Scripture saith, [Now these are the judgments] which thou shalt set before them:[18] The Writ equalised woman and man in respect of all civil laws in Scripture.[19] The School of Hezekiah taught: Scripture saith, [but if the ox were wont to gore . . .] and he kill a man or woman [the ox shall be stoned, and his owner also shall be put to death];[20] the Writ placed woman on a par with man in respect of all death sentences [decreed] in Scripture. Now, it is necessary [that all three should be intimated]. For if the first [only] were stated, [l would say] that the All-Merciful had compassion upon her [woman], for the sake of atonement;[21] but as for civil law, I might argue that it applies only to man, who engages in commerce, but not to woman, who does not. While if the second [alone] were intimated, that is because oneðs livelihood depends thereon;[22] but as for ransom ,[23] I might argue,

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(1) Gen. I, 28; this is the command of procreation.

(2) Viz., both are affirmative precepts not occasioned by time and both are incumbent upon women.

(3) So that on the contrary only these are obligatory, but not others.

(4) And as this is stated together with procreation, the same ruling governs both.

(5) V. p. 148. n. 5.

(6) Even when she can fulfil it. e.g., if she is unmarried.

(7) This is the conclusion of the objection introduced by 'furthermore', supra 34b.

(8) I.e., scholars of Papunia, between Bagdad and Pumbeditha, possibly on the River Papa, whence the name; Obermeyer, p. 242.

(9) Ex. XIII, 9. The 'sign' and 'memorial' refer to the phylacteries.

(10) Now, a direct comparison of this nature, in which the 'Torah of the Lord' is practically identified with the 'sign' and the 'memorial,' is stronger than a mere analogy of the type hitherto discussed, and so outweighs any opposite conclusions arrived at by analogy.

(11) For otherwise, this comparison should be written in connection with the latter, e.g., study of the Torah, whence I would deduce that woman are exempt from all such precepts (and from precepts limited to time too, a fortiori).

(12) This question is disputed in Shab. 61a.

(13) I.e, he does not employ the comparison, but deduces by analogy from pilgrimage, as above. Unleavened bread and 'assembling' do not furnish any opposite conclusion, for they are two verses with the same teaching.

(14) These are three positive commands limited to time and binding upon women.

(15) This is admitted by all. According to this, Abaye's contention that the precept of rejoicing relates to a woman's husband or her host (supra 34b) is rejected.

(16) Num. V, 6.

(17) Negative precepts involve flagellation.

(18) Ex. XXI, 1.

(19) This is not adduced as a source of the Mishnah, since it deals with a different subject, but as a parallel to the last statement.

(20) Ibid. 29.

(21) The first refers to sacrifice for sin, and the woman is given the same opportunity of atoning as man.

(22) Viz., on the protection afforded by civil law.

(23) The last law quoted treats of the ransom paid by the owner of the ox; vv.29H

Talmud - Mas. Kiddushin 35b

it applies only to man, who is subject to precepts, but not to woman, who is not subject to them.[1] And if the last [alone] were intimated, — since there is loss of life, the All-Merciful had compassion upon her;[2] but in the first two I might say that it is not so.[3] Thus they are [all] necessary.

EXCEPTING, YE SHALL NOT ROUND [THE CORNER OF YOUR HEADS] NEITHER SHALT THOU MAR, etc. As for defiling oneself to the dead, that is well, because it is written: Speak unto the priests the sons of Aaron: [There shall none defile himself for the dead among his people]:[4] [hence], the sons of Aaron, but not the daughters of Aaron. But how do we know [that she is exempt from] the injunction against rounding [etc.] and marring [etc.]? — Because It is written, ye shall not round the corner of your heads, neither shalt thou mar the corners of thy beard:[5] whoever is included in [the prohibition of] marring is included in [that of] rounding; but women, since they are not subject to [the prohibition of] marring, are not subject to [that of] rounding. And how do we know that they are not subject to [the injunction against] marring? — Either by common sense, for they have no beard. Or, alternatively, [from] Scripture. For Scripture saith, ye shall not round the corner of your heads, neither shalt thou mar the corner of thy beard; since Scripture varies its speech,[6] for otherwise the Divine Law should write, 'the corner of your beards'; why, 'thy beard'? [To intimate], 'thy beard,' but not thy wife's beard. Is it then not?[7] But it was taught: The beard of a woman and that of a saris[8] who grew hair, are like a [man's] beard in all matters. Surely that means in respect to marring? — Said Abaye: You cannot say that it is in respect to marring, for we learn 'corner' 'corner' from the sons of Aaron:[9] just as there, women are exempt; so here too, women are exempt. But if we hold that 'the sons of Aaron' is written with reference to the whole section,[10] let the Writ refrain[11] from it,[12] and it[13] follows a fortiori. For I can argue, If [of] priests, upon whom Scripture imposes additional precepts, [we say] 'the sons of Aaron' but not the daughters of Aaron, how much more so of Israelites! — But for the gezerah shawah I would reason that the connection is broken.[14] Then now too let us say that the connection is broken; and as for the gezerah shawah,[15] — that is required for what was taught: 'They shall not shave': I might think that if he shaves it with scissors,[16] he is liable [for violating the injunction]: therefore it is stated, thou shalt not mar.[17] I might think that if he plucks it [his hair] out with pincers or a remover, he is liable:[18] therefore it is stated: 'they shall not shave'.[19] How then is it meant? Shaving which involves marring, viz., with a razor.[20] If so,[21] let Scripture write, ['ye shall not round the corner of your heads, neither shalt thou mar] that of thy beard'? why [repeat] 'the corner of thy beard'? Hence both are inferred.[22]

Then when it was taught: ‘The beard of a woman and that of a saris who grew hair, are like a [man's] beard in all respects’: to what law [does it refer]? — Said Mar Zutra: To the uncleanliness of leprosy.[23] ‘The uncleanliness of leprosy!’ But that is explicitly stated: If a man or a woman have a plague upon the head or the beard?[24] — But, said Mar Zutra, [it is] in respect of purification from leprosy.[25] But purification from leprosy too is obvious; since she is liable to uncleanliness [through her beard], she needs [the same] purification! — It is necessary:[26] I might have assumed, it is written with separate subjects:[27] [thus:] ‘If a man or a woman have a plague upon the head’; while ‘or the beard’ reverts to the man [alone]; therefore we are informed [otherwise].

Issi taught: Women are exempt from the injunction against baldness too.[28] What is Issi's reason? — Because he interprets thus: Ye are sons of the Lord your God: ye shall not cut yourselves, nor make any baldness between your eyes for the dead. For thou art an holy people unto the Lord thy God:[29] [the implied limitation] ‘sons’ but not daughters [is] in respect of baldness. You say, in respect of baldness; yet perhaps it is not so, but rather in respect of cutting? When it is said: ‘For thou art an holy people unto the Lord thy God,’ cutting is referred to;[30] hence, how can I interpret [the implication] ‘sons’ but not daughters? In respect to baldness. And why do you prefer[31] to include cutting and exclude baldness? I include cutting which is possible both where there is hair and where there is no hair, and I exclude baldness which is possible only in the place of hair.[32] Yet perhaps ‘sons’ but not daughters applies to both baldness and cutting, while ‘For thou art an holy people unto the Lord thy God’ relates to incision![33] — Issi holds that incision [seritah] and cutting [gedidah]

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(1) Actually, of course, she is subject to certain precepts, as stated on 29a, but not liable to as many as man (Tosaf.).

(2) And imposed upon the owner the payment of ransom for the death of a woman as for that of a man.

(3) Sc. that woman is the same as man.

(4) Lev. XXI, 1.

(5) Lev. XIX, 27.

(6) Using the plural in the one case and the singular in the other.

(7) Is not a woman's beard subject to this prohibition?

(8) V. Glos.

(9) With reference to Israelites in general: nor shalt thou mar the corner of thy beard; in the section relating to priests: neither shall they shave off the corner of their beard (Lev. XXI, 5), it being assumed that the phrase ‘sons of Aaron’ of v. I applies to the whole section. The employment of ‘corner’ in both cases teaches similarity of law.

(10) V. n. 5.

(11) Lit., ‘keep silent’.

(12) Sc. the gezerah shawah of ‘corner’.

(13) Sc. that ‘thou shalt not mar’ does not apply to women.

(14) Viz., that ‘the sons of Aaron’ in v. I does not refer to ‘they shall not shave the corner of their beards’ in v. 5.

(15) Which appears to intimate that it is not.

(16) I.e., clipped the hair very close.

(17) Lev. XIX, 27: thus the first verse quoted, Lev. XXI, 5, in reference to Priests, is illumined by the second in reference to Israelites. ‘Mar’ can only refer to the action of a razor, which removes the hair completely.

(18) In respect of ‘thou shalt not mar’.

(19) In reference to priests, and this illumines the injunction ‘thou shalt not mar’. Plucking hairs one by one is not shaving.

(20) Now since the gezerah shawah is wanted for this, I may still say ‘the sons of Aaron’ in Lev. XXI, 1, does not refer to ‘and they shall not shave the corner of their beards’ in v. 5, the connection being broken.

(21) That the gezerah shawah merely defines ‘shaving’ and ‘marring’, but does not shew to whom they apply.

(22) Viz., definition and scope.

(23) The symptoms of leprosy of the skin differ from those of the hair; cf. Lev. XIII, 1-17 with vv. 29-37. The Baraitha teaches that if a woman or a saris grows a beard, though normally their chins are free from hair, the test of leprosy are the symptoms of the latter, not of the former,

(24) Lev. XIII, 29. Why should the Baraitha state it?
(25) When a woman becomes clean from leprosy of the beard, she must undergo the same ritual as a man, viz., the beard must be shaved off (v. 33) — S. Strashun.
(26) The Baraitha refers to the uncleanliness of leprosy, as first stated, yet it is necessary.
(27) Lit., 'on (different) sides'.
(28) V. Lev. XXI, 5.
(29) Deut. XIV, 1f.
(30) For 'people' includes men and women; since this is the reason of the previous injunctions, one at least must apply to women too.
(31) Lit., 'what (reason) do you see?'
(32) Since the prohibition of baldness is necessarily more limited, it is logical that the exclusion of daughters shall relate thereto.
(33) Lev, XXI, 5: and they (sc. the priests) shall not make any incision (Heb. sarateth, E.V. cuttings) in their flesh. It is now assumed that making incisions (seritah) is not identical with cutting (gedidah), one being by hand and the other with a knife.

Talmud - Mas. Kiddushin 36a

are identical.[1]

Abaye said: This is Issi's reason, viz., he learns 'baldness', 'baldness', from the sons of Aaron:[2] just as there, women are exempt, so here too, women are exempt. But if we hold that the phrase ['the sons of Aaron'] relates to the whole section, let Scripture refrain from it,[3] and it [woman's exemption] follows a fortiori. For I may argue, If [of] priests, upon whom the Writ imposes additional precepts, [we say] 'the sons of Aaron' but not the daughters of Aaron, how much more so of Israelites! — But for the gezerah shawah I would think the connection is broken.[4] Then now too, let us say that the connection is broken; and as for the gezerah shawah, that is required for what was taught: They shall not make a baldness:[5] I might think that even if one makes four or five bald patches he is liable for only one [transgression]; therefore it is stated, karhah [a baldness],[6] intimating liability for each separate act. What is taught by, 'upon their head'? Because it is said: 'Ye shall not cut yourselves, nor make any baldness between your eyes for the dead': I might think that one is liable only for between the eyes. Whence do I know to include the whole head? Therefore it is stated: 'upon their head,' to teach liability for the [whole] head as for between the eyes. Now, I know this only of priests,[7] upon whom Scripture imposes additional precepts; whence do we know it of Israelites? — Karhah [baldness] is stated here, and karhah is also stated below; just as there, one is liable for every act of making baldness, and for the [whole] head as for between the eyes, so here too, one is liable for every act of baldness and in respect of the whole head as for between the eyes. And just as below, [baldness] for the dead [is meant], so here too it is for the dead![8] If so,[9] let Scripture write kerah [baldness]:[10] why karhah? That both may be inferred.

Raba said: This is Issi's reason, viz., he learns [the applicability of] 'between your eyes' from phylacteries:[11] just as there, women are exempt, so here too, women are exempt.

Now, why does Raba not say as Abaye? — [The distinction between] kerah and karhah is not acceptable to him. And why does Abaye reject Raba's reason? — He can tell you. Phylacteries themselves are learnt from this: just as there, ['between the eyes' means] the place where a baldness can be made [viz.,] on the upper part of the head,[12] so here too' the place for wearing [phylacteries] is the upper part of the head.[13] Now, according to both Abaye and Raba, how do they interpret this [verse], 'Ye are sons [etc.']?[14] — That is wanted for what was taught: 'Ye are sons of the Lord your God'; when you behave as sons[15] you are designated sons; if you do not behave as sons, you are not designated sons: this is R. Judah's view. R. Meir said: In both cases you are called sons, for it is said, they are sottish children;[16] and it is also said: They are children in whom is no faith;[17] and it is also

said, a seed of evil-doers, sons that deal corruptly;[18] and it is said, and it shall come to pass that, in the place where it was said unto them, Ye are not my people, it shall be said unto them, Ye are the sons of the living God.[19] Why give these additional quotations?[20] For should you reply, only when foolish are they designated sons, but not when they lack faith — then come and hear: And it is said: 'They are sons in whom is no faith'. And should you say, when they have no faith they are called sons, but when they serve idols they are not called sons — then come and hear: And it is said: 'a seed of evil-doers, sons that deal corruptly.' And should you say, they are indeed called sons that act corruptly, but not good sons — then come and hear: And it is said, and it shall come to pass that, in the place where it was said unto them, Ye are not my people, it shall be said unto them, Ye are the sons of the living God.[21]

MISHNAH. THE [RITES OF] LAYING HANDS, WAVING, BRINGING NEAR [THE MEAL-OFFERING], TAKING THE HANDFUL, BURNING [THE FAT], WRINGING [THE NECK OF BIRD SACRIFICES], RECEIVING AND SPRINKLING [THE BLOOD], ARE PERFORMED[22] BY MEN BUT NOT BY WOMEN, EXCEPTING THE MEAL-OFFERING OF A SOTAH[23] AND A NEZIRAH,[24] WHERE THEY [THEMSELVES] DO PERFORM WAVING.

GEMARA. THE [RITES OF] LAYING [HANDS], because it is written: Speak unto the sons of Israel. . . and he shall lay [his hand upon the head of the burnt-offering]:[25] thus the sons of Israel lay [hands], but not the daughters of Israel.

WAVING: Speak unto the sons of Israel . . ' [the fat with the breast, it shall he bring, that the breast] may be waved [etc.]:[26] hence, the sons of Israel wave, but not the daughters of Israel.

BRINGING NEAR [THE MEAL-OFFERING]: For it is written: And this is the law of the meal-offering: the sons of Aaron shall offer it:[27] the sons of Aaron, but not the daughters of Aaron.

TAKING THE HANDFUL. For it is written: And he shall bring it to Aaron's sons the priests: and he shall take thereout his handful [of the fine flour thereof].[28] the sons of Aaron, but not the daughters of Aaron.

BURNING [THE FAT]. Because it is written: And Aaron's sons shall burn it:[29] the sons of Aaron, but not the daughters of Aaron.

WRINGING [THE NECK OF BIRD SACRIFICES]. Because it is written, and he shall wring [off his head,] and burn it [on the altar]: thus wringing is assimilated to burning.[30]

RECEIVING [THE BLOOD]. Because it is written, and the priests, Aaron's sons, shall bring [the blood]:[31] and a Master said,

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(1) Both are either by hand or with an instrument.

(2) I.e., baldness is mentioned in Deut. XIV. If., in connection with Israelites, and in Lev. XXI, 5, in reference to the priests. Here too it is assumed that 'the sons of Aaron' in v. 1. applies to the whole section,

(3) This gezerah shawah.

(4) V. p. 174, n. 4.

(5) Lev. XXI, 5. Heb. lo yikrehu.

(6) The verb is followed by its cognate object, though this is unnecessary.

(7) 'Upon their head' referring to them.

(8) I.e., Lev, XXI, 5 refers to such a case.

(9) That the gezerah shawah does not also exclude women.

(10) A shorter form.

(11) Deut. XI, 18: and they shall be for frontlets between your eyes.

(12) I.e., where the hair grows.
(13) But not on the forehead above the nose, as 'between your eyes' would seem to imply.
(14) Since they derive Issi's dictum from another source.
(15) Obediently and lovingly.
(16) Jer. IV, 22.
(17) Deut. XXXII, 20.
(18) Isa. I, 4.
(19) Hos. II, 1.
(20) Lit., 'why 'and it is said'?'
(21) This whole passage expresses the firm belief that Israel can never be entirely rejected by God for all time. That in turn is based on the conviction that the Jew will never sin so completely as to render a return to God impossible, and the final verse quoted refers to such a religious regeneration.
(22) The meaning of these is made clear in the texts quoted in the Gemara.
(23) V. Glos.
(24) V. Glos,
(25) Lev. I, 2, 4.
(26) Ibid. VII, 29f.
(27) Ibid. VI, 7. ['Offer it', i.e., 'bring it near' the altar, v. Sotah 14b.]
(28) Ibid. II, 2.
(29) Sc. the fat, etc., mentioned in the preceding verses. — Ibid. III, 5.
(30) Hence it may not be done by women.
(31) Ibid. I, 5.

Talmud - Mas. Kiddushin 36b

'and they shall bring' refers to the receiving of the blood.

AND SPRINKLING. The sprinkling of what?[1] If that of the [red] cow — Eleazar is written in connection therewith?[2] If [that sprinkled] on the inner precincts [of the Temple],[3] is but the anointed priest is stated in connection therewith![4] — But it refers to the sprinkling of a bird's [blood], which is inferred a minori from an animal:[5] if an animal, for the slaughtering of which a priest was not specified,[6] yet a priest was specified for its sprinkling; then a fowl, for the wringing of whose neck a priest was appointed,[7] it surely follows that one [a priest] is specified for its sprinkling![8]

EXCEPTING THE MEAL-OFFERING OF A SOTAH AND A NEZIRAH. R. Eleazar said to R. Josiah his contemporary:[9] Do not sit down on your haunches[10] until you have told me this law: How do we know that the meal.offering of a sotah requires waving? [You ask,] 'How do we know!' it is written in the very section, and he shall wave the offering [before the Lord].[11] But [the question is,] how do we know that the waving must be by the owner?[12] — The meaning of 'hand' is deduced from a peace-offering. Here is written: Then the priest shall take [the jealousy- offering] out of the woman's hand:[11] while there [in reference to peace-offerings] it is written, his hands [sc. the owner's] shall bring [the offerings of the Lord made by fire]:[13] just as here the priest [is stated], so there too the priest [is meant]; and just as there the owner [is specified], so here too the owner [is required]. How so? The priest inserts his hand under the owner's and waves. We have found [this in the case of] sotah; how do we know [it of] a nezirah? — The meaning of 'palm' [kaf] is derived from sotah.[14]

MISHNAH. EVERY PRECEPT WHICH IS DEPENDENT ON THE LAND IS PRACTISED ONLY IN THE LAND [PALESTINE]; AND THAT WHICH IS NOT DEPENDENT ON THE LAND IS PRACTISED BOTH WITHIN AND WITHOUT THE LAND [IN THE DIASPORA],[15]

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(1) Lit., 'of where'.
(2) Num. XIX, 4: and Eleazar shall . . . sprinkle of her blood. Eleazar was the vice High Priest, and this shews that even

all other male priests are excluded; surely it is superfluous to state that women are debarred!
(3) The sprinkling on the veil and on the golden altar, mentioned in particular cases.
(4) Lev. IV, 5f: And the priest that is anointed shall take of the bullock's blood. . . and sprinkled of the blood . . . before the veil of the sanctuary. The difficulty is as explained in the previous note.
(5) Lit., 'a young of the herd'.
(6) An Israelite too may slaughter it, for it is written: And he shall kill the bullock before the Lord: and the priests . . . shall bring (i.e., receive) the blood — Lev. I, 5. Hence priests are required only from the reception of the blood and onward, but not for the actual slaughtering.
(7) Ibid. I, 15. Wringing the neck of a fowl is the equivalent of slaughtering an animal.
(8) And then the analogy between wringing and burning (supra 36a bottom) is extended to sprinkling. — Actually, the Gemara could state that it refers to the sprinkling of animals' blood, but it goes further and teaches it even of bird sacrifices, though there it is not explicitly mentioned. Moreover, if the Mishnah referred to animals' blood, zerikoth should have been employed, not hazza'oth (the verb zarak being generally used in the Bible for the sprinkling of the blood of animals). Maharsha.
(9) R. Eleazar was an Amora of the third century. There was a Tanna of the second century named R. Josiah, and Rashi assumes that he was still living when R. Eleazar made the following remark; hence the Talmud observes that R. Josiah referred to here was the Amora, his contemporary, not the Tanna.
(10) I.e., do not sit down at all (Tosaf. Naz.24b, s.v. אמר) v. Nazir (Sonc. ed.) p. 87, n. 9.
(11) Num. V, 25; the reference is to sotah.
(12) I.e., by the woman herself.
(13) Lev. VII, 30.
(14) Sotah, Num. V, 18: and he (the priest) shall put the offering of memorial in her palms (E.V. hands); nazir, (and the same applies to a nezirah), ib. VI, 19: and he (the priest) shall put them upon the palms (E.V. hands) of the Nazirite. The employment of 'palm' in both cases teaches that their provisions are identical.
(15) The Gemara explains the meaning of 'DEPENDENT' and 'NOT DEPENDENT'.

Talmud - Mas. Kiddushin 37a

EXCEPT 'ORLAH[1] AND KILAYIM.[2] R. ELEAZAR SAID: HADASH[3] TOO.[4]

GEMARA. What is the meaning of 'DEPENDENT' and 'NOT DEPENDENT'? Shall we say: 'DEPENDENT' refers to those [precepts] where 'coming' is written, and 'NOT DEPENDENT' to those where 'coming' is not stated?[5] But phylacteries and the [redemption of] the firstling of an ass are practised both within and without the land, though 'coming' is written in connection with them?[6] — Said Rab Judah: This is its meaning: every precept which is a personal obligation[7] is practised both within and without the Land; but what is an obligation of the soil[8] has force only within the Land.

How do we know these things? — For our Rabbis taught: These are the statutes[9] — this refers to the [Rabbinic] interpretations;[10] and the judgments — to civil law; which ye shall observe — to [the study of the] Mishnah; to do — to actual practice; in the land: I might think that all precepts are binding in the Land only — therefore it is stated, all the days that ye live upon the earth. If 'all the days', I might think that [all precepts] must be practised both within and without the Land — therefore it is taught: 'in the land'. Now, since the Writ extends and limits [the duration of the precepts], go forth and learn from what is stated in that passage: Ye shall utterly destroy all the places, wherein the nations served their God:[11] just as [the destruction of] idolatry is singled out as being a personal duty, and is obligatory both within and without the land,[12] so everything which is a personal duty is incumbent both within and without the land.

EXCEPTING ORLAH AND KIL'AYIM [etc.]. The scholars propounded: Does R. Eleazar disagree in the direction of leniency or [greater] stringency? 'In the direction of stringency,' the first Tanna stating thus: EXCEPTING 'ORLAH AND KIL' AYIM, concerning which there is a

traditional law, though one might argue that it is a duty connected with the soil, but hadash is practised only in the Land, but not without. What is the reason? 'Dwelling' implies after taking possession and settling down.[13] Whereon R. Eleazar comes to say that hadash too applies both within and without the Land: What is the reason? 'Dwelling' implies wherever you may be living.[14] Or perhaps, he differs in the direction of leniency, the first Tanna stating thus: EXCEPTING 'ORLAH AND KIL'AYIM, concerning which there is a traditional law,[15] and all the more so hadash, for 'dwelling' implies wherever you are living.[16] Whereon R. Eleazar comes to say that hadash is practised only in the land, for 'dwelling' implies after taking possession and settling down. While to what does TOO refer? To the first [clause].[17]

Come and hear: For Abaye said: which Tanna disagrees with R. Eleazar [in our Mishnah]? R. Ishmael. For it was taught: This is to teach you that wherever 'dwelling' is stated, it means only after taking possession and settling down:[18] this is R. Ishmael's opinion. Said R. Akiba to him: But the Sabbath, in connection with which 'dwellings' is stated,[19] is yet binding both within and without the land?[20] The Sabbath, replied he to him, is inferred a minori: if light precepts must be practised both within and without the land, surely the Sabbath, which is more stringent! Since Abaye said: 'Which Tanna disagrees with R. Eleazar? R. Ishmael,' it follows that R. Eleazar differs in the direction of [greater] stringency.[21] This proves it.

Now consider: to what does R. Ishmael refer? To libations. But in the case of libations

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(1) V. Glos.

(2) V. Glos. Though dependent on the land, these are binding in the diaspora too.

(3) V. Glos.

(4) It may not he eaten before the bringing of the 'omer (q.v. Glos); v. Lev. XXIII, 10-14.

(5) I.e., 'dependent' means that Scripture made the performance of the particular precept conditional upon entering Palestine; e.g., Lev. XIX, 23: And when ye shall come into the land, and shall have planted etc.

(6) Ex. XIII, 11ff.: And . . . when the Lord shall bring thee (in Heb. 'bring' is the causative form of 'come' — 'make thee come') into the land . . . then every firstling of an ass thou shalt redeem with a lamb . . . and it shall be for a sign upon thine hand, and for frontlets between thine eyes (i.e., phylacteries).

(7) I.e., which throws no obligation upon the soil or its produce, but on the person himself.

(8) Arising out of land produce, e.g., tithes.

(9) Deut. XII, 1.

(10) I.e., laws not explicitly stated in the Bible but derived by Rabbinic exegesis.

(11) Ibid. 2.

(12) Since 'all the days etc.,' immediately precedes this,

(13) The section on hadash is concluded with the passage: it shall be a statute for ever throughout your generations in all your dwellings (Lev. XXIII, 14). Now, it might be held that 'in all your dwellings' implies that hadash is binding even without Palestine. This Tanna, however, on the present hypothesis, maintains that on the contrary it teaches that even in Palestine it came into force only after the Israelites had conquered the land and settled down in dwellings, but not while they were fighting and dividing up the country.

(14) V. preceding note.

(15) But no Biblical intimation.

(16) So that its exception is intimated in the Bible,

(17) I.e., R. Eleazar said that hadash too is included in the general principle that all precepts dependent etc.

(18) The reference is to Num. XV, 2ff.: When ye come into the land of your dwellings, which I give unto you (lakem, plural), and will make an offering burnt by fire unto the Lord . . . then shall he that offereth ... offer a meal-offering . . . and wine for the drink-offering (libations). Before the erection of the Temple, sacrifices might be offered at either private or public bamoth (high places), one of which was at Gilgal. Now, R. Ishmael deduces from the phrase 'unto you', which is in the plural, that the reference is to a public bamah (sing. of bamoth), and only there were libations required. Consequently, 'dwellings' cannot mean wherever you dwell, since the public bamah was in one place only, but as stated in the text, and it teaches that though there was a public bamah at Gilgal during the fourteen years of conquest and

division, libations were to be brought only after that, when all had settled down in dwellings.

(19) Rashi: Ye shall kindle no fire throughout your habitations on the Sabbath day — Ex. XXXV, 3. Tosaf.: it is the Sabbath of the Lord in all your dwellings. — Lev. XXIII, 3. (Heb. moshaboth is variously translated dwellings or habitations in the E.V.)

(20) Hence dwellings implies extension, in all places. The same holds good of libations, which are accordingly to be offered at private bamoth too. Hence the passage is thus interpreted: Now that you are in the wilderness and have a tabernacle, private bamoth are altogether forbidden. But when ye come unto the land of your habitations, before a tabernacle is erected (as it was subsequently at Shiloah), private bamoth for sacrifice will be permitted, and there too libations will be required.

(21) For the first suggested meaning of the Mishnah must be the correct one.

Talmud - Mas. Kiddushin 37b

both ‘coming’ and ‘dwelling’ are written![1] — It means thus: This is to teach that wherever ‘coming’ and ‘dwelling’ are stated, it means only after taking possession and settling down: that is R. Ishmael's opinion. If so, [when the Baraitha proceeds:] Said R. Akiba to him, ‘But the Sabbath, in connection with which dwellings is stated’ [etc.], and he answered him, ‘The Sabbath is inferred a minori’, he should have answered him, ‘I spoke of "coming" and "dwelling"’? — He gives him a twofold answer.[2] Firstly, I refer to ‘coming’ and ‘dwelling’. Moreover, as to what you say: ‘Behold the Sabbath, in connection with which "dwellings" is stated’ — the Sabbath is inferred a minori.

Wherein do they differ? — In whether they offered libations in the wilderness: R. Ishmael maintains that they did not offer libations in the wilderness, whereas R. Akiba holds that they did offer libations in the wilderness.[3]

Abaye said: This Tanna of the School of Ishmael contradicts[4] another Tanna of the School of Ishmael. For the School of Ishmael taught: Since unspecified ‘comings’ are stated in the Torah, whilst the Writ explained in the case of one [that it means] after posses — sion and settling down,[5] so all mean after possession and settling down.[6] And the other?[7] — Because [the appointment of a] king and [the offering of] first-fruits are two verses with the same teaching,[8] and any two verses with the same teaching do not illumine [others]. And the other?[9] — Both are necessary. For if the Divine Law wrote the case of a king but not first-fruits, I would argue, Since there is enjoyment [of crops] in the case of first-fruits, [the obligation comes] immediately.[10] And if the case of first-fruits were stated but not that of a king, I would reason, Since it is a king's way to conquer, [he must be appointed] immediately [on entering the land]. And the other? — Let the Divine Law state the case of a king, and then first-fruits become unnecessary, for I would reason: If a king, who is for conquest, [is appointed only] after possession and settling down, how much more so are first-fruits [obligatory only then]! And the other? — If it were thus written: I would say: It [first-fruits] is analogous to hallah;[11] hence we are informed [that it is not so].

Now that you say that a personal duty must be practised both within the Land and without the Land, what is the purpose of ‘dwelling,’ which the Divine Law wrote in connection with the Sabbath?[12] — It is necessary. I would say: Since it is written in the chapter on Festivals, it requires sanctification, like the Festivals;[13] hence we are informed[14] [that it is not so]. What is the purpose of ‘dwelling’ written by the Divine Law in connection with forbidden fat and blood?[15] — It is necessary. I might say: Since it is written in the section on sacrifices, as long as sacrifices are practised, heleb[16] and blood are forbidden, but not when they are no longer practised. Hence we are informed [otherwise].

What is the purpose of ‘dwelling’ written by the Divine Law in connection with unleavened bread and bitter herbs?[17] — It is necessary. I might have thought, since it is written: They shall eat it [the Paschal lamb] with unleavened bread and bitter herbs:[18] it holds good only when the Passover

sacrifice is [offered], but not otherwise. Hence we are informed [that it is not so].

What is the purpose of 'coming' which the Divine Law wrote in connection with phylacteries and the firstling of an ass?[19] — That is needed for what the School of Ishmael taught: Perform this precept, for thou shalt enter the land on its account.

Now, on the view that 'dwelling' implies wherever you live,[20] it is well: hence it is written, and they did eat of the [new] produce of the land on the morrow after the passover:[21] they ate on the morrow after the Passover, but not before, which shews

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(1) How then can he infer as above? Possibly 'dwelling' alone denotes extension, in all places, yet here it implies limitation, because 'coming' too is mentioned.

(2) Lit., 'He says to him, 'One thing, and furthermore",'

(3) Thus: (explaining R. Akiba first:) since libations were offered in the wilderness (naturally at the public bamah, for private bamoth were at that time forbidden), the verse under discussion cannot teach that libations would be required at the public bamoth when they entered Palestine, for they were already obligatory before them. Hence it can refer only to the private bamoth during the fourteen years of conquest and allotment (for thereafter private bamoth were illegal); and so dwelling must be an extension, implying wherever you dwell. According to R. Ishmael, however, the verse can teach that libations would be incumbent at the public bamoth, for hitherto, in the wilderness, they had been forbidden (and the fact that public bamoth are now referred to follows from the plural 'you', as stated on p. 182, n. 4); consequently 'dwelling' can only mean after settling down.

(4) Lit., 'excludes that of.

(5) In reference to the appointment of a king, Deut. XVII, 14: When thou art come unto the land which the Lord thy God giveth thee, and shalt possess it, and shalt dwell therein.

(6) Thus in his view 'coming' itself implies this, without the addition of dwelling.

(7) The first Tanna: why does he insist on both?

(8) The fuller definition is also stated with respect to first-fruits, ibid, XXVI, 1: And it shall be, when thou art come in unto the land which the Lord thy God giveth thee for an inheritance, and possessest it, and dwellest therein.

(9) Does he not admit this?

(10) For what does it matter whether one is settled or not? If one enjoys a harvest, the first to ripen should be an offering!

(11) V. Glos. All admit that this became incumbent immediately they entered the land, cf. Num. XV, 18 and Sifre a.l.

(12) V. Ex. XXXV, 3.

(13) V. Lev. XXIII. The Festivals were dependent on the sanctification of the month in which they fell, which could be done only by the Sanhedrin in Judah.

(14) By the word 'dwellings', which applies to all places.

(15) Lev. III, 17: It shall be a perpetual statute throughout your generations in all your dwellings, that ye shall eat neither fat nor blood.

(16) I.e., the forbidden fat.

(17) Ex. XII, 20: In all your habitations shall ye eat unleavened bread. — Bitter herbs are mentioned because they generally go together with unleavened bread, but actually 'dwelling' is not found in connection therewith, and in fact the obligation nowadays (i.e., after the destruction of the Temple) to eat them is only Rabbinical; in Rashi's text 'bitter herbs' seem to have been absent (S. Strashun).

(18) Num. IX, 11.

(19) Since these are independent of Palestine.

(20) So that dwelling written in connection with hadash (Lev. XXIII, 14) does not teach that this holds good only after settling down.

(21) Josh. V, 11. E.V. translates 'old corn'; 'old' is not in the text, and the Gemara assumes that the reference is to the new corn, for otherwise, on the morrow after the passover is pointless.

that the 'omer[1] was first offered and then they ate. But on the view that ['dwelling' implies] after possession and settling,[2] they could have eaten immediately? — They did not need to, for it is written, and the children of Israel did eat the manna forty years, until they came to a land inhabited; they did eat the manna, until they came unto the borders of the land of Canaan.[3] Now, it is impossible to say [literally], 'until they came unto the land inhabited,' since it is also said: '[until they came] unto the borders of the land of Canaan';[4] conversely, 'unto the borders of the land of Canaan' cannot be understood [literally], since it is also said: 'until they came unto a land inhabited!' How then [are these to be reconciled]? Moses died on the seventh of Adar and the manna ceased to descend, but they used the manna which was in their vessels until the sixteenth of Nisan.[5]

Another [Baraitha] taught: 'And the children of Israel did eat the manna forty years'. Did they then eat [it] forty years: surely they ate it but forty years less thirty days?[6] But it is to teach you that they experienced the taste of manna in the cakes which they brought forth from Egypt.

Another [Baraitha] taught: On the seventh of Adar Moses died, and on the seventh of Adar he was born. How do we know that he died on the seventh of Adar? For it is written: [i] So Moses the servant of the Lord died there;[7] [ii] And the children of Israel wept for Moses in the plains of Moab thirty days;[8] [iii] Moses thy servant is dead; now therefore arise, go over [this Jordan];[9] [iv] Pass through the midst of the camp, and command the people, saying: Prepare you victuals; for within three days ye are to pass over this Jordan;[10] and [v] and the people came up out of Jordan on the tenth day of the first month;[11] deduct[12] the preceding thirty three days,[13] thus you learn that Moses died on the seventh of Adar.[14]

And how do we know that he was born on the seventh of Adar? — For it is said: And he [Moses] said unto them, I am an hundred and twenty years old this day; I can no more go out and come in.[15] Now, 'this day' need not be stated;[16] why then is it stated? It teaches that the Holy One, blessed be He, sits and completes the years of the righteous [exactly] from day to day and month to month, as it is said,the number of thy days I will fulfil.[17]

It was taught: R. Simeon b. Yohai said: The Israelites were given three precepts[18] on their entry into the Land,[19] yet they are practised both within and without the Land, and it is logical that they shall be thus binding. If hadash, which is not permanently forbidden,[20] nor is [all] benefit thereof prohibited,[21] and its interdict can be raised,[22] is [nevertheless] operative both within and without the Land;[23] then kil'ayim, which are permanently forbidden,[24] of which [all] benefit is prohibited,[25] and the interdict of which cannot be raised, it surely follows that it has force both within and without the land; and the same logic applies to 'orlah on two [grounds].[26] R. Eleazar son of R. Simeon said:

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(1) V. GIos,

(2) So that the law of hadash was inoperative when they first entered Palestine.

(3) Ex. XVI, 35. 'Land inhabited' refers to cis-Jordania, not Gilead on the east of the Jordan, though two and a half tribes did settle there.

(4) But not Canaan itself.

(5) Hence 'until they came to a land inhabited' refers to the actual period of eating it, while it descended only 'until they came to the borders etc.', where Moses died.

(6) For they came to the wilderness of Sin on the fifteenth of the second month (Ex. XVI, 1), complained of the lack of food (ibid. 2f.), and received the manna on the following day (ibid. 6f, 13). As they ate it until the sixteenth of the first month forty years later, these forty years were short by one month.

(7) Deut. XXXIV, 5.

(8) Ibid. 8.

(9) Josh. I, 2.

(10) Ibid, 11. The month of Nisan.

(11) Ibid. IV, 19.

(12) From the 10th Nisan.
(13) N. ii and iv.
(14) From Adar 7th to Nisan 10th are 33 days.
(15) Deut. XXXI, 2.
(16) Obviously he gave his age as on that day.
(17) Ex. XXIII, 26. Hence he was then exactly a hundred and twenty years old, which was the day of his death; consequently he was born on that day too.
(18) Hadash, 'orlah and kil'ayim.
(19) Since there was no sowing, planting, or harvesting in the wilderness.
(20) But only up to and including the sixteenth of Nisan, the day on which the 'omer is offered.
(21) Though it may not be used for human consumption, it may be given to animals.
(22) Lit., 'permitted'. Even on the sixteenth itself, by the offering of the 'omer.
(23) Interpreting dwelling in Lev. XXIII, 14, 'wherever you live'.
(24) If diverse seeds are sown, their produce is forbidden for all time.
(25) Not only consumption.
(26) The third does not apply, 'orlah not being permanently forbidden.

Talmud - Mas. Kiddushin 38b

All precepts which the Israelites were commanded [to practise] before their entry into the Land[1] are operative both within and without the Land; after their entry into the Land, are operative only within the Land, except release of money [debts] and liberation of slaves:[2] though they were commanded concerning these after their entry into the Land,is they are practised both within and without the Land. But the release of debts is a personal duty?[3] — It is necessary [to state it] Only because of what was taught. Rabbi said: And this is the manner of release: release [thou] [every creditor, etc.][4] the Writ speaks of two releases, the release of soil and the release of debt.[5] At the time when you release soil, you release debts; and at the time when you do not release soil, you do not release debts.[6] But perhaps it means thus: in the place that you must release soil [sc. Palestine], you must release debts; but in the place where you do not release soil [sc. in the Diaspora], you do not release debts?[7] Therefore it is stated, because the Lord's release hath been proclaimed,[8] teaching, under all circumstances.[9]

[Again], liberation of slaves is a personal obligation? — I might have thought, since it is written, and ye shall proclaim liberty throughout the land,[10] it holds good only in the Land, but not without; therefore it is stated, it is a jubilee,[11] implying, under all circumstances. If so, what is taught by 'the land'? — When liberation [of slaves] is in force in the Land, it is in force without; when it is not in force in the Land,[12] it is not in force without.

We learnt elsewhere: Hadash is forbidden by Scriptural law everywhere; [the prohibition of] 'orlah [without palestine] is a halachah, and [that of] kil'ayim is from the words of the Scribes.[13] What is meant by halachah? — Rab Judah said in Samuel's name: It is a law of the country.[14] 'Ulla said in R. Johanan s name: It is a halachah of Moses from Sinai.[15] Said 'Ulla to Rab Judah: On my view that it is a halachah of Moses from Sinai,[16] it is well; therefore we distinguish between doubtful 'orlah and doubtful kil'ayim. For we learnt: Doubtful 'orlah[17] is forbidden in the Land, permitted in Syria,[18] whilst outside the Land one may enter [a Genthe's field] and make a purchase,[19] providing, however, that he does not see him [the Gentile] gather ['orlah].[20] Whereas in respect to kil'ayim we learnt: If a vineyard is planted with vegetables,[21] and vegetables are sold outside it:[22] in the Land they are forbidden; in Syria, permitted; in the Diaspora he [the Gentile owner of the vineyard] may enter and gather them,[23] providing, however, that he [the Jew] does not personally[24] gather [them][25] But on your view,

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(1) I.e., which rank as personal duties.

(2) The first in the seventh (Deut. XV, 1f) and the second in the jubilee year (Lev. XXV, 10). (15) This is questioned by the Gemara below.
(3) And therefore in force before they entered Palestine (Rashi).
(4) Deut. XV, 2.
(5) Deduced from the repetition of the word 'release'.
(6) By 'release of soil' is meant the return of land at jubilee (Lev. XXV, 10, 23, 28). Obviously this did not operate in the wilderness, when they had no land, and therefore debt release was inoperative too, though it is a personal obligation.
(7) Even in Temple times.
(8) Ibid.
(9) This follows from the emphasis suggested by the quotation.
(10) Lev. XXV, 10,
(11) Ibid,
(12) I.e., when there is no Temple.
(13) V. p. 79, n. 7. Biblically the law applies only to Palestine.
(14) It is practised voluntarily in the Diaspora.
(15) It is a compulsory prohibition going back to Moses, handed down by tradition, though not stated in the Bible.
(16) And so has the force of Biblical Law, v. infra p. 190, n. 11.
(17) Fruit of which it is not known whether it is of the first three years of planting or not.
(18) Syria was not originally part of Palestine but conquered by David (I Chron. XIX, 18f); and it is disputed whether David's conquest (technically called the conquest of an individual) conferred the full sanctity of Palestine upon it. This Tanna holds that it did not; consequently the law of 'orlah is not so stringent there, and so doubtful 'orlah is permitted. Yet one may not procure it in the first place, since Syria is not absolutely distinct from Palestine in sanctity.
(19) Of fruit, even if he knows that the Gentile sells 'orlah.
(20) [Of fruit which may be doubtful 'orlah.]
(21) Between the vines, which renders both forbidden as kil 'ayim of the vineyard.
(22) And there is a reasonable fear that they may be from the vineyard.
(23) And sell to a Jew.
(24) Lit., 'with his hand'.
(25) Comparing these two, we see that 'orlah is treated more stringently than kil 'ayim.

Talmud - Mas. Kiddushin 39a

let it be taught in both cases either that he [the Jew] may enter and make a purchase, or that he [the Gentile] may enter and gather [them]?[1] — Samuel did indeed say to R. 'Anan, Read in both cases either that he [the Jew] may enter and make a purchase, or that he [the Gentile] may enter and gather [them]. Mar son of Rabbana recited it in the direction of leniency: In both cases he [the Gentile] may enter and gather them, provided that he [the Jew] does not personally gather.

Levi said to Samuel: Arioch,[2] Supply me with doubtful ['orlah] and I will eat [thereof].[3] R. Awia and Rabbah son of R. Hanan supplied each other with doubtful ['orlah].[4] The keen scholars of Pumbeditha[5] said. There is no 'orlah in the Diaspora. When Rab Judah sent [this ruling] to R. Johanan, he sent back: Conceal[6] [the law of] doubtful ['orlah],[7] destroy certain ['orlah], and proclaim that these fruits must be hidden,[8] and whoever maintains that there is no 'orlah in the Diaspora, he will have no offspring nor posterity 'that shall cast the line by lot in the congregation of the Lord'.[9] But with whom do they [the 'keen scholars'] hold? — With what was taught: R. Eleazar son of R. Jose said on the authority of R. Jose b. Durmaskah, who stated it on the authority of R. Jose the Galilean, who said it on the authority of R. Johanan b. Nuri, who said it on the authority of R. Eleazar the Great: There is no 'orlah in the Diaspora. Is there not? But we learnt: R. ELEAZAR SAID, HADASH TOO?[10] — Read, HADASH.[11]

R. Assi said in R. Johanan's name: [The prohibition of] 'orlah in the Diaspora is a halachah of Moses from Sinai.[12] Said R. Zera to R. Assi: But we learnt: Doubtful 'orlah is forbidden in the Land

but permitted in Syria.[13] He was momentarily non — plussed;[14] [then] he answered him,[15] Perhaps it [the Mosaic halachah] was thus given: Doubtful [‘orlah] is permitted [in the Diaspora], certain [‘orlah] is forbidden.

R. Assi said in R. Johanan's name: One is flagellated for [violating the prohibition of] kil'ayim [in the Diaspora] by Biblical law. But we learnt,[16] kil ‘ayim [is forbidden] by the words of the Soferim?[17] — There is no difficulty: the one refers to kil'ayim of the vineyard, and the other to the grafting of [heterogeneous] tree[s].[18] That agrees with Samuel. For Samuel said: My statutes ye shall keep:[19] [that implies] the statutes which I decreed for you in former times.[20] Thou shalt not let thy cattle gender with a diverse kind: thou shalt not sow thy field with two kinds of seeds.’[21] just as [the prohibition of] ‘thy cattle’ [means] by copulation, so is [that of] ‘thy field’ by grafting;[22] and just as [the law in regard to] ‘thy cattle’ is in force both within and without the Land, so is [that concerning] ‘thy field’ in force alike within and without the Land. But still, ‘thy field’ is written![23] — That is to exclude [diverse] seeds in the Diaspora.[24]

R. Hanan and R. ‘Anan were walking along a path, when they saw a man sowing [diverse] seeds together. Said one to the other, ‘Come, Master, let us ban him.’[25] ‘You are not clear [on this law],’ he replied. Again they saw another man sowing wheat and barley among vines. Said one to the other, ‘Come, Master, let us ban him.’ ‘You are not thoroughly versed [in this law],’ he rejoined. ‘Do we not fully accept R. Josiah's dictum, that [he is not guilty] unless he sows wheat, barley, and grape-stone in the [same] hand-throw?’[26] R. Joseph mixed seeds and sowed [them].[27] Thereupon Abaye protested: But we learnt: Kil'ayim is forbidden [in the] Diaspora by the words of the Scribes! — There is no difficulty, answered he. That [the Mishnah quoted] refers to kil'ayim of the vineyard; this [my action] is with kil'ayim of seeds. Kil'ayim of the vineyard, of which in the Land [all] benefit is forbidden, are also Rabbinically prohibited outside the Land; kil'ayim of seeds, however, of which [even] in palestine benefit is not forbidden,[28] are not prohibited by the Rabbis in the Diaspora. Subsequently R. Joseph said: My former statement was incorrect,[29] for Rab sowed the scholars’ garden[30] in separate beds.[31] What is the reason? Surely in order [to avoid] the mixture of kil'ayim?[32] Said Abaye to him: Now that were indeed well if we were informed

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(1) Since ‘orlah and kil'ayim are alike, neither having Biblical force.

(2) A playful nickname, v. Gen. XIV, 9, Arioch king of Ellasar; by a pun, Ellasar was read al assur, and the phrase applied to Samuel: he was king, but not in ritual law. When Rab and Samuel differ in respect to civil law, the halachah agrees with Samuel; in ritual law, with Rab. V. Shab. 53a Marginal glosses. [S. Funk, Die Juden in Babylonian, I. p. 42, n. 2. takes the term to denote ‘the Tall’, and as a variant of Arika, a cognomen by which Rab was known, on account of his extraordinary stature.]

(3) I.e., gather fruit in my absence, so that I do not know whether it is ‘orlah; Others (mentioned in Tosaf. Ri) translate: supply me (with certain ‘orlah), Levi holding that the prohibition of ‘orlah is inoperative in the Diaspora.

(4) [By exchanging fruit cut by one in the absence of the other.]

(5) A great academy town in Babylon. The term ‘keen scholars’ denotes Eyfa and Abimi, the son of Rahaba (Sanh. 17b).

(6) Lit., ‘shut’.

(7) It is permitted, but since there is already a tendency to treat ‘orlah lightly, do not teach this publicly.

(8) I.e., not eaten.

(9) Micah II, 5.

(10) Since he adds hadash, he.evidently agrees with the first Tanna that ‘orlah is forbidden.

(11) I.e., only hadash, but not ‘orlah.

(12) Various views are held as to the exact meaning of this phrase. Some take it in its literal sense as indicating that the law in question was actually handed down from Moses. Others understand it more figuratively in the sense of a traditional law, whilst its alleged Mosaic origin is not to be taken literally’. V. Weiss, Dor., I. [For a full discussion of this phrase as well as of all the passages where it occurs, v. Bacher, W., Kohler-Festschrift pp. 56ff.]

(13) But if certain ‘orlah is forbidden in the Diaspora by Mosaic law, how can we be lenient in doubtful ‘orlah? (It is a general principle that when in doubt, we are stringent if the law is Biblical or Mosaic, lenient if it is only Rabbinical).

(14) [Lit., ‘was appalled for a who’, quoted from Dan. IV, 26.]
(15) Or possibly, the questioner himself suggested it.
(16) Cur. ed. read: R. Eleazar b. R. Jose said to him, But we learnt. This is obviously incorrect, since R. Eleazar b. R. Jose was a Tanna of an earlier generation, and so the Wilna Gaon deletes it. But Asheri reads: R. Eleazar said to R. Assi, which will refer to R. Eleazar b. Pedath, his contemporary.
(17) V. p. 79, n. 7.
(18) In the latter case diverse growths are actually grafted on each other: that is Biblically forbidden. But in kil'ayim of the vineyard diverse seeds are grown near each other, and though their roots may even intertwine, there is no actual grafting; that is forbidden by Rabbinic law only.
(19) Lev. XIX, 19.
(20) I.e., to the children of Noah. This follows because Scripture does not state, ye shall keep my statutes (E.V., which does translate thus, disregards the order of the Hebrew) but gives precedence to ‘my statutes,’ implying that they were already long in existence.
(21) Ibid.
(22) I.e., in both cases the actual fusion of diverse species is forbidden.
(23) Implying specifically thine, viz., Palestine.
(24) I.e., the planting of diverse seeds in a vineyard is not Biblically forbidden outside Palestine. That follows because the verb ‘to sow’ is more applicable to the sowing of seeds, and with that ‘thy field’ is linked. Nevertheless the analogy, which intimates that grafting is referred to, which is possible only in the case of trees, also shews that grafting is forbidden in the Diaspora too.
(25) For violating Rabbinic law.
(26) I.e., he must have two species of grain and the seed of the vine in his hand and cast them simultaneously into the soil.
(27) Not in a vineyard.
(28) Though diverse seeds may not be sown in Palestine, yet if sown one may benefit from (though not consume) the produce.
(29) Lit., ‘was nothing’.
(30) A vegetable garden for the benefit of his disciples.
(31) For different species.
(32) And this was outside Palestine.

Talmud - Mas. Kiddushin 39b

[that he sowed] four [species] on the four sides of the bed and one [species] in the middle.[1] Here, however,[2] he did so on account of beauty, or [to save] the attendant trouble.[3]

MISHNAH. HE WHO PERFORMS ONE PRECEPT IS WELL REWARDED,[4] HIS DAYS ARE PROLONGED, AND HE INHERITS THE LAND,[5] BUT HE WHO DOES NOT PERFORM ONE PRECEPT, GOOD IS NOT DONE TO HIM, HIS DAYS ARE NOT PROLONGED, AND HE DOES NOT INHERIT THE LAND.[6]

GEMARA. But a contradiction is shewn: These are the things the fruit of which man eats in this world,[7] while the principal remains for him for the future world. Viz., honouring one's parents, the practice of loving deeds, hospitality to wayfarers,[8] and making peace between man and his neighbour; and the study of the Torah surpasses them all.[9] — Said Rab Judah: This is its meaning: HE WHO PERFORMS ONE PRECEPT in addition to his [equally balanced] merits[10] IS WELL REWARDED, and he is as though he had fulfilled the whole Torah. Hence it follows that for these others [one is rewarded] even for a single one![11] — Said R. Shemaiah: That teaches that if there is an equal balance, it tips the scale.[12]

Yet is it a fact that he who performs one precept in addition to his [equally balanced] merits is rewarded? But the following contradicts it: He whose good deeds outnumber his iniquities is

punished,[13] and is as though he had burnt the whole Torah, not leaving even a single letter;[14] while he whose iniquities outnumber his good deeds is rewarded,[15] and is as though he had fulfilled the whole Torah, not omitting even a single letter! — Said Abaye: Our Mishnah means that a festive day and an evil day are prepared for him,[16] Raba said: This latter agrees with R. Jacob, who said: There is no reward for precepts in this world.[17] For it was taught: R. Jacob said: There is not a single precept in the Torah whose reward is [stated] at its side which is not dependent on the resurrection of the dead.[18] [Thus:] in connection with honouring parents it is written, that thy days may be prolonged, and that it may go well with thee.[19] In reference to the dismissal of the nest[20] it is written, that it may be well with thee, and that thou mayest prolong thy days.[21] Now, if one's father said to him, 'Ascend to the loft and bring me young birds,' and he ascends to the loft, dismisses the dam and takes the young, and on his return falls and is killed — where is this man's happiness[22] and where is this man's prolonging of days? But 'in order that it may be well with thee', means on the day that is wholly good; and 'in order that thy days may be long', on the day that is wholly long.[23]

Yet perhaps there was no such happening?[24] — R. Jacob saw an actual occurrence. Then perhaps he[25] was meditating upon a transgression? — The Holy One, blessed be He, does not combine an evil thought with an [evil] act.[26] Yet perhaps he was meditating idolatry, and it is written, that I may take the house of Israel in their own heart?[27] — That too was precisely his point: should you think that precepts are rewarded in this world, why did the [fulfilment of these] precepts not shield him from being led to [such] meditation?[28]

Yet R. Eleazar said: Those who are engaged[29] on a precept are never harmed?[30] — There, when they are going [to fulfil the precept], it is different.[31] But R. Eleazar said: Those who are engaged on a precept are never harmed, either when going or returning? — It was a rickety ladder, so that injury was likely,[32] and where injury is likely one must not rely on a miracle, for it is written, and Samuel said: How can I go? if Saul hear it, he will kill me.[33]

R. Joseph said: Had Aher[34] interpreted this verse[35] as R. Jacob, his daughter's son, he would not have sinned.[36] Now, what happened with Aher? Some say, he saw something of this nature.[37] Others say, he saw the tongue of Huzpith the Interpreter dragged along by a swine.[38] 'The mouth that uttered pearls licks the dust!' he exclaimed. [Thereupon] he went forth and sinned.[39]

R. Tobi son of R. Kisna pointed out a contradiction to Raba: We learnt: HE WHO PERFORMS ONE PRECEPT IS WELL REWARDED; hence, only if he [actively] performs it, but not otherwise. But the following contradicts this: If he sits and commits no transgression he is rewarded as though he has fulfilled a precept! — Said he to him: There it means, e.g., that he was tempted[40] and successfully resisted.[41] As in the case of R. Hanina b. Pappi, whom a certain matron urged [to immorality]. He pronounced a certain [magical] formula, whereupon his body was covered with boils and scabs;[42] but she did something and he was healed. So he fled and hid himself in a bath-house in which when [even] two entered, even in daytime, they would suffer harm.[43] The next morning the Rabbis asked him, 'Who guarded you?' Said he to them, 'Two

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(1) I.e., sowing different species in the same bed, yet taking care according to the regulation to leave sufficient space between each for their roots not to intertwine; v. Shab. 84b. The only possible reason would then be that kil'ayim are forbidden outside Palestine.

(2) Since he did not observe this regulation.

(3) In fetching vegetables, he would know the place of each species.

(4) Lit., 'good is done to him'.

(5) I.e., the future world.

(6) The Mishnah is explained in the Gemara.

(7) I,e., he is rewarded for them in this world.

(8) [This does not occur in the Mishnah, Pe'ah I, whence the passage is quoted, and is omitted in MS.M.]

(9) Thus, only for these is one rewarded in this world, whereas the Mishnah states this of any precept. To the Rabbis study was not only a means to religious observance (cf. infra 40b: study is great, as it leads to action), but a religious act in itself, — indeed, one of the most important, as is shewn by this and numerous other passages in the Talmud. Nevertheless, they were far from believing that religious sincerity might be replaced by mere intellectualism; v. M. Joseph, Judaism as Creed and Life, p. 360.
(10) I.e., his good deeds and bad are exactly balanced, and then he performs a precept, thus tipping the scale.
(11) Even if he has no other good deeds to his credit — surely not!
(12) If one's good deeds and bad are exactly equal, yet among the good deeds is one of those enumerated above, it causes the former to preponderate.
(13) Lit., 'evil is done to him'.
(14) Thus he is purged of his sins in this world, that he may wholly enjoy the next.
(15) For his good deeds in this world, that he may wholly suffer punishment in the next.
(16) By 'good is done to him' the Mishnah means that he is punished in this world; this punishment is regarded as a festive day for him, since he thereby wholly enjoys the next. Conversely the second half of the Mishnah.
(17) But our Mishnah disagrees, and is literally meant, referring to this world.
(18) Which shews that the reward spoken of is in the next world. R. Jacob appears to identify the next world with resurrection; v. Sanh. (Sonc. ed.) p. 601, n. 3.
(19) Deut. V, 16.
(20) V. Ibid. XXII, 6f; that precept is always technically so named.
(21) Ibid.
(22) Lit., 'the goodness of his days'.
(23) I.e., both refer to the next world, not to this, and thereby emphasize that regard comes only then, but not in this world.
(24) R. Jacob bases his deduction on a hypothetical event which may never have happened.
(25) The one who was involved in this occurrence.
(26) For punishment. — I.e., one is not punished for mere intention.
(27) Ezek. XIV, 5: 'heart' implies intention; the reference is to idolatry; v. preceding verse, and thus we see that even the intention of idolatry is punished.
(28) Cf. Aboth IV, 2: 'the reward of a precept is a precept, and the punishment of transgression is transgression, for precept draws precept and transgression draws transgression'.
(29) Lit., 'sent'.
(30) How then could this have happened?
(31) But he was returning, having taken the bird etc.
(32) Lit., 'established'.
(33) 1 Sam. XVI, 2; he did not rely upon the fact that his mission was by God's command.
(34) Elisha b. Abuyah, a great scholar and R. Meir's teacher, who turned against the Torah, whereupon he was dubbed Aher, a different man, a stranger.
(35) The promise of reward and long life.
(36) He interpreted it literally, as referring to this world, and seeing that the promise was not fulfilled turned unbeliever.
(37) Stated above.
(38) Lit., 'a different thing' — a euphemism for swine, the unmentionable. — Huzpith was one of the martyrs slain in the Hadrianic persecution, after the fall of Bethar; v. Dor. II, 119. The Interpreter was a functionary who interpreted the public readings of the Torah to the people.
(39) According to this, it was the eternal question, why do the righteous suffer, which is even put into the mouth of Moses (Ber. 7a), which led him to religious apostasy. For other conjectures v. J.E. s.v. Elishah ben Abuyah.
(40) Lit., 'a matter of transgression came to his hand.'
(41) Lit., 'he was saved from it,'
(42) Belief in magic was very widespread in ancient times, and was even entertained by scholars. On the whole the Talmud was strongly opposed to it, as 'impairing the Divine Agencies' (Sanh. 67b; cf. Tosef. Sotah, XIV, 3; Sotah, IX, 3), and being bound up with idolatry. Nevertheless, in case of need it was resorted to and permitted, so long as pagan means were not employed. Thus healing by means of an amulet was permitted and its use regulated by law (Shab. 61a-b). Here, on the other hand, a Rabbi uses magic to cover himself with boils in order to resist immoral demands, and

it is obviously permitted. The most potent means was an incantation, as here, particularly one which employed the name of God. V. Blau, Das altjudische Zauberwesen, pp. 117-146.

(43) From demons; yet he stayed there the night alone, and was unhurt.

Talmud - Mas. Kiddushin 40a

Imperial [armour] bearers[1] guarded me all night.'[2] Said they to him, 'Perhaps you were tempted with immorality and successfully resisted?' For it was taught: He who is tempted with immorality and successfully resists, a miracle is performed for him.

[Bless ye the Lord, ye messenger's of his:] Ye mighty in strength, that fulfil his word, hearkening unto the voice of his word.[3] E.g., R. Zadok and his companions. R. Zadok was summoned by a certain matron [to immorality]. Said he to her, 'My heart is faint and I am unable; is there aught to eat?' She answered him, 'There is unclean food.' 'What am I to deduce from this?'[4] he retorted: 'that he who commits this [immorality] may eat this.'[5] She then fired the oven and was placing it [the forbidden meat] therein, when he ascended and sat in it. Said she to him, 'What is the meaning of this?' 'He who commits the one [immorality] falls into the other [the fire — of Gehenna]', was his reply. 'Had I known that it is so heinous,' said she, 'I would not have tormented you'.

R. Kahana was selling [work-] baskets, when a certain matron made [immoral] demands upon him. Said he to her, 'I will first adorn myself.' He [thereupon] ascended and hurled himself[6] from the roof towards earth, but Elijah came and caught him.[7] 'You have troubled me [to come] four hundred parasangs', he reproved him. 'What caused me [to do it],'[8] he retorted; 'is it not poverty?'[9] so he gave him a shifa[10] [full] of denarii.[11]

Raba pointed out a contradiction to R. Nahman. We learnt: These are the things the fruit of which man enjoys in this world, while the principal remains for him for the future world: Viz., honouring one's parents, the practice of loving deeds, and making peace between man and his neighbour, while the study of the Torah surpasses them all. Now, in reference to honouring one's parents it is written, that thy days may be long, and that it may go well with thee.[12] Of the practice of loving deeds it is written: He that pursueth after righteousness and loving kindness findeth life, righteousness and honour.[13] Of peacemaking it is said: Seek peace and pursue it;[14] and R. Abbahu said: We learn 'pursuing' from 'pursuing'. Here it is written: 'Seek peace and pursue it'; and elsewhere it is written: He that pursueth after righteousness and loving kindness.[15] Of the study of the Law it is written, for that is thy life, and the length of thy days.[16] But with respect to the dismissal of the nest[17] it is also written, that it may be well with thee, and that thou mayest prolong thy days:[18] then let this too be taught? — He teaches [some] and omits [others]. [What!] the Tanna states: 'These are the things,'[19] yet you say that he teaches [some] and omits [others]! — Said Raba, R. Idi explained it to me: Say ye of the righteous, when he is good, that they shall eat the fruit of their doings:[20] is there then a righteous man who is good and a righteous man who is not good? But he who is good to Heaven and good to man, he is a righteous man who is good; good to Heaven but not good to man, that is a righteous man who is not good.[21] Similarly you read: Woe unto the wicked [man] [that is] evil; for the reward of his hands shall be given unto him:[22] is there then a wicked man that is evil and one that is not evil? But he that is evil to Heaven and evil to man, he is a wicked man that is evil; he who is evil to Heaven but not evil to man, he is a wicked man that is not evil.

Merit has both stock and fruit,for it is said: Say ye of the righteous, when he is good etc.[23] Transgression has stock but not fruit,[24] for it is said: Woe unto the wicked when he is evil etc.[25] Then how do I interpret,[26] Therefore shall they [sc. the wicked] eat of the fruit of their own way, and be filled with their own devices?[27] Transgression which bears fruit[28] has fruit; that which does not bear fruit has no fruit.[29] Good intention is combined with deed,[30] for it is said: Then they that feared the Lord spoke one with another: and the Lord hearkened, and heard, and a book of remembrance

was written before him, for them that feared the Lord, and that thought upon his name.[31] Now, what is the meaning of 'that thought upon his name'? — Said R. Assi: Even if one [merely] thinks of performing a precept but is forcibly prevented the Writ ascribes it to him as though he has performed it. Evil intention is not combined with deed,[32] for it is said: If I regarded iniquity in my heart, The Lord would not hear.[33] Then how do I interpret, behold, I will bring evil upon this people, even the fruit of their thoughts?[34] Intention which bears fruit[35] the Holy One, blessed be He, combines with deed;[36] Intention which does not bear fruit the Holy One, blessed be He, does not combine with deed. Then what of the verse, that I may take the house of Israel in their own heart?[37] — Said R. Aha b. Jacob: That refers to idolatry, for a Master said: Idolatry is so heinous that he who rejects it is as though he admits [the truth of] the whole Torah.[38] 'Ulla said: [This is to be explained] as R. Huna. For R. Huna said: Once a man does wrong and repeats it, it is permitted him. 'It is permitted him'! can you really think so? — But it becomes to him as something permitted.[39]

R. Abbahu said on R. Hanina's authority: Better had a man secretly transgress than publicly profane God's[40] name, for it is said: As for you, O house of Israel, thus saith the Lord God: Go ye, serve every one his idols, and hereafter also, if ye will not hearken unto me: but my holy name shall ye not profane.[41]

R. Il'ai the Elder said: If a man sees that his [evil] desire is conquering him, let him go to a place where he is unknown, don black and cover himself with black,[42] and do as his heart desires,[43] but let him not publicly profane God's name.[44] But that is not so, for we learnt: He who is careless[45] of his Master's honour, it were well for him that he had not come Into the world. Now, to what does this refer? — Rabbah said: To one who gazes at the [rain]bow.[46] R. Joseph said: To one who secretly transgresses![47] — There is no difficulty: the one means where he can subdue his evil desires; the other, where he cannot.

We learnt elsewhere: Credit is not allowed[48] for the profanation of the [Divine] Name, whether It is unwitting or intentional.[49] What is meant by 'credit is not allowed?' — Said Mar Zutra: They [sc. Heaven] do not act like a shopkeeper.[50] Mar the son of Rabina said: This is to teach that if it [sc. one's account of sin and merit] is equally balanced, [the profanation of God's name] tips the scale.[51]

Our Rabbis taught: A man should always

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(1) Var. lec.: Imperial Ethiopian (guards).

(2) Probably meaning, 'a special Providence watched over me'.

(3) Ps. CIII, 20.

(4) [From the fact that there is only unclean food available (Rashi). Others: 'What does it matter'?]

(5) The former is as heinous as the latter.

(6) Lit., 'fell'.

(7) V. note 5.

(8) Lit., 'caused it for me'.

(9) Which forces me to go hawking baskets among women.

(10) Jast. name of a measure, xestes. Rashi: name of a utensil.

(11) Elijah was supposed to appear among men very frequently, particularly to pious men, who were privileged to know his identity. Cf. Git. 70a, Sanh. 113a, Yoma 19b, et passim.

(12) Deut. V, 16.

(13) Prov. XXI, 21: 'life' is understood to refer to the next world, 'righteousness and honour' to the rewards in this.

(14) Ps. XXXIV, 25.

(15) Hence, just as the latter is rewarded in both worlds (v. n. 8), so is the former.

(16) Deut. XXX, 20: 'thy life' refers to this world, 'length of thy days', to the next.

(17) V. Deut. XXII, 6-7.

(18) Ibid.

(19) Which implies only these.
(20) Isa. III, 10.
(21) Hence the verse refers to the first, in connection with whom 'they shall eat the fruit of their doings', i.e., be rewarded in this world. But dismissing the dam is 'good to Heaven' only, i.e., it is obedience to God's will, but of no benefit to man.
(22) Ibid. 11.
(23) 'The fruit of his doings' implies reward over and above his merits.
(24) I.e., one is punished only according to his desserts.
(25) Only 'the reward of his hands' is mentioned, but not more.
(26) Lit., 'fulfil'.
(27) Prov. I, 31.
(28) E.g., when a great man sins he sets an evil example which is copied by others.
(29) In both, the principle of 'measure for measure' operates.
(30) And both are rewarded.
(31) Mal. III, 16.
(32) There is no punishment for mere intention.
(33) Ps. LXVI, 18; i.e., when it remained a mere intention 'in my heart', it was overlooked.
(34) Jer. VI, 19.
(35) I.e., which is followed by action.
(36) Punishing both.
(37) Ezek. XIV, 5. This shows that there is punishment for mere thought.
(38) Hence mere intention is punished.
(39) The blunting of man's finer perceptions which make him unable to distinguish between right and wrong is in itself sin's punishment. Cf. Yoma 39a: Sin dulls the heart of man; also Aboth: the punishment of sin is sin. — Hence, when the Writ intimates that evil intention is punished, it refers to a wrong twice committed: the intention to commit it a third time is then punished, even if not carried out. For by then it is not regarded as evil, and its non-performance is not due to repentance but because there was no need for it.
(40) Lit., 'Heaven's'.
(41) Ezek. XX, 39.
(42) His sombre garments may subdue his lust.
(43) If he is still unable to resist.
(44) By sinning where he is known.
(45) Lit., 'has no compassion'.
(46) Which was regarded as the manifestation of God's glory, and to gaze upon it was disrespectful (cf. Ex. XXIV, 9-11).
(47) Because he thereby shews that he fears man more than God.
(48) אין מקיפין , v. also n. 6.
(49) Cf. Mishnah, Aboth, IV, 5.
(50) Who gives long credit and then demands payment for many items; but every profanation is punished immediately.
(51) If his wrongdoings included this. God does not wait — i.e., 'give credit' — until another sin is committed, for that itself tips the scale. — Maharsha. [Rashi's explanation מקיפין is here understood in the sense of comparing, balancing the sins against the good deeds.]

Talmud - Mas. Kiddushin 40b

regard himself as though he were half guilty and half meritorious: if he performs one precept, happy is he for weighting himself down in the scale of merit; if he commits one transgression, woe to him for weighting himself down in the scale of guilt, for it is said, but one sinner destroyeth much good:[1] [i.e.,] on account of a single sin which he commits much good is lost to him.[2] R. Eleazar son of R. Simeon said: Because the world is judged by its majority, and an individual [too] is judged by his majority [of deeds, good or bad], if he performs one good deed, happy is he for turning the scale both for[3] himself and for the whole world on the side of merit; if he commits one transgression, woe to

him for weighting himself and the whole world in the scale of guilt, for it is said: 'but one sinner, etc.' — on account of the single sin which this man commits he and the whole world lose much good.

R. Simeon b. Yohai said: Even if he is perfectly righteous all his life but rebels at the end, he destroys his former [good deeds], for it is said: The righteousness of the righteous shall not deliver him in the day of his transgression.[4] And even if one is completely wicked all his life but repents[5] at the end, he is not reproached with his wickedness,[6] for it is said, and as for the wickedness of the wicked, he shall not fall thereby in the day that he turneth from his wickedness.[7] Yet let it be regarded[8] as half transgressions and half meritorious deeds! — Said Resh Lakish: It means that he regretted his former deeds.[9]

MISHNAH. HE WHO IS VERSED IN BIBLE, MISHNAH, AND SECULAR PURSUITS[10] WILL NOT EASILY[11] SIN, FOR IT IS SAID, AND A THREEFOLD CORD IS NOT QUICKLY BROKEN.[12] BUT HE WHO LACKS BIBLE, MISHNAH AND SECULAR PURSUITS DOES NOT BELONG TO CIVILISATION.

GEMARA. R. Eleazar son of R. Zadok said: To what are the righteous compared in this world? To a tree standing wholly in a place of cleanness, but its bough overhangs to a place of uncleanness; when the bough is lopped off, it stands entirely in a place of cleanness. Thus the Holy One, blessed be He, brings suffering upon the righteous in this world,[13] in order that they may inherit the future world, as it is said, and though thy beginning is small, yet thy latter end shall greatly increase.[14] And to what are the wicked compared in this world? To a tree standing wholly in a place of uncleanness, but a branch thereof overhangs a place of cleanness: when the bough is lopped off, it stands entirely in a place of uncleanness. Thus the Holy One, blessed be He, makes them prosper[15] in this world,[16] in order to destroy and consign them to the nethermost rung, for it is said: There is a way which seemeth right unto man, But at the end thereof are the ways of death.[17]

R. Tarfon and the Elders were once reclining in the upper storey of Nithza's house, in Lydda,[18] when this question was raised before them: Is study greater, or practice? R. Tarfon answered, saying: Practice is greater. R. Akiba answered, saying: Study is greater, for it leads to practice. Then they all answered and said:[19] Study is greater, for it leads to action.[20]

It was taught: R. Jose said: Great is learning, since it preceded hallah[21] by forty years, terumoth[21] and tithes by fifty-four years, shemittin[22] by sixty-one, and jubilees by one hundred and three.[23] A hundred and three? but it was a hundred and four![24] — He maintains that jubilee effects a release[25] at the beginning thereof. And just as learning preceded practice, so does the judgment thereof [in the next world] take precedence over that of practice,[26] in accordance with R. Hamnuna. For R. Hamnuna said: The beginning of man's judgment is in respect of study[27] alone, for it is said: The rejection[28] of water[29] is the beginning of judgment.[30] And just as the judgment thereof takes precedence over that of practice, so does the reward thereof, for it is said: And he gave them the lands and nations; and they took the labour of the people in possession: that they might keep [yishmeru] his statutes, and observe his laws.[31]

BUT HE WHO LACKS BIBLE, MISHNAH [etc.]. R. Johanan said: And he is unfit to testify.[32]

Our Rabbis taught: He who eats in the market-place is like a dog; and some say that he is unfit to testify.[33] R. Idi b. Abin said: The halachah agrees with the latter.[34]

Bar Kappara lectured: A bad tempered man

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(1) Ecc, IX, 18.

(2) Viz., his meritorious deeds, being now outbalanced.
(3) Lit., 'of.
(4) Ezek. XXXIII, 12.
(5) The Heb. lit., means, 'but performs repentance, which demands more than mere regret but actual righting of wrongs committed.
(6) Lit., 'he is not reminded of his wickedness'.
(7) Ibid.
(8) Where the righteous rebels at the end.
(9) In that case his righteous past is completely disregarded.
(10) Heb. derek erez, lit., 'the way of the earth,' i.e., industry or commerce.
(11) Lit., 'quickly'.
(12) Ecc. IV, 12.
(13) Thus purging them of the little sin they do commit lopping off the branch inclining to an unclean place.
(14) Job VIII, 7.
(15) Lit., 'furnishes them with goodness'.
(16) Thus rewarding them for the little good they perform-lopping off the branch inclining to the place, that it may be disregarded in the next world.
(17) Prov. XIV, 12. — An attempt to answer the eternal question, why the wicked prosper and the righteous suffer.
(18) V. Sanh. (Sonc. ed.) p. 502, n. 3.
(19) Probably, that was their final decision.
(20) This was a practical problem during the Hadrianic persecution, when both study and practical observance were forbidden, and the question was for which risks should sooner be taken. — Weiss. Dor., II, 125, Graetz, Geschichte, IV, p. 429.
(21) V. Glos.
(22) Plural of shemittah, q.v. Glos.
(23) The Torah was given to Israel two months after the Exodus from Egypt, whereas liability to hallah came into force forty years later, when they entered Palestine; terumoth and tithes fourteen years later after Palestine was conquered and allotted to the tribes; shemittah and jubilee seven and forty-nine years respectively after that.
(24) The jubilee is the fiftieth year, and it is assumed that its provisions (q.v. Lev. XXV, 8-13, 28, 33, 39-42, 47, 55) became operative only at the end of that year.
(25) I.e., its laws, which generally speaking effected the release of slaves and land, came into force.
(26) I.e., one is first judged for learning, and then in respect to the fulfilment of precepts.
(27) Lit., 'words of the Torah'.
(28) Lit., 'he who frees himself.
(29) I.e., the Torah; cf. Isa. LV, 1.
(30) Prov. XVII, 14; it is here so translated.
(31) Ps. CV, 44f.; v. supra 37a, where it is stated that 'ye shall keep' (tishmeru) refers to the study of the Mishnah. Thus study is mentioned before observance.
(32) Being so uncultivated he has no self-respect and is ready to testify falsely.
(33) He too lacks self-respect.
(34) Lit., with the 'some say'.

Talmud - Mas. Kiddushin 41a

gains nothing but [the ill effect of] his temper;[1] but a good man is fed with the fruit of his deeds. And he who lacks Bible, Mishnah and worldly pursuits, vows not to benefit from him, as it is said: Nor sitteth in the seat of the scoffers:[2] his seat is the seat of scoffers.[3]

CHAPTER II

MISHNAH. A MAN CAN BETROTH [A WOMAN] THROUGH HIMSELF OR THROUGH HIS AGENT. A WOMAN MAY BE BETROTHED THROUGH HERSELF OR THROUGH HER

AGENT. A MAN MAY GIVE HIS DAUGHTER IN BETROTHAL WHEN A NA'ARAH [EITHER] HIMSELF OR THROUGH HIS AGENT.

GEMARA. If he can betroth THROUGH HIS AGENT, is it necessary [to state] THROUGH HIMSELF? — Said R. Joseph: [This inclusion intimates that] it is more meritorious through himself than through his agent. Even as R. Safra [himself] singed an [animal's] head,[4] Raba salted shibbuta.[5] Some say that in this matter there is even a prohibition,[6] in accordance with Rab Judah's dictum in Rab's name; for Rab Judah said in the name of Rab: A man may not betroth a woman before he sees her, lest he [subsequently] see something repulsive in her, and she become loathsome to him, whereas the All-Merciful said, but thou shalt love thy neighbour as thyself.[7] And as to R. Joseph's statement,[8] it relates to the second clause: A WOMAN MAY BE BETROTHED THROUGH HERSELF OR THROUGH HER AGENT. Now, if she can be betrothed through her agent, is it necessary [to state] through herself? — Said R. Joseph: [This inclusion intimates that] it is more meritorious through herself than through her agent. Even as R. Safra [himself] singed an [animal's] head; Raba salted shibbuta. But there is no prohibition in this case,in accordance with Resh Lakish, who said: It is better to dwell with a load of grief than to dwell in widowhood.[9] A MAN MAY GIVE HIS DAUGHTER IN BETROTHAL WHEN A NA'ARAH. Only when a na'arah, but not when a minor: this supports Rab. For Rab Judah said in Rab's name: One may not give his daughter in betrothal when a minor, [but must wait] until she grows up and says: ‘I want So-and-so’.

Whence do we know [the principle of] agency?[10] — For it was taught: [When a man taketh a wife and . . . she find no favour in his eyes . . . then he shall write her a bill of divorcement . . .] and he shall send [her out of his house]:[11] this teaches that he may appoint an agent; then she shall send:[12] this teaches that she may appoint an agent; then he shall send, then he shall send her:[13] this teaches that the agent can appoint an agent.[14] Now, we have thus found [the principle of agency] in divorce: how do we know it in respect to kiddushin? And should you answer that it is derived from divorce [by analogy]; [I would answer] as for divorce, [agency may operate] because it can take place against her [the wife's] consent?[15] — Scripture saith, then she shall depart . . . and she shall be [another man's wife], thus assimilating marriage to divorce; just as an agent may be appointed for divorce, so may one be appointed for marriage.

Now, as to what we learnt: If one instructs his agent. ‘Go forth and separate [terumah]’: he must separate according to the owner's intentions;[16] and if he does not know the owner's intentions, he must make an average separation, [viz.,] one-fiftieth.

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(1) Leanness (Rashi): had temper affects the health and the body becomes lean, but achieves nothing else!

(2) Ps. I, 1.

(3) Lacking these three, he can do nothing else but scoff and be ribald.

(4) In preparation for the Sabbath, though another could have done it for him.

(5) Name of a fish, conjectured by Jast. to be mullet.

(6) Against appointing an agent when he can do it himself.

(7) Lev. XIX, 18.

(8) That it is merely preferable, but there is no prohibition.

(9) V. supra p. 24, n. 7. I.e., for a woman even an unhappy marriage is better than singleness — hence there is no prohibition against being betrothed through a deputy.

(10) Lit., ‘sending’, i.e., that one can send another person to act on his behalf.

(11) V. Deut. XXIV, 1.

(12) Disregarding the mappik, which makes we-shillehah (שלחה) the third pers. masc. with the pronominal suffix, and reading it as third pers. fem.

(13) ‘Send’ is stated twice, in vv. 1 and 3.

(14) Rashi: these deductions are made because Scripture should have written, then he shall divorce. ‘Send’ intimates that the husband or wife can send, i.e., appoint a person to act on their behalf.

(15) But v. p. 35, n. 2.
(16) By Biblical law there is no fixed standard for terumah. The Rabbis, however, ruled that on the average it is one fiftieth of the crops: a generous man gives one fortieth, and a mean person not less than one sixtieth.

Talmud - Mas. Kiddushin 41b

If he decreases by ten or increases it by ten,[1] his separation is valid.[2] How do we know this?[3] And should you answer that it is derived from divorce, [I would rejoin:] as for divorce, that [may be] because it is a secular matter![4] — Scripture saith, [Thus] ye also [shall offer an heave-offering] [where] 'ye' [alone would have sufficed],[5] to include an agent.[6]

But let Scripture write [it] in respect to terumah, and these [marriage and divorce] would come and be derived from it? — Because one can refute [the analogy], since it is possible by [mere] intention.[7]

Again, as to what we learnt: If a company lose their Paschal sacrifice[8] and instruct one [of their number], 'Go out, seek it, and slaughter it on our behalf; and he goes, finds, and slaughters it, while they [also] take [an animal] and slaughter [it]: if his is slaughtered first, he eats of his, and they eat[9] with him.[10] How do we know it?[11] And should you answer that it is derived from these, [I would rejoin:] as for these, [that may be] because they rank as secular in relation to sacred animals![12] — It is learnt from R. Joshua b. Karhah['s dictum]. For R. Joshua b. Karhah said: How do we know that a man's agent is as himself? Because it is said, and the whole assembly of the congregation shall kill it [the Passover sacrifice] at even:[13] does then the whole assembly really slaughter? surely, only one person slaughters [an animal]:[14] hence it follows that a man's agent is as himself.

Now, let the Divine Law write [the principle of agency] in respect to sacrifices, and these others can come and be derived from them? — Because it may be refuted: as for sacrifice, that is because most of their operations are through an agent.[15]

One cannot be derived from another: but let one be derived from two [others]?[16] — Which can be thus derived? Should the Divine Law not state it of sacrifices, that it may be derived from these others? As for these, [it might be argued] that [sc. agency] is because they rank as secular in comparison with sacrifices. Should the Divine Law omit it in the case of divorce, that it may be derived from the others: as for these, that is because intention has force in their case.[17] But let the Divine Law not write it of terumah, and it could be derived from the others![18] — That indeed is so. Then what is the purpose of 'ye', 'ye also'?[19] — It is needed for R. Jannai's dictum, viz., 'Ye also': just as ye are members of the covenant,[20] so must your agents be members of the covenant. For this, what need have I of a verse? It may be derived from R. Hiyya b. Abba's dictum in R. Johanan's name! For R. Hiyya b. Abba said in R. Johanan's name: A [heathen] slave cannot become an agent to receive a divorce from a woman's husband, because he himself is not subject to the law of marriage and divorce![21] — It is necessary. I might think that a slave [is ineligible], since he is not empowered to free [a married woman] at all.[22] But a heathen, since he is qualified to [separate] terumah of his own [crops], as we learnt: If a heathen or Cuthean[23] separates terumah, it is valid: I might think that he can also be appointed an agent [for a Jew]; hence we are informed [otherwise]. Now, according to R. Simeon who exempts [them],[24] for we learnt: A heathen's terumah creates a [forbidden] mixture,[25] and one is liable to an [additional] fifth on its account.[26] But R. Simeon exempts [it][27] — what is the need of ye', ye also'? — It is necessary: I might reason, Since a Master said: 'Ye', but not tenant-farmers;[28] 'ye,' but not partners;[29] 'ye,' but not guardians;[30] ye,' but not one who separates terumah upon what is not his,[31] then I might also say, ye,' but not your agents.[32] Hence we are informed [that it is not so].

Now, that is well according to R. Joshua b. Karhah.[33] But according to R. Nathan, who utilises

this verse for a different exegesis, what can be said? For it was taught: R. Nathan said: How do we know that all Israel [may] fulfil their obligations[34]

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(1) Giving one fortieth or one sixtieth.
(2) Lit., 'his terumah is terumah,' because he can maintain that he so judged the owner.
(3) That one can appoint an agent for this purpose.
(4) Whereas terumah being sacred, its separation may be stricter and require the actual owner.
(5) Lit., 'Scripture saith, ye, also ye.'
(6) It is a principle of exegesis that od (also) is an extension.
(7) A person may decide to separate a part of his grain (e.g., that in the right or left corner) as terumah and then eat the rest. This is obviously a leniency, and it may be argued that that is why one can also appoint an agent.
(8) The passover sacrifice was eaten by a group of people who had joined and arranged beforehand to eat a particular animal: unless one had thus 'counted himself in' before it was killed he could not eat thereof.
(9) Cur. ed.: eat and drink, but Wilna Gaon deletes 'and drink'.
(10) Since he was their agent. — Their own sacrifice is unfit.
(11) The principle of agency in sacrifices.
(12) Even terumah, for sacrifices have a higher degree of sanctity.
(13) Ex. XII, 6.
(14) Though it is eaten by several.
(15) From the receiving of the blood onward, everything in connection with sacrifices was performed by priests acting on behalf of the Israelites who offered them.
(16) By shewing that the factor common to both is also present in the third.
(17) Terumah, v. p. 206, n. 5; sacrifices: If one resolves to declare an animal a sacrifice, it is so, even without an explicit declaration. — Shebu. 26b.
(18) Sc. marriage and sacrifices, since either of the above refutations then apply.
(19) V. supra.
(20) With Abraham, Gen. XVII, 2; i.e., Jews. V. B.M. (Sonc. ed.) p. 415, n. 5.
(21) In the Jewish sense. This shews that it is mere logic that one cannot act as an agent where he cannot be a principal, and the same applies to the others.
(22) Lit.,' he is not a person of freeing at all.' It is impossible for a slave to free a married woman, sc. his wife, by divorce, since he cannot marry.
(23) After the overthrow of the Northern Kingdom of Israel and the deportation of its inhabitants the land was repopulated by various peoples, some of whom came from Cuth and gave their name to the new settlers as a whole. These accepted a form of semi-Judaism. Their status in respect to Jewry fluctuated; at times they were accepted as Jews, at others they were rejected. Finally they were definitely excluded from the Jewish people.
(24) Even if a Gentile does separate terumah, it is not valid and remains hullin.
(25) I.e., if it falls into a quantity of hullin less than a hundred times as much as itself, and cannot be separated, the whole ranks as terumah, and is forbidden to an Israelite.
(26) If an Israelite eats terumah unwittingly, he must make restoration of the principal plus a fifth; Lev. XXII, 14.
(27) Sc. the terumah separated by a Gentile on his crops from the law of terumah, i.e., he does not regard it as terumah at all.
(28) A tenant-farmer who leases land and pays a percentage of the crops as rent cannot separate terumah upon the landlord's share without his authority.
(29) Likewise, one partner in a field cannot separate terumah for the other without the latter's consent.
(30) Of orphans estates.
(31) This gives the reason for the preceding: tenant-farmers, etc., cannot separate terumah for the other's crops, because one may not separate for what is not his.
(32) I.e., under no circumstances can one separate terumah upon crops not belonging to him, even when authorised by their owner.
(33) Supra.
(34) Lit., 'go forth' (from their obligation).

by a single paschal sacrifice?[1] Because it is said: 'and the whole assembly of the congregation of Israel shall kill it at even': does then the whole assembly slaughter: surely, only one slaughters! But from this [it follows] that all Israel [may] fulfil their obligations by a single Paschal sacrifice. Then how does he know that an agent [may be appointed] for sacrifices? — From that itself.[2] Yet perhaps it is different there, because he [the slaughterer] is a partner therein? — But [it is derived] from this: they shall take to them every man a lamb, according to their fathers' houses, a lamb for an household.[3] But perhaps there too [the reason is] that he has a share therein? — If so, what is the need of two verses? [Hence,] if it has no purpose where it is relevant, apply the matter to where it does not belong.[4] But this [the latter verse quoted] is needed for R. Isaac's dictum. For R. Isaac said: A man [sc. an adult] can acquire[5] [on behalf of others], but a minor cannot acquire![6] — That is deduced from, according to every man's eating [ye shall make your count for the lamb].[7] But that is still required for intimating that a paschal sacrifice may be slaughtered [even] for a single person![8] — He agrees with the view that the passover lamb may not be slaughtered for an individual.[9]

Then when R. Giddal said in Rab's name, How do we know that a man's agent is as himself? Because it is written, [and ye shall take] one prince of every tribe [to divide the land for inheritance]:[10] let him derive agency from this [former verse]? — Now, is it reasonable that this [division of the land] was on the principle of agency! Surely minors are not subject thereto?[11] But [it must be interpreted] in accordance with Raba son of R. Huna. For Raba son of R. Huna said in the name of R. Giddal in Rab's name: How do we know that a right can be conferred upon a man in his absence? Because it is written, and one prince of every tribe [etc.].[12] Now, is that logical? Was it [the division, altogether] advantageous [to each]? Surely it also involved disadvantages, for some like mountain land but not the plain, and others prefer the plain but not the mountain land?[13] But it[14] is in accordance with Raba son of R. Huna, who said in the name of R. Giddal in Rab's name: How do we know that when orphans [i.e., minors][15] come to divide their father's estate, Beth din appoints a guardian on their behalf, whether to their advantage or disadvantage? ([You say,] 'To their disadvantage'! Why? — But [say thus:] to their [subsequent] disadvantage, but with the [original] intention that it shall be to their advantage.)[16] — From the verse, [and ye shall take] one prince of every tribe.[17]

R. Nahman said in Samuel's name: When orphans come to divide their father's estate, Beth din appoints a guardian for them,[18] and they select[19] a fair portion for each [orphan]; yet when they grow up, they can protest against [the division of the guardian]. R. Nahman, stating his own opinions ruled: When they grow up they cannot protest, for if so, wherein lies the strength of Beth din's authority?[20] Now, does then R. Nahman accept [this reasoning,] if so, wherein lies the strength of Beth din's authority? But we learnt: If the judges' valuation was at one sixth too little or at one sixth too much,[21] their sale is null. R. Simeon b. Gamaliel said: Their sale is valid, [for] otherwise, wherein lies the strength of Beth din's authority? Whereon R. Huna b. Hinena said in R. Nahman's name: The halachah agrees with the Sages! — There is no difficulty:

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(1) Though each receives an infinitesimal portion thereof, less than the size of an olive, which is the minimum that is called eating. In his view, the actual eating of the sacrifice was unessential, the main thing being the sprinkling of the blood.

(2) The fact remains that one slaughtered for all.

(3) Ex. XII, 3 thus one was to 'take', i.e., slaughter, on behalf of a whole household.

(4) This is a principle of Talmudic exegesis: if a teaching is unnecessary in its place, apply it elsewhere. Thus here too, both verses teach the principle of agency when the agent himself shares therein. Two verses being unnecessary, apply one to where the agent has no share at all in the matter of his agency.

(5) A Paschal lamb.

(6) [Although the minor himself has to to be counted in for the partaking of the Paschal lamb, he cannot acquire a share

on behalf of others (Tosaf.)]
(7) Ibid. 4.
(8) Deducted from ‘manðs’, singular.
(9) V. Pes. 91b.
(10) Num. XXXIV, 18: each prince acted as agent for the whole tribe.
(11) And among those who received a portion in Palestine were minors; this proves that the princes were not acting as agents.
(12) By their division they conferred rights of ownership, though the recipients (i.e., the individuals) were not present.
(13) And one cannot act disadvantageously on another's behalf without his authorisation. Hence the princes were not proceeding on this principle either.
(14) The interpretation of the verse . . . one prince’, etc.
(15) [According to Maim. Yad, Nahaloth, X, 4. there were also some adults among them, for had they all been orphans, there would be no division of the estate, seeing that it would still have to be administered by a guardian. V. Maggid Mishneh a.l. and Tosaf. Ri.]
(16) I.e., this guardian acts in their behalf at law, and his acts are valid even if they subsequently tend to their loss, providing that his intentions in the first place were good.
(17) Who were to divide the land as fairly as possible, their actions being valid even if certain individuals were displeased.
(18) [Wilna Gaon: for the minors; cf. n. 3.]
(19) [Apparently the Beth din, cf. Maim. loc. cit. In the parallel passage Yeb. 67b, however, the reading is ‘he selects’ i.e., the guardian.]
(20) A guardian might just as well be appointed by a private individual, if the former's action can be overthrown.
(21) The judges made a valuation of a debtor's property, sold it and assigned the proceeds to the creditor in the former's absence, and erred in a sixth.

Talmud - Mas. Kiddushin 42b

In the one case, they [the judges] erred; in the other, they[1] did not err. If they did not err, against what can they [the orphans] protest? — They can protest against the sites.[2]

R. Nahman said: When brothers divide, they rank as purchasers from each other:[3] [for an error of] less than a sixth, the transaction is valid; exceeding a sixth, it is null; [exactly] one sixth, it is valid, but the amount of error[4] is returnable.[5] Said Raba: When you say that [for an error of] less than a sixth the transaction is valid, that is only if one did not appoint an agent;[6] but if he appointed an agent, he can plead, ‘I sent you to benefit, not to injure me’.[7] And when you say, exceeding a sixth, the transaction is null, that is only if one did not say: ‘We will divide according to Beth din's valuation’; but if this was stipulated,[8] the transaction is valid. For we learnt: If the judges’ valuation was at one sixth too little or at one sixth too much, their sale is null. R. Simeon b. Gamaliel said: Their sale is valid.[9] And when you say: ‘one-sixth, it is valid, but the amount of error is returnable’, that holds good only of movables, but as for real estate, the law of overreaching does not apply to land. Again, this was said of real estate only if the division was by valuation,[10] but not if the division was made by cord.[11] That is in accordance with Rabbah, who said,[12] Everything which [shews an error] in measure, weight or number, even if less than the standard of overreaching, is returnable.

Now, when we learnt: He who sends forth a conflagration by a deaf-mute, idiot, or minor, is not liable [for the damage caused] by law of man, yet liable by the law of Heaven.[13] But if he sends it by a normal[14] person, the latter is [legally] liable. Yet why so? Let us say that a man's agent is as himself.[15] — There it is different, for there is no agent for wrongdoing, for we reason: [When] the words of the master and the words of the pupil [are in conflict], whose are obeyed?[16]

Then when we learnt:[17] If the agent does not carry out his instructions,[18] the agent is liable for trespass: if he carries out his instructions, the sender[19] is liable for trespass.[20] Thus, at least, if he

carries out the sender's instructions, the latter is liable for trespass. Yet why? Let us say: There is no agent for wrongdoing. — A trespass-offering is different, because the meaning of 'sin' is derived from terumah: just as an agent can be appointed for [separating] terumah, so can one be appointed in respect of trespass.[21] Then let us learn [a general law] from it?[22] — [We cannot,] Because trespass and mis — appropriation[23] are two verses with the same teaching,[24] and such cannot illumine [other cases].[25] 'Trespass,' as stated. What is the reference to misappropriation? — For it was taught:[26] 'For every word[27] of trespass': Beth Shammai maintain: This is to intimate liability for [expressed] intention as for actual deed.[28] But Beth Hillel rule: He is not responsible unless he actually misappropriates it, for it is said, ['to see] whether he have not put his hand,' etc. Said Beth Shammai to Beth Hillel, But it is said: 'For every word of trespass'! Beth Hillel retorted to Beth Shammai: But is it not said: 'to see whether he have not put his hand unto his neighbour's goods?' Said Beth Shammai to Beth Hillel: If so, what is the purpose of, 'for every word of trespass?' For I might think, I know it only of himself [the bailee]; how do I know it if he instructs his slave or agent?[29] Therefore it is said: 'For every word of trespass.'[30]

Now, that is well according to Beth Hillel. But according to Beth Shammai who interpret this verse as [shewing] that intention is as deed,

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(1) [The guardians or the Beth din. v. p. 210, n. 7.]

(2) E.g., he who received a field in the south may demand it in the north, because he possesses another one there from a different source.

(3) [Had they ranked as heirs, the division would have to be exact to a farthing (Tosaf. Ri.)]

(4) Lit., 'overreaching'.

(5) v. B.M. 49b.

(6) To act at the division on his behalf, but acted himself. The reading in cur. edd. is 'if he did not appoint him an agent, but if he appointed him an agent' etc. This might mean that one brother appointed the other to act on his behalf. Asheri, however, omits the pronominal suffix.

(7) Thus he can repudiate him.

(8) Lit., 'but if he said, we will" etc.'

(9) Raba agrees with the latter, not as R. Nahman supra.

(10) All the land was valued, and then each took land to the value of his share. Thus one might have received a field twice as large as his brother's, the latter's being of choicer quality.

(11) I.e., by area, all the fields being of equal quality, and an error was made in measurement.

(12) In B.M. 56b and B.B. 90a the reading is Raba.

(13) I.e., morally, though not legally.

(14) Lit., 'sane'.

(15) So that the sender is liable.

(16) Obviously the master's. Hence if A instructs B to do wrong, B acts of his own accord, for were he merely carrying out instructions, he would obey God's behests in preference.

(17) Cur. edd: When it was taught. But BAH points out that the quotation that follows is a Mishnah in Me'il. 20a.

(18) Lit., 'did not do his sending'.

(19) Lit., 'the house owner'.

(20) A has money of hekdesh (q.v. Glos.) in his possession, and thinking it is secular, instructs B to make a purchase therewith. If B buys what he was told, A is liable; if he buys something else, he himself is liable, since he was not acting on A's behalf. — For converting sacred property to secular use-technically called withdrawing it from the ownership of hekdesh-one is liable to a trespass-offering.

(21) Terumah, Lev. XXII, 9: They shall therefore keep my charge, lest they bear sin for it: trespass, v, 15: If any one commit a trespass, and sin unwittingly in the holy things of the Lord. The employment of 'sin' in both cases intimates that the principle of agency operates for the latter as for the former.

(22) Viz., that one can appoint an agent for wrongdoing, and be legally responsible, just as in the case of trespass.

(23) Lit., 'the putting forth of the hand.' The language is based on Ex. XXII, 7, q.v.

(24) In both the principle of agency operates, though they are transgressions.

(25) V. supra p. 169, n. 7.
(26) If the thief be not found, then the master of the house shall come near unto God, to see whether he have not put his hand unto his neighbour's goods. For every word of trespass etc. Ibid. 7f.
(27) Lit., translation; E.V.: 'matter'.
(28) The passage refers to a gratuitous bailee, who is not liable for theft unless he has previously misappropriated the deposit to his own use ('put his hand,' etc.,), in which case he becomes responsible for every mishap. Beth Shammai maintains that 'for every word' teaches that even if he merely says that he will put it to his own use he is liable.
(29) That he becomes liable on account of their misappropriation.
(30) Thus here too the principle of agency operates, though misappropriation is obviously wrong.

Talmud - Mas. Kiddushin 43a

let us learn from it?[1] — Because trespass and killing and selling are two verses with the same teaching, and such do not illumine others. 'Trespass,' as said. What is the reference to 'killing and selling'? — Scripture saith, [If a man shall steal an ox, or a sheep,] and kill it, or sell it; [he shall pay five oxen for an ox etc.,]:[2] just as selling is done through another,[3] so may the killing be [done] by another.[4] The School of R. Ishmael taught: 'or' extends the law to an agent.[5]

[Again,] that is well on the view that two verses with the same purpose cannot teach [concerning others]; but on the view that they can, what may be said? — The Divine Law revealed [the matter] in reference to [sacrifices] slaughtered without [the tabernacle]: blood shall be imputed unto that man: he hath shed blood:[6] 'that [man', who slaughtered without], but not his agent.

Now, we have found this of [sacrifices] slaughtered without: how do we know it of the whole Torah?[7] — It is derived from [sacrifices] slaughtered without. Instead of learning from [sacrifices] slaughtered without, let us learn from these others?[8] — The Divine Law reiterated, and that man shall be cut off: since it is irrelevant for its own subject,[9] apply its teaching to the rest of the Torah.[10]

But he who maintains that two verses with the same purpose do not teach,[11] how does he interpret the [limiting demonstrative] 'that' written twice?[12] — One is to exclude the case of two men who hold the knife and slaughter [the sacrifice without].[13] The other: 'that [man],' but not one who is compelled; 'that [man],' but not one in ignorance; 'that [man],' but not one led into error.[14] And the other?[15] — That follows from ha-hu, where hu would suffice.[16] And the other?[17] — He does not admit the exegesis of ha-hu [as opposed to] hu.[18]

Now, when it was taught: If he says to his agent, 'Go forth and slay a soul,' the latter is liable, and his sender is exempt. Shammai the Elder said on the authority of Haggai the prophet:[19] His sender is liable, for it is said, thou hast slain him with the sword of the children of Ammon.[20] What is Shammai the Elder's reason? — He holds that two verses with the same purpose throw light [on others], and he rejects the exegesis of ha-hu [as opposed to] hu.[21] Alternatively, he accepts that exegesis;[22] and what is meant by liable? He is liable by the laws of Heaven. Hence it follows that the first Tanna holds him exempt even by the law of Heaven![23] — But they differ in respect to a greater or a lesser penalty.[24] Another alternative: there it is different, because the Divine Law revealed it [thus:] 'and thou hast slain him with the sword of the children of Ammon'.[25] And the other?[26] — It counts to you as 'the sword of the children of Ammon: you cannot be punished for the sword of the children of Ammon, so will you not be punished for [the death of] Uriah the Hittite. What is the reason? He was a rebel against sovereignty, for he said to him [David], and my lord Joab, and the servants of my lord, are encamped in the open field,' [shall I then go into mine house, to eat and to drink, and to lie with my wife?][27] Raba said: Should you say that Shammai holds that two verses with the same purpose illumine [others], and that he does not admit the exegesis of hu, ha-hu: [yet] he agrees that if one says to his agent, 'Go forth and have incestuous Intercourse, [or] 'eat heleb',[28] the latter is liable and his sender exempt, because we never find in the whole Torah that while one

derives pleasure [from wrongdoing] another is liable.

It has been stated: Rab said: An agent can be a witness;[29] the school of R. Shila maintained: An agent cannot become a witness. What is the reason of the school of R. Shila? Shall we say, because he does not [explicitly] instruct him, 'Be a witness for me'? If so, if he betroths a woman in the presence of two, and does not instruct them, 'You are my witnesses', is the betrothal really invalid? — But [the reasons are these:] Rab said: An agent can be a witness,for he [the principal] [thereby] strengthens the matter.[30] Whereas the school of R. Shila maintained: An agent cannot become a witness; since a Master said: 'A man's agent is as himself,' he ranks as his own person.[31]

An objection is raised: If one says to three, 'Go forth and betroth the woman on my behalf,' one is an agent and the other two are witnesses: that is the view of Beth Shammai. But Beth Hillel rule: They are all his agents, and an agent cannot be a witness. Thus, their disagreement is only in respect of three,[32] but as for two, all agree that they cannot [be witnesses]![33] — He [Rab] holds with the following Tanna. For it was taught: R. Nathan said: Beth Shammai maintains: An agent and one witness [can attest an action]; but Beth Hillel rule: An agent and two witnesses [are required]. Does then Rab rule according to Beth Shammai?[34] — Reverse it.[35] R. Aha son of Raba taught it reversed: Rab said: An agent cannot be a witness; the school of R. Shila ruled: An agent can be a witness. And the law is that an agent can be a witness.

Raba said in R. Nahman's name: If one says to two, 'Go forth and betroth a woman for me,' they are both his agents and his witnesses.[36] It is likewise so in respect to divorce;[37]

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(1) Sc. trespass, as above.

(2) Ex. XXI, 37 (E.V. XXII, 1).

(3) There must be another person, viz. the buyer.

(4) I.e., even if the thief does not personally kill it, but instructs another, he is liable.

(5) As in preceding note. — Hence on both exegeses, we have two verses with the same purpose.

(6) Lev. XVII, 4.

(7) That one cannot be an agent to violate a law of the Torah.

(8) Sc. trespass and killing and selling, that agency does operate.

(9) I.e., the emphasis on that man as excluding an agent is unnecessary, as it is intimated in the first half of the verse.

(10) V. p. 209, n. 3.

(11) So that non-agency for wrongdoing follows from the fact that the principle does operate in the case of trespass and misappropriation, as above.

(12) For these are now unnecessary.

(13) Implied by the sing., 'that man'.

(14) 'That man' denotes that he is fully aware of the forbidden nature of his action and does it of his own free will.

(15) Who holds that the limitation excludes an agent; how does he know these?

(16) Hu is either a pronoun = he, or demonstrative, = that. Ha-hu is hu written with the addition of the def. art., which form is used in this verse. In his opinion, hu alone would suffice, and the addition of ha indicates further limitation.

(17) How does he utilise the additional def. art?

(18) No particular emphasis is implied therein.

(19) An indication that the view expressed is very ancient.

(20) II Sam. XII, 9: the reference is to David, who encompassed the death of Uriah the Hittite through the Ammonites, for which the prophet Nathan held him personally responsible. Weiss, Dor. I, p. 150 deduces from the story in Josephus. Ant. XIV, 9, concerning Herod's trial, when the Sanhedrin would have had him executed because he ordered the execution of certain freebooters, though he certainly did not carry them out in person, that Shammai's view was thus based on ancient practice. It is doubtful, however, whether this proves anything. Such an execution, had it taken place, would have been for State reasons, which override the letter of the law. In the same way those who counselled Alexander Jannai to massacre eight hundred of his former opponents were subsequently executed too. [V. Zeitlin. JQR (N.S.) VIII, p. 150, for an ingenious suggestion that this statement is to be attributed to Shemaiah who figured in Herod's

trial instead of Shammai.]

(21) Hence the principle of agency operates even for wrongdoing.

(22) So that there is no agency for wrongdoing.

(23) Surely not.

(24) The first Tanna holds the sender liable to a lesser penalty only, as an indirect cause, whereas Shammai regards him as the actual murderer and liable to the severest penalty.

(25) But elsewhere there is no agency for transgression.

(26) The first Tanna: how does he explain the implication of the verse?

(27) Ibid. XI, 11; thus he disobeyed David's orders, v. 8.

(28) V. Glos.

(29) If A instructs B to betroth a woman on his behalf, for which two witnesses are required, or to repay a debt to C on his behalf, B can carry out his instructions and simultaneously be a witness to the act.

(30) By appointing the agent a witness too.

(31) And the principal obviously cannot attest his own act.

(32) Who can be divided in the manner suggested by Beth Shammai.

(33) Which contradicts Rab.

(34) Surely not, it being a principle that the halachah always agrees with Beth Hillel.

(35) Applying Beth Shammai's view to Beth Hillel.

(36) In accordance with the law just stated.

(37) If a man instructs two persons to divorce his wife on his behalf, they act both as agents and as witnesses to the divorce.

Talmud - Mas. Kiddushin 43b

and also in monetary cases.[1] Now, these are all necessary. For if we were informed [thus] of kiddushin, [I would say] that is because they come to render her forbidden;[2] but as for divorce, we might fear that he [one of these] desired her for himself.[3] Again, if we were informed [thus] of divorce, that may be because a woman is not eligible to two men; but as for a monetary matter, I might argue that these [witnesses] are sharing therein. Thus they are [all] necessary.

What is his[4] opinion? If he holds that he who lends [money] to his neighbour in the presence of witnesses must repay him [likewise] before witnesses, then these[5] are interested witnesses, for should they say: 'We did not repay him,' he [the debtor] can say to them, 'Then pay me!'[6] — But after all, he holds that he who lends money to his neighbour before witnesses need not repay him before witnesses, and since they can plead. 'We returned it to the debtor,' they can also testify, 'We repaid the creditor.' Now, however, that the Rabbis have instituted an oath of equity,[7] these witnesses [sc. the agents] must swear that they repaid him [the creditor], the creditor swears that he did not receive it [the repayment], and the debtor must repay the creditor.[8]

A MAN MAY GIVE HIS DAUGHTER [etc.]. We learnt elsewhere: A na'arah, who is betrothed[9] she or her father can accept her divorce. Said R. Judah: Two hands cannot have a privilege simultaneously, but [only] her father can accept her divorce. And she who cannot take care of her Get[10] cannot be divorced.[11] Resh Lakish said: Just as they differ in respect to divorce, so they differ in respect to kiddushin. R. Johanan maintained: They differ in respect to divorce [only], but as for kiddushin, all agree that her father [alone can accept kiddushin on her behalf] but not she herself. R. Jose son of R. Hanina said: What is R. Johanan's reason according to the Rabbis? As for divorce, since she reverts thereby to[12] parental control,[13] both she herself and her father [can accept it]. But kiddushin, which frees her from paternal authority, only her father [can accept it], but not she herself. But what of a declaration,[14] whereby she is freed from paternal control,[15] yet we learnt:

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(1) Two men appointed agents to repay a debt can testify thereto.

(2) Through their testimony she is forbidden to all men, including themselves; what purpose can they have in lying?

(3) Lit., ‘Cast his eye upon her’ — and hence may be giving false testimony.
(4) R. Nahman's.
(5) Sc. the agents sent to repay.
(6) For he may have entrusted them the money before witnesses, which is the same as lending it to them. Hence they are personally concerned, and as such, inadmissible as witnesses. Cur. ed. proceed: But after all, he holds, etc. BAH gives the following version: Whilst if he holds that he who lends money to his neighbour before witnesses need not repay him before witnesses, what is the purpose of these witnesses? — But after all, he holds that when one lends money to his neighbour before witnesses he need not repay him before witnesses. Now, if he pleads, ‘I myself repaid you,’ that indeed is so (and further witnesses are not required). The circumstances here are that he pleads, ‘I repaid you by an agent,’ and for that very reason he requires witnesses. Whilst the witnesses themselves (who in this case are alleged to have been entrusted with the money for repayment), since they can plead, etc., (continuing as in our text).
(7) Lit., ‘oath of inducement’, v. B.M. (Sonc. ed.) p. 20 n. 4. By Biblical law, one must take an oath in respect of a rejected claim only if he partially admits it, but not if he entirely denies it. Hence, when the debtor pleads that he entrusted the money to two in the absence of witnesses, and they maintain that they returned it, thus altogether rejecting his claim, they are not liable to an oath. But the Rabbis imposed an oath even then: this is called an oath of equity.
(8) Notwithstanding the witnesses’ oath. For the creditor can plead: ‘I lent the money to the debtor, and thereby expressed my willingness to abide by his oath that he repaid me. But I cannot be forced to accept the oath of other persons.’ The witnesses, on the other hand, cannot simply testify that they repaid the creditor, without swearing, because if they maintained that they had returned the money to the debtor, they would have to swear an oath of equity, and so become interested witnesses.
(9) V. Glos.
(10) V. Glos.
(11) I.e., an idiot cannot be divorced, even by her father's acceptance of the deed. V. Git. (Sonc. ed.) p. 304. n. 7.
(12) Lit., ‘brings herself into.’
(13) Being only a na'arah and betrothed, not married.
(14) מאמר ma'amar. This is the technical term for the yabam's formal betrothal of his yebamah. which is accompanied by the gift of money, which is valid by Rabbinical law only, for by Biblical law cohabitation alone is recognised (supra 2a).
(15) If a betrothed maiden is widowed and the yabam makes a declaration, she is henceforth free from paternal control.

Talmud - Mas. Kiddushin 44a

No declaration may be made to a minor [widowed] from erusin[1] except with her father's consent;[2] whereas in the case of a na'arah, either her own or her father's consent [is required]![3] But if stated, it was thus stated: R. Jose son of R. Hanina said: What is R. Johanan's reason according to the Rabbis? Kiddushin, which requires her consent, [only] her father [can accept it] but not she;[4] divorce, which is even against her will, either she or her father [can accept it].[5] But a declaration [too] requires her consent, yet it is taught, either she or her father [can accept it]? — There the reference is to a declaration which is [made] against her will, and it is in agreement with Rabbi. For it was taught: If one makes a declaration to his yebamah without her consent,[6] Rabbi ruled: He acquires her;[7] but the Sages say: He does not.

What is Rabbi's reason? — He deduces it from intercourse with a yebamah: just as intercourse with a yebamah [acquires her even] against her will, so here too [sc. declaration, it is valid even] against her will. But the Rabbis hold: We learn from [ordinary] kiddushin: just as kiddushin must be with her[8] consent, so here too her consent is required. Wherein do they differ? — Rabbi maintains: The provisions of a yebamah are to be learnt from a yebamah. But the Rabbis hold: Kiddushin should be learned from kiddushin.[9]

Reason too supports R. Johanan's answer,[10] since the second clause states: Which is not so in the case of kiddushin.[11] Shall we then say that this refutes Resh Lakish?[12] — Resh Lakish can answer you: That agrees with R. Judah, who ruled: Two hands cannot have a privilege simultaneously.[13] If

R. Judah, [why state,] 'which is not so in the case of kiddushin'; let him teach, which is not so in the case of divorce?[14] — That indeed is so: [but] as he teaches [the law of] declaration, which is similar to kiddushin, he also states: 'which is not so in the case of kiddushin'. Now, on R. Judah's view, why does declaration differ?[15] — Because she already stands tied [to the yabam].[16] Now that you have arrived at this [distinction], R. Johanan['s view] also need not cause you any difficulty at the very outset:[17] a declaration is different, because she already stands tied.

We learnt: A MAN MAY GIVE HIS DAUGHTER IN BETROTHAL WHEN A NA'ARAH, HIMSELF OR THROUGH HIS AGENT: only HIMSELF OR THROUGH HIS AGENT, but not through herself or her agent:[18] this refutes Resh Lakish? — Resh Lakish can answer you: This too is in accordance with R. Judah. Can you then interpret this as R. Judah['s ruling]? But the second clause[19] teaches: If one says to a woman, 'Be thou betrothed unto me with this date, be thou betrothed unto me with this one etc.'[20] Now we said thereon: Which Tanna [rules thus concerning] 'Be thou betrothed, be thou betrothed?'[21] And Rabbah replied: It is R. Simeon, who maintained, 'Unless he declared to each separately,' [I take] an oath.'[22] And should you answer: It is all the opinion of R. Judah, who, however, agrees with R. Simeon in the matter of detailed enumeration,[23] yet does he hold thus? Surely it was taught: This is the rule: For a comprehensive statement only one [sacrifice] is incurred; for a detailed enumeration each one separately involves liability:[24] this is R. Meir's opinion. R. Judah said: [If he declares, 'I take] an oath [that I am] not indebted to you, not to you, not to you,' he is liable in respect of each separately. R. Eleazar said: [If he declares, 'I am] not [indebted] to you, not to you, not to you, and not to you: [for this I take] an oath': he is liable in respect of each.[25] R. Simeon said: He is never liable [for each separately] unless he declares [I take] an oath to each separately![26] — But the whole is in accordance with R. Simeon, who in the matter of agency agrees with R. Judah.[27]

R. Assi did not go to the Beth Hamidrash.[28] Meeting R. Zera, he asked him, 'What has been taught to-day in the schoolhouse?' 'I too did not go,' he replied: 'but R. Abin was present, and he told me that the entire band [of disciples] agreed with R. Johanan;[29] and though Resh Lakish cried like a crane,[30] and when she is departed . . she may be [another man's wife],[31] none heeded him.' 'Is R. Abin reliable?' he asked him, 'Yes,' he replied: 'as from the sea into the frying pan!'[32] R. Nahman b. Isaac said: I [read in this story] neither R. Abin b. R. Hiyya nor R. Abin b. Kahana, but simply R. Abin. What does it matter? — In proving a self-contradiction.[33]

Raba asked R. Nahman:

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(1) V. Glos.

(2) Otherwise it has no validity.

(3) This means that even where her action serves to free her from her father's control, her action has validity.

(4) In general, the consent of the person who cedes the woman is required. In the case of an adult that person is the woman herself; in the case of a na'arah or a minor it is her father.

(5) Seeing that their consent is not necessary, it does not matter who actually accepts the deed.

(6) Forcing the money of betrothal upon her and declaring, 'Behold, thou art betrothed unto me.'

(7) Though she belongs to him in any case and cannot be free without halizah, she now requires a divorce too.

(8) The woman's.

(9) And a declaration takes the form of ordinary kiddushin.

(10) That the reference is to a declaration which was made against her will.

(11) Viz., only her father can receive her kiddushin.

(12) Since a distinction is drawn between a declaration and kiddushin, because the former does not require her consent whereas the latter does, the same applies to kiddushin and divorce.

(13) Hence in the case of kiddushin only her father may receive it.

(14) Which would be more remarkable: even in divorce, which does not require the wife's consent, R. Judah rules that only her father can accept it.

(15) That he agrees that she herself can receive it.
(16) Hence the further step of a declaration is an easier one, and can be made either to her father or to herself.
(17) Sc. the difficulty raised above from the teaching relating to the yabam's declaration.
(18) Which proves that a na'arah who has a father cannot betroth herself, in refutation of Resh Lakish.
(19) Infra 46a.
(20) The Mishnah continues: if a single one of them is worth a perutah, she is betrothed, but not otherwise. — For since he stated: 'Be thou betrothed' before each date separately, it is not the equivalent of saying: 'Be thou betrothed unto me with all these dates.'
(21) That because he repeats it, each declaration is separately regarded.
(22) Shebu. 36b. If five men demand the return of their deposits from a certain person, who falsely denies liability, and takes an oath, 'I swear that I did not receive a deposit from you, not from you, not from you, etc., he incurs a separate sacrifice on account of each (v. Lev. V, 21.26). R. Simeon maintained: He incurs only one sacrifice for all, unless he declares to each one separately, 'An oath that I did not receive a deposit from you,' 'An oath that I did not receive a deposit from you,' etc., — Hence the Mishnah on 46a, which is a sequel to 41a, agrees with R. Simeon, not R. Judah.
(23) Viz., that each statement is regarded as separate only if it is separately enumerated, as above.
(24) The meaning of these terms is discussed in Shebu. 38a.
(25) By adding 'and' before the last (which is absent in R. Judah's premise) and employing the word 'oath' after the enumeration, he makes his declaration equivalent to a number of separate statements.
(26) Thus R. Judah definitely disagrees with R. Simeon.
(27) Viz., only her father can accept kiddushin, but not she herself. — 'Agency' here does not refer to the question whether she can appoint an agent, as it is generally admitted that a na'arah certainly cannot (infra b), but whether she herself can rank as her father's agent (since Scripture vested the power in him — supra 3b.) — Maharsha.
(28) V. Glos.
(29) Supra 43b.
(30) I.e., vehemently protested.
(31) Deut. XXIV, 2: from this it is deduced that marriage and divorce are on a par (supra 5a), and thus it supports Resh Lakish.
(32) כמין ימא לטיגני He had as little time to forget as a fish that is caught in the sea and put straight into the pan. [Others explain the phrase as names of two places next to each other. Horowitz Palestine, p. 323 n. 9. takes it as a corruption of comminatio litigo, R. Zera cautioning R. Assi to occasion no strife by impugning the authority of R. Abin.]
(33) Should a statement by either of these contradict this assertion of R. Abin, it does not matter, as a different person may be meant.

Talmud - Mas. Kiddushin 44b

Can a na'arah appoint an agent to receive a divorce from her husband?[1] Does she rank as her father's hand, or as his court-yard?[2] Does she rank as her father's hand: just as her father can appoint an agent, so can she too appoint an agent. Or perhaps, she is as her father's court-yard, and [hence] she is not divorced until the Get actually reaches her hand. Now, is Raba doubtful about this? But Raba said: If he [the husband] writes a Get and places it in her slave's hand,[3] and he is asleep while she watches over him, it is a [valid] divorce; but if he is awake, it is not a [valid] divorce.[4] Now, why is it not a [valid] divorce if he is awake? [Surely] because he is as a court-yard guarded without her instructions. But if you think that she [a na'arah] is as her father's court-yard, then she should not be divorced even when the Get reaches her hand, since she is as her father's courtyard that is guarded without his instructions! Hence it must be obvious to him [Raba] that here she is as her father's hand, but this is his problem: is she as strong as her father's hand, so that she can appoint an agent, or not? — She cannot appoint an agent, he answered him.

He raised an objection: If a minor [ketannah] says: 'Accept my divorce on my behalf,' it is not a valid divorce until it reaches her hand.[5] Hence in the case of a na'arah it is a [valid] divorce![6] — The reference here is to one who has no father.[7] But since the second clause teaches: If her father says to him [the agent], 'Go and accept the Get for my daughter', should her husband wish to retract,[8] he

cannot:[9] this proves that the first clause refers to one who has a father? — The text is defective, and should read thus: If a minor says: 'Accept my Get for me,' it is not a [valid] divorce until it reaches her hand; but in the case of a na'arah it is a [valid] divorce. When is that said? If she has no father. But if she has a father and he says: 'Go and accept the Get for my daughter', and [then] the husband wishes to retract, he cannot.

It has been stated: If a minor [ketannah] is betrothed without her father's knowledge,[10] Samuel said: She requires both Get and mi'un.[11] Said Karna: This is inherently open to objection:[12] if Get, why mi'un, and if mi'un, why Get?[13] Said they [the scholars] to him: But there is Mar 'Ukba and his Beth din at Kafri.[14] Then they reversed it[15] and sent it to Rab. Said he to them, 'By God! she requires both Get and mi'un, yet Heaven forfend that[16] the seed of Abba b. Abba[17] should say thus.'[18] And what is the reason? — Said R. Aba son of R. Ika: She needs a divorce, in case her father consented to the kiddushin,[19] while she needs mi'un, in case her father did not consent to the kiddushin, and it is said that the kiddushin with her sister [by the same man] is invalid.[20]

R. Nahman said: Providing that they negotiated [with the father].[21] 'Ulla said: She does not even require mi'un.[22] [What!] even though there were negotiations?[23] — He who learnt this did not learn the other.[24] Others say: 'Ulla said: If a minor [ketannah] is betrothed without her father's knowledge, she does not even require mi'un.[25]

R. Kahana objected: And if [any among] all these[26] died, protested,[27] were divorced,[28] or found to be constitutionally barren,[29] their fellow-wives are permitted [to the yabam]. Now, who betrothed her?[30] Shall we say, her father betrothed her? is then mi'un sufficient? She requires a proper Get![31] Hence it must surely mean that she betrothed herself, yet it is taught that she requires mi'un![32] — He raised the objection and he [himself] answered it: [We] suppose she had been treated as an orphan during her father's lifetime.[33]

R. Hamnuna objected: He [her father] may not sell her to relations. On the authority of R. Eleazar it was said: He may sell her to relations.

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(1) That she shall be divorced immediately the Get reaches his hand.

(2) The question is posited on the view of the Rabbis (supra 43b) that in the case of a betrothed na'arah either her father or she herself can receive the divorce. It further postulates that the power is actually vested in him, her own being in virtue of his, and the problem is whether she is regarded as his hand or as his domain. For if the Get is placed in his domain she is divorced, and so it may be that the Rabbis reason that she herself is no worse (being under her father's authority), and on that score only can she accept her divorce.

(3) The reference is to an adult wife.

(4) V. Git. 77a-b: the divorce may be placed in the wife's domain, e.g., her court-yard. But it must be guarded through her own will, not at the instance of another person. Now, a Gentile slave is as her domain: if he is asleep and she watches over him, he is guarded through her. But if he is awake he guards himself, and so falls within the latter category.

(5) Because a minor cannot appoint an agent.

(6) As soon as her deputy receives it.

(7) Then a na'arah can certainly appoint an agent, since she is not under paternal authority. But Raba's question refers to a na'arah who has a father.

(8) After the deputy receives it.

(9) Because she is already divorced by the agent's acceptance.

(10) All agree that such betrothal is invalid.

(11) V. Glos.

(12) Lit., 'there is something within itself.

(13) Get is necessary where the marriage is valid by Biblical law, or where there is a Biblical tie; whereas mi'un dissolves a marriage that has Rabbinical force only.

(14) Let us ask him. [If Nehardea, the home of Samuel, is too distant to send for information, let us ask Mar 'Ukba in

Kafri which is nearer to us. The reference is to ‘Ukba I. v. Funk. op. cit. I Note iv.] Kafri is a town in S. Babylon, Obermeyer, op. cit., p. 316.
(15) Ascribing Samuel's view to Karna and vice versa — possibly to see whether Karna's opinion expressed in Samuel's name would carry more weight.
(16) Lit., ‘have compassion upon.’
(17) Samuel's father.
(18) As reported to him.
(19) Then her betrothal is valid by Biblical law.
(20) If she is given a divorce, it will be assumed that her father consented to the betrothal, which had Biblical force. Consequently, should the same man then betroth her sister, it is quite invalid, since she is his divorced wife's sister (v. Lev. XVIII, 18, which is interpreted as applying to such a case). But her father may not have consented, and so neither the betrothal nor the divorce are Biblical, wherefore her sister's betrothal is valid and requires a divorce for its dissolution. (He could not keep the sister, for fear that the first marriage was legal.) Hence she needs mi'un, to draw attention to this possibility.
(21) And he consented (Tosaf. of Ri the Elder). Hence, when he subsequently betroths her without her father's knowledge, her father may thereafter consent, whereby the kiddushin becomes retrospectively valid, and so she needs a divorce. But otherwise she needs no divorce.
(22) Because a minor's action in her father's lifetime has not even Biblical force.
(23) Surely R. Nahman's reasoning is plausible.
(24) He who learnt that ‘Ulla differed from Samuel did not learn R. Nahman's proviso, and so assumed that Samuel gave his ruling even if there were no previous negotiations.
(25) It is one and the same, whether or not there were previous negotiations.
(26) The consanguineous relations enumerated in Yeb. 25, q.v. If A has a number of wives, one of whom, C, is interdicted to B, his brother, on the score of consanguinity, e.g., she is B's daughter, and A dies childless, all his other wives are exempt from yibum or halizah (q.v. Glos.), providing that C is alive and married to him at the time of his death.
(27) I.e., declared mi'un.
(28) Before his death.
(29) Even after his death; the marriage of such is invalid.
(30) This wife who protested.
(31) Since her father's betrothal is Biblically valid.
(32) Though her father was and is still alive (v. p. 224, n. 11.). This contradicts the last ruling reported in the name of ‘Ulla. — Mi'un only applies to the marriage of a minor.
(33) If a father marries (not merely betroths) his daughter as a minor and she is widowed or divorced as a minor, he has no more authority over her, and she is technically regarded as an orphan in her father's lifetime. If she then betroths herself while still a minor, her marriage is Rabbinically valid, and she can dissolve it on attaining her majority by mi'un.

Talmud - Mas. Kiddushin 45a

And both agree that he may sell her, as a widow, to a High priest, and as divorced or a haluzah, to an ordinary priest. Now, this widow, — what are the circumstances? Shall we say that her father betrothed her? Can he [subsequently] sell her? But a man cannot sell his daughter to servitude after marriage![1] Hence it must surely mean that she betrothed herself, and yet he calls her a widow?[2] — R. Amram replied in R. Isaac's name: The reference here is to kiddushin of designation, and it is in accordance with R. Jose son of R. Judah, who maintained: The original money was not given for the purpose of kiddushin.[3]

It was stated: If he [who betrothed her without her father's knowledge] dies, and she falls before his brother for yibum — R. Huna said in Rab's name: She must perform mi'un on account of his declaration, but requires no mi'un on account of his levirate tie.[4] How so? If he [the yabam] makes her a declaration, she requires Get, halizah, and mi'un. She needs a Get, lest her father consented to the kiddushin of the second [the yabam];[5] she needs halizah in case her father consented to the first

[brother's] kiddushin;[6] she needs mi'un, lest her father did not consent to the kiddushin of either the first or the second, and so it be said: Kiddushin with her sister has no validity.[7] But if he does not make a declaration to her, she merely requires halizah. For what will you say: let her also require mi'un, lest it be said that kiddushin with her sister is not valid[8] — but all know that [marriage with] the sister of a haluzah is [forbidden] by Rabbinical law [only],[9] for Resh Lakish said: Here Rabbi taught: The sister of a divorced woman is [forbidden] by Biblical law, whereas the sister of a haluzah, by Rabbinical law.[10]

Two men were drinking wine under willows[11] in Babylonia. [when] one of them took a goblet of wine, gave it to his fellow and said: 'Let thy daughter be betrothed to my son.' Said Rabina: Even on the view that we fear that the father may [subsequently] have consented,[12]

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(1) Supra 18a.

(2) Shewing that the marriage is valid.

(3) V. supra 15b for notes on the whole passage.

(4) If the yabam makes a betrothal declaration to her, which, as already stated (supra p. 218, n. 8), is the Rabbinical equivalent of kiddushin in the case of a yabam, she needs mi'un in addition to the Get she requires. R. Huna proceeds to explain himself.

(5) The yabam's declaration was in the form of an ordinary betrothal. Hence, if the father did not consent to the first brother's kiddushin but did consent to the second's, she is betrothed to him, and needs a Get to dissolve the union.

(6) So that she is the second brother's yebamah. and requires halizah to gain her freedom.

(7) As on p. 224, n. 5. — Rashi observes that even if her father consented to the kiddushin of the first but not of the second, she needs mi'un, for she is only a haluzah in respect to the second, and his kiddushin with her sister is valid, whereas on account of the divorce it will be said that her sister's kiddushin is not valid. Hence the Talmud states: 'lest her father did not consent to the kiddushin of the first' unnecessarily — probably in order to achieve symmetry of style (but v. Tosaf.).

(8) On account of the halizah, which may be assumed to be certainly required by Biblical law.

(9) Hence if he does betroth her sister all know that it is Biblically binding, and a divorce is required.

(10) V. Yeb. 41a.

(11) Others: under an awning of mats.

(12) Supra.

Talmud - Mas. Kiddushin 45b

we [certainly] do not say: 'Perhaps the son consented.'[1] But perhaps, urged the Rabbis to Rabina, he [the son] had appointed him [the father] his agent? — A man is not so insolent as to appoint his father an agent. But perhaps he [the son] had shewn a desire for her in his presence?[2] Said Rabbah b. Simi to them: The Master [Rabina] has [once] distinctly stated that he does not accept this view of Rab and Samuel.[3]

A certain man betrothed [a minor] with a bunch of vegetables in a market place.[4] Said Rabina. Even on the view that we fear lest her father consented, that is only [when it is done] in an honourable manner, but not contemptuously. R. Aba of Difti asked Rabina: What displayed contempt? the vegetables, or [the fact that it was done in] a market-place?[5] The practical difference arises if he betroths her with money in the market place, or with a bunch of vegetables at home. What then? — Both, he replied, are contemptuous.[6]

A certain man insisted, '[Our daughter must be married] to my relation;' whereas she [his wife] maintained, 'To my relation.' She nagged him until he told her that she could be [married] to her relation. Whilst they were eating and drinking,[7] his relation went up to a loft and betrothed her. Said Abaye: It is written: The remnant of Israel shall not do iniquity, nor speak lies.[8] Raba said: It is a presumption that one does not trouble to prepare a banquet and then destroy it.[9] Wherein do they

differ? — They differ in the case where he did not trouble.[10] If she [a minor] became betrothed with her father's consent, and her father departed overseas, and she arose and married[11] Raba said: She may eat terumah[12] until her father comes and protests [against the nissu'in].[13] R. Assi said: She may not eat, lest her father return and protest, and so a zarah[14] will retrospectively be found to have eaten terumah. Such a case occurred, and Rab paid regard to[15] R. Assi's opinion. R. Samuel b. Isaac said: Yet Rab admits that if she dies he [her husband] is her heir,[16] [because] the ownership of money is vested in its possessor.[17]

If she became betrothed with [her father's] knowledge and married without his knowledge, and her father is present,[18] — R. Huna said: She may not eat [terumah]; R. Jeremiah b. Abba said: She may eat. 'R. Huna said: she may not eat': even on Rab's view that she may eat [in the first case], that is only there, since the father is absent;[19] but here, that the father is present, the reason he is silent is that he is angry.[20] 'R. Jeremiah b. Abba said: She may eat': even according to R. Assi, who ruled that she may not eat: it is only there, for her father might return and protest; but here, since he is silent, [it shows that] he does consent.

If she became betrothed and married without her father's knowledge, and her father is present, — R. Huna said: She may eat [terumah]: R. Jeremiah b. Abba said: She may not eat. Said 'Ulla: This [ruling] of R. Huna is 'as vinegar to the teeth, and as smoke to the eyes':[21] if there, that her kiddushin was Biblically valid,[22] you say that she may not eat, how much more so here!

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(1) After his father betrothed him without his knowledge. — A father is very anxious to see his daughter married, but a man takes more care. One has no rights over his son's marriage, unless he is authorised.

(2) And then his father need not be formally appointed an agent, on the principle: one can confer a benefit on another without the latter's knowledge.

(3) That we fear her father's subsequent consent; hence we certainly do not fear the son's subsequent consent or his previous intimation. This is the true reason of Rabina's ruling. His statement, 'even on the view, etc.,' was merely to give it wider acceptance.

(4) Without her father's knowledge.

(5) To betroth with vegetables is contemptuous treatment: likewise it is undignified to betroth in a market place (bizayon, used in the text, connotes both contemptuous and undignified). Now, to what would the father really take exception?

(6) And the father's subsequent consent need not be feared.

(7) At the betrothal festivities, before the actual betrothal.

(8) Zeph. III, 13; hence the father, having given his word, certainly did not consent now. — She was a minor.

(9) It had been prepared for the wife's relation and would now be lost! Hence the father certainly did not consent. (Or, he had certainly not instructed his daughter secretly beforehand to accept the kiddushin.)

(10) According to Abaye there is no fear of the father's consent; according to Raba, there is.

(11) Her betrothed, i.e., nissu'in were performed (q.v. Glos.).

(12) If her husband is a priest, though she is not; v. Lev. XXII, 11, which includes such.

(13) Though she may not eat terumah until after the huppah (v. Glos.), which took place without her father's consent, we take his consent to the huppah for granted, since he consented to the kiddushin, unless he returns and objects.

(14) V. Glos.

(15) Lit., 'feared'.

(16) A husband is his wife's heir after nissu'in, but not after kiddushin.

(17) Before nissu'in, the money certainly belongs to her father, and is therefore deemed in his possession. Since we do not know whether he will give the huppah his retrospective consent, it remains so.

(18) Lit., 'here'.

(19) Hence his consent may be taken for granted.

(20) That she became married without asking him.

(21) Prov. X, 26.

(22) Since she had her father's consent at kiddushin.

[Hence] the disciple's view[1] is preferable. Raba said: What is R. Huna's reason? Because she was treated as an orphan during her father's lifetime.[2]

It was stated: If a minor became betrothed without her father's knowledge: Rab said: Both she and her father can repudiate [it]. R. Assi said: Her father, but not she herself. R. Huna — others state, Hiyya b. Rab-raised an objection to R. Assi: [If a man entice a virgin . . . she shall surely . . . be his wife]. If her father utterly refuse [to give her unto him]:[3] I only know that her father [can refuse]: how do I know [it of] herself? Because it is stated: 'If he utterly refuse', [implying] in all cases![4] — Said Rab to them '[the scholars before whom the objection was raised]: Be not misguided![5] He can answer you that [we] suppose he did not entice her for the purpose of marriage. If he did not entice her with marital intent, is then a verse necessary![6] — Said R. Nahman b. Isaac: It is to teach that he [her seducer] must pay the fine as for an enticed maiden.[7] R. Joseph said to him: That being so,[8] it was consequently taught: He shall surely pay a dowry for her to be his wife:[9] [this means] that she needs kiddushin from him. But had he seduced her with marital intent, why is kiddushin required?[10] — Said Abaye: [This does not follow:] She may need kiddushin with her father's knowledge.[11]

MISHNAH. HE WHO SAYS TO A WOMAN, 'BE THOU BETROTHED UNTO ME WITH THIS DATE, BE THOU BETROTHED UNTO ME WITH THIS ONE' — IF ANY ONE OF THEM IS WORTH A PERUTAH, SHE IS BETROTHED; IF NOT, SHE IS NOT BETROTHED, [IF HE SAYS,] 'WITH THIS AND WITH THIS AND WITH THIS ONE' — AND THEY ARE ALL TOGETHER WORTH A PERUTAH, SHE IS BETROTHED; IF NOT, SHE IS NOT BETROTHED. IF SHE EATS THEM ONE BY ONE, SHE IS NOT BETROTHED UNLESS ONE OF THEM IS WORTH A PERUTAH.[12]

GEMARA. Which Tanna taught: 'BE THOU BETROTHED, BE THOU BETROTHED'? — Said Rabbah: R. Simeon, who maintained, Unless he declares ['I take] an oath' to each one separately.[13]

WITH THIS AND WITH THIS AND WITH THIS ONE [- AND THEY ARE ALL TOGETHER WORTH A PERUTAH, SHE IS BETROTHED; IF NOT, SHE IS NOT BETROTHED. IF SHE EATS THEM ONE BY ONE, SHE IS NOT BETROTHED UNLESS ONE OF THEM IS WORTH A PERUTAH]. To what does this refer? Shall we say, to the first clause — why particularly if she eats them; even if she lays them down it is also thus, since he says: 'BE THOU BETROTHED UNTO ME WITH THIS ONE'?[14] But if to the second clause — [and that] even [if there is a perutah's worth] in the first [only]? But it is a debt![15] — Said R. Johanan: Behold a table, meat and knife, yet we have no mouth to eat![16] Rab and Samuel said: After all, it refers to the first clause, but it teaches what is most noteworthy.[17] [Thus:] It is unnecessary to teach that if she lays them down she is [betrothed] only if [one] is worth a perutah, and not otherwise. But if she eats them, I might argue that since her benefit is immediate, she resolves to cede herself [even for less than a perutah]. Hence we are informed [otherwise]. R. Ammi said: After all, it applies to the second clause; and what is meant by, UNLESS ONE OF THEM IS WORTH A PERUTAH? Unless the last is worth a perutah. Said Raba: From R. Ammi's [explanation] three [corol — laries] may be inferred; [i] If one betroths with a debt, she is not betrothed;[18] [ii] If one betroths [a woman] with a debt and a perutah [i.e., cash], her mind is set upon the perutah,'[19]

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(1) The opinion of R. Jeremiah b. Abba, R. Huna's disciple.

(2) Since her father saw her becoming betrothed and married, and did not protest, he must either have renounced his authority over her or tacitly consented, for otherwise he would not have maintained silence so long.

(3) Ex. XXII, 15f.

(4) 'Utterly' is expressed in Heb. by the doubling of the verb, and indicates extension. The objection assumes that he enticed her for the purpose of kiddushin, since intercourse itself may be such (supra 2a).

(5) Lit., ‘go not after the reverse’ (of what is right).
(6) That her father or she herself can refuse to marry him — surely that is obvious.
(7) Even if she herself refuses him.
(8) That the verse refers to enticement without marital intent.
(9) Ibid.
(10) That itself was betrothal.
(11) Even if her enticement had been for the same purpose.
(12) The meaning of this is discussed in the Gemara.
(13) V. supra 44a for notes.
(14) So that each statement is separate; v, p. 221, n. 1.
(15) If he says: ‘Be thou betrothed unto me with this one and this one, etc.,’ and she eats them one by one, his statement must be considered as a whole. Now, as soon as she eats one she cannot be betrothed by it, since his statement was as yet incomplete, and it becomes a debt, which cannot effect kiddushin.
(16) The Mishnah stands before us, but it is inexplicable.
(17) Lit., ‘it states it is unnecessary (to teach this, but even this).
(18) Otherwise there is no need to particularise the last.
(19) For here he betroths her with all the dates. But those she has eaten are a debt, as explained above, whilst the last, worth a perutah, is the coin actually given. Since the betrothal is valid, we must assume that she regards the last only, for if she regarded the debt and wished to be betrothed thereby, she could not.

Talmud - Mas. Kiddushin 46b

[iii] Money in general is returnable.[1]

It was stated: If one betroths his sister:[2] Rab said: The money is returnable; Samuel ruled: The money is a gift. Rab said: The money is returnable: one knows that kiddushin with a sister is invalid, hence he resolved and gave it as a deposit. Then let him tell her that it is a deposit? — He thought that she would not accept it. But Samuel holds, the money is a gift; one knows that kiddushin with a sister is invalid, and therefore he resolved and gave it as a gift. Then let him tell her that it is a gift? — He thought that she would feel humiliated.

Rabina raised an objection: If one separates his hallah[3] from the flour, it is not hallah,[4] and is robbery in the priest's hand.[5] Now why is it robbery in the priest's hand? Let us say that a man knows that hallah is not separated from flour, and therefore he resolved and gave it as a gift? — There it is different, as it may result in wrong.[6] For the priest may happen to possess less than five quarters of flour and this besides; he will then knead them together and think that his dough is fit [to be eaten], and thus come to eat it in the state of tebel.[7] But you say that a man knows that hallah is not separated from flour! — He knows, yet not fully.[8] He knows that hallah is not separated from flour, yet not fully: for he thinks, What is the reason? Because of the priest's trouble;[9] well, the priest has forgiven his trouble.[10]

Yet let it be terumah [i.e., hallah], but that it shall not be eaten until hallah has been separated[11] for it from elsewhere?[12] Did we not learn: [If one separates terumah] from a perforated [pot] for [the produce grown in] an unperforated pot,[13] it is terumah,[14] but it may not be eaten until terumah and tithes are separated for it from elsewhere![15] In respect of two utensils he will obey, but not in respect of one.[16] Alternatively: the priest will indeed obey; but the owner[17] will think that his dough has been made fit,[18] and so come to eat it in a state of tebel.[19] But you have said that ‘a man knows that hallah is not separated from flour’? — He knows, but not fully. He knows that hallah is not separated from flour. Yet he does not know: for he thinks, what is the reason? On account of the priest's trouble: but he [the priest] has undertaken that trouble.[20]

Yet let it be terumah [i.e., hallah], but that he [the Israelite] shall make another separation.[21] Did

we not learn: [If one separates terumah] from an unperforated pot upon [the contents of] a perforated one, it is terumah,[22] yet he must make another separation.[23] — But we have explained it that he obeys in respect to two utensils, but not in respect of one.[24]

Does he then not obey? Surely we learnt: If one separates a cucumber [as terumah] and it is found to be bitter, or a melon, and it is found to be putrid, it is terumah, but he must make another separation.[25] — There it is different, for by Biblical law it is proper terumah,[26] by R. Elai's [dictum]. For R. Ilai said: How do we know that if one separates from inferior [produce] for choice, the terumah is valid?[27] Because it is said, and ye shall bear no sin by reason of it, whet ye have heaved from it the best thereof[28] now, if it is not hallowed, why bear sin?[29] Hence it follows that if one separates from inferior for choice [produce], his separation is terumah.

Raba said [reverting to the Mishnah]:

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(1) If one gives money for kiddushin, which for some reason is invalid, the money is not a gift but a deposit, and returnable; otherwise, even if the first only is worth a perutah, the kiddushin is valid. For when he completes his statement, the first dates, already eaten, are neither a debt, since they need not be returned, nor a gift, not having been given as such. It would therefore be as though he had stated: Be thou betrothed unto me with this (the first date), but let not the betrothal take effect until I have given you some more,' in which case she becomes betrothed when she receives the others even if the first has been consumed.

(2) Which of course is invalid.

(3) V. Glos.

(4) Since Scripture wrote, Of the first of your dough (Num. XV, 20).

(5) If he does return it.

(6) Lit., 'desolation'.

(7) v. Glos. Five quarters of a kab of flour is the smallest quantity liable to hallah; further, even a priest must separate hallah on dough from which no separation has been made, though he keeps it for himself. Now, if he possesses less, and this completes the quantity, he thinks that it is hallah, and so not liable, and therefore kneads it together with the rest without separating hallah.

(8) Lit., 'he knows and does not know'.

(9) I.e., he should have it ready, without the trouble of kneading it.

(10) And he thinks therefore that it is hallah after all.

(11) Lit., 'brought forth',

(12) I.e., from a different dough.

(13) Produce grown in a pot whose bottom is perforated and is thus connected with the earth is liable to terumah; if unperforated, it is not liable. — Thus he separates what is liable for what is not.

(14) In the sense that the priest need not return it.

(15) Since it is actually tebel, as there was no liability for the unperforated pot. — Produce becomes real terumah only when the separation is made on account of corn that is liable thereto. — Hence the same would apply to hallah.

(16) When a priest is told that the produce separated as terumah from a perforated pot upon an unperforated one is not really terumah, and is itself liable, he obeys, as he recognises a distinction between the two. But when told that the hallah separated from flour is not hallah, though the separation is from the same utensil, he will refuse to separate hallah upon that itself.

(17) I.e., the Israelite who separated it in the first place.

(18) Whereas it has not.

(19) And for this reason the dough must be returned.

(20) Since he accepted it.

(21) Without making it necessary for the priest to return it.

(22) In the sense that the priest need not return it.

(23) The rule is that both that which is separated as terumah and that for which it is separated must be liable to terumah. Here the former is not, and hence another separation must be made. — The same should apply here.

(24) V. p. 232, n. 9; the same holds good of an Israelite,

(25) Though the separation was made from the same utensil which contained the rest. It is obvious that we do not fear that he will disobey, for if we did, the first would have to be returned to ensure a second separation.
(26) Hence it cannot be returned, as the Israelite will mix it with the other produce, which is forbidden. On the other hand, even if he refuses to make a second separation, no harm is done, since the first was Biblically valid and the produce is no longer tebel.
(27) Lit., 'his terumah is terumah'.
(28) Num. XVIII, 32. This implies that one bears sin if he does not heave the best.
(29) For his action would simply be void.

This was taught only if he said to her, ‘With this and with this and with this.’ But if he said to her, ‘[Be thou betrothed unto me] with these,’ even if she eats [them one by one], she is betrothed:[1] when she eats, she eats her own.[2] It was taught in accordance with Raba: [If he says] ‘Be thou betrothed unto me with an acorn, a pomegranate and a nut’; or if he says to her, ‘Be thou betrothed unto me with these’ — if they are all together worth a perutah, she is betrothed; if not, she is not betrothed. ‘[Be thou betrothed unto me] with this and this and this’ — if they are all together worth a perutah, she is betrothed; if not, she is not betrothed. ‘With this one’ whereupon she took and ate it; ‘with this one’ — and she took and ate it; ‘and also with this one, and also with this one’ — she is not betrothed unless one of them is worth a perutah. Now, what is meant by this [clause], ‘with an acorn, a pomegranate, and or a nut’? Shall we assume that he said to her, ‘either’ with an acorn, a pomegranate, or a nut’? ‘If they are altogether worth a perutah she is betrothed’! But he said: ‘or’! Again if it means, ‘with an acorn and a pomegranate and a nut’ — then it is identical with ‘with this and with this!’[3] Hence it must surely mean that he said to her, ‘With these’. But since the second clause teaches: ‘or if he said to her, "Be thou betrothed unto me with these,"’ it follows that the first clause does not refer to ‘with these’! Hence it [must be taken] as [an] explanatory [clause]. ‘Be thou betrothed unto me with an acorn, a pomegranate and a nut’, that is, where he said: ‘Be betrothed unto me with these’.[4] Now, the final clause teaches: ‘With this one and she took and ate it: if one of them is worth a perutah she is betrothed, but not otherwise. Whereas the first clause draws no distinction whether she eats or lays it down. This proves that whenever he says to her, ‘with these,’ if she eats, she eats her own. This proves it.

[Reverting to the final clause of the Mishnah,] That is well on the view that it refers to the second clause, and what is meant by, UNLESS ONE OF THEM IS WORTH A PERUTAH? Unless the last is worth a perutah. Then here too [in the Baraitha just quoted] it means, unless the last is worth a perutah. But according to Rab and Samuel, who maintain that it refers to the first clause, it being necessary to state the case of eating: here comprehensive statements are given, but not detailed enumerations?[5] — This agrees with Rabbi, who said: There is no difference between ‘the size of an olive, the size of an olive,’ and ‘the size of an olive and the size of an olive’: they are [both] detailed enumerations.[6]

Rab said: If one betroths [a woman] with a debt, she is not betrothed:[7] a loan is given to be expended.[8] Shall we say that this is disputed by Tannaim: If one betroths [a woman] with a debt, she is not betrothed; but some say she is betrothed. Surely they differ in this: one Master holds that a loan is given to be expended, whereas the other holds that it is not?[9] — Now, is that plausible? Consider the second clause: And both agree in respect to purchase that he acquires it;[10] but if you say that a loan is given to be expended, wherewith does he acquire it? — Said R. Nahman: Huna our companion relates this [Baraitha] to another matter. We suppose the reference here is to the case where he said to her, ‘Be thou betrothed unto me with a maneh,’ and the maneh was found to be short of a denar:[11] one Master holds that she is bashful to claim it;[12] the other, that she is not.[13] If so, when R. Eleazar said: [If he declares,] ‘Be thou betrothed unto me with a maneh,’ and he gives her a denar, she is betrothed, and he must make it up — shall we say that he stated this ruling in dependence upon Tannaim?[14] — I will tell you: when the maneh lacks [but] a denar, she may be bashful to claim it; when the maneh is short of ninety-nine, she is [certainly] not bashful to claim it.[15]

An objection is raised: If he says to a woman, ‘Be thou betrothed unto me with the deposit which I have in thy possession,’ and she goes and finds that it is stolen or destroyed; if the value of a perutah is left thereof, she is betrothed; if not, she is not betrothed. But in the case of a debt, even if a perutah's worth thereof[16] is not left, she is betrothed. R. Simeon b. Eleazar said on R. Meir's authority: A debt

(1) If they are collectively worth a perutah.
(2) The kiddushin begins to take effect as soon as she accepts the first one.
(3) Why state it twice.
(4) [MS.M. has a much shorter and simpler text: Now what is meant by this (clause) 'with an acorn . . . or a nut'? E.g., where he said 'be betrothed unto me with these', and the final clause teaches 'with this one' etc.]
(5) How do they explain, 'unless one of them is worth a perutah'? For the clause, 'With this and this and this' is a comprehensive statement, in so far as it is taught that if they are all together worth, etc. Hence there is no clause in the Baraitha equivalent to the first clause in the Mishnah. Now, according to R. Ammi, it is well, since in the Mishnah too 'If she eats' refers to the second clause, viz., likewise to his comprehensive statement. But according to Rab and Samuel it must refer to a detailed enumeration, viz., by this, by this (not and by this); but such a clause is absent in the Baraitha.
(6) If one sacrifices an animal with the expressed intention of eating the size of an olive thereof after the time limit, the sacrifice is 'abomination', and he is liable to kareth (q.v. Glos.); if to eat it without the boundaries fixed for its eating, the sacrifice is unfit, but he is not liable to kareth. In the case of a combined intention, the latter ruling applies. R. Judah rules: The intention first expressed determines its particular law. Thereon Rabbi said: There is no difference whether he declares, 'I will eat the size of an olive after time, the size of an olive without the boundaries,' or 'I will eat the size of an olive after time and the size of an olive, etc.': both are detailed enumerations, the first of which determines its law according to R. Judah, and not comprehensive statements (i.e., combined intentions). Consequently, this clause of our Baraitha, 'With this one, etc.,' was not taught by the same Tanna as the former, but in agreement with Rabbi that even when he adds the copulative and with this one, each is a separate declaration: 'Be thou betrothed unto me with this one,' 'Be thou betrothed unto me with this one.' Hence when it is stated: 'If she ate, etc. ,'the same holds good even with greater force if she lays down each (v. Rab and Samuel's reasoning on 46a, which likewise applies here).
(7) Even if the money loaned is actually now in her possession.
(8) The debtor may expend it as he desires, and is not bound to put it in a business so that it should always be at hand when the creditor demands its return. Hence this money which she actually possesses is her own, and he gives her nothing at all. v. supra p. 21, n. 9.
(9) As explained in the previous note.
(10) If A sells land to B, B can acquire it in virtue of money he lent him previously (land being acquired by money, supra 26a), if A possesses the actual money loaned.
(11) The denar is the loan referred to.
(12) Hence she is not betrothed.
(13) She relies upon receiving it, and so the betrothal is valid.
(14) I.e., knowing that it is disputed by Tannaim.
(15) Hence all agree that she is betrothed.
(16) Of the actual money he lent her.

Talmud - Mas. Kiddushin 47b

is the same as a deposit. Now, they differ only in so far as one Master holds that a debt, even if a perutah's worth thereof is not left [is valid kiddushin], whereas the other holds it is [valid] only if a perutah's worth thereof is left, but not otherwise: but all agree that if one betroths [a woman] with a debt [the money being still in her possession], she is betrothed! — Said Raba: Is it logical that this [Baraitha] is correct;[1] surely it is corrupt! [For] what are the circumstances of this deposit? If she guaranteed against loss,[2] it is identical with a loan.[3] If she did not guarantee against loss — if so, instead of the second clause teaching, 'but in the case of debt, even if a perutah's worth thereof is not left, she is betrothed' — let a distinction be made and taught in the case [of deposit] itself: when is that? Only if she did not guarantee against loss; but if she did, even if a perutah's worth thereof is not left, she is betrothed. But amend it thus: in the case of debt, even if a perutah's worth thereof is left, she is not betrothed. R. Simeon b. Eleazar said on R. Meir's authority: Debt is as a deposit.

Wherein do they differ? — Said Rabbah: I found the Rabbis at the schoolhouse sitting and explaining. They differ as to whether a loan vests in its owner [sc. the creditor] in respect of return,

and likewise in respect of unpreventable accidents: one Master holds that a loan vests in the debtor, and likewise in respect of unpreventable accidents; and the other holds that it vests in the creditor, and even so in respect of unpreventable accidents.[4] But I told them , As for unpreventable accidents, all agree that it vests in the debtor. What is the reason? It is no worse than a loaned article:[5] if for a loaned article, which is returnable as it is, one is liable in respect of unpreventable accidents, how much more so for a debt![6] But here they [merely] differ as to whether a loan vests in its owner in respect of return.

If so, when R. Huna said: If one borrows an axe from his neighbour, if he clave [wood] therewith, he acquires it;[7] if not, he does not acquire it — shall we say that he gave his ruling as dependent upon [a dispute of] Tannaim?[8] — No. They differ only in respect of a [monetary] loan, which is not returnable as it is; but with the loan of an article which is returnable as it is, all agree [on the prin — ciple] 'if he clave therewith he indeed [acquires it,] but if he did not cleave therewith he does not acquire it'.[9]

Shall we say that this [Rab's dictum] is disputed by Tannaim? [For it was taught: If a man says to a woman:] 'Be thou betrothed unto me with a note of debt,' or if he has a loan in the hands of others[10] and transfers it to her,[11] R. Meir said: She is betrothed; the Sages ruled: She is not betrothed. Now, how is this 'note of debt' meant? Shall we say, a note of debt against others; then it is identical with 'a loan in the hands of others?' Hence it must surely mean a note against her debt,[12] and thus they differ in respect to betrothing [a woman] by a debt! — After all, it means a note of debt against others, and here they differ both on a debt contracted with a bond and a debt contracted verbally.[13] Concerning a debt contracted with a bond, wherein do they differ? In the dispute of Rabbi and the Rabbis. For it was taught: A note[14] is acquired by delivery; this is Rabbi's view.[15] But the Sages say: Whether he writes [a bill of sale] without delivering [the note itself] or whether he delivers it without writing [a bill of sale], he does not acquire it unless he both indites [a bill of sale] and delivers [the original note]. One Master agrees with Rabbi; the other does not agree with Rabbi.[16] Alternatively, none accept Rabbi's view, while here they differ in R. Papa's [dictum]. For R. Papa said: When one sells a note to his neighbour he must write for him [in the conveyance]: 'Acquire it together with all its obligations': one Master agrees with R. Papa; the other does not agree with R. Papa.[17] Alternatively, all agree with R. Papa. But here they differ over Samuel's dictum. For Samuel said:

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(1) Lit., 'to be accepted.'

(2) To pay for any mishap.

(3) If lost or stolen, since it must be made good, just like a debt.

(4) All agree that a loan is given for expenditure: consequently, had she expended anything at all thereof, the betrothal is not valid. But here she had expended nothing of it: R. Simeon b. Eleazar holds that in such a case it vests in the creditor, and he can immediately demand its return, if he desires. Hence it is now that he gives it to the woman, and so she is betrothed. Likewise, should an unpreventable accident befall the money, the debtor is not responsible, since it is accounted as being in the creditor's possession. The first Tanna's view is the reverse.

(5) 'Milweh' applies to a monetary loan; 'She'elah', to the loan of an article.

(6) Which is certainly more in the debtor's possession, seeing that he is not bound to return the same coins.

(7) In the sense that it belongs to him for the period of the loan, and the lender cannot retract.

(8) Viz., that it agrees only with R. Meir. But according to the first Tanna, since an untouched loan does not stand in the creditor's possession and he cannot demand its return, the same applies here even if he did not cleave wood with it.

(9) Other coins may be substituted, but as for a loaned article, which must be returned itself, all agree that only if he clave therewith does he acquire, and not otherwise.

(10) I.e., he is a creditor.

(11) Lit., 'gave her (written) authority over them' to collect the debt for herself.

(12) I.e., against a debt she owes to him.

(13) The latter being 'a loan in the hands of others'.

(14) Lit., 'letters'.

(15) If A delivers his note against B to C, C acquires it forthwith.

(16) The circumstances being that he gave her the note, but did not write a bill of sale hereon.

(17) The circumstances being that he gave her the original note and wrote a bill of sale, but did not include this 'obligation' clause in it.

Talmud - Mas. Kiddushin 48a

If one sells a note of debt to his neighbour and then renounces it [the debt], it is renounced; and even an heir can renounce it.[1] One Master agrees with Samuel; the other does not agree with Samuel.[2] Alternatively, all agree with Samuel,[3] and here they differ in respect to the woman. One Master holds, The woman has full confidence [in him], reasoning, he will not leave me in the lurch and renounce [the debt] in favour of another; whereas the other Master holds, The woman too has no confidence.

Wherein do they differ concerning a debt contracted verbally? — In [the law of] R. Huna in Rab's name. For R. Huna said in Rab's name: [If A says to B,] 'The maneh which I have in your possession, give it to C': [if said] 'in the presence of the three of them' [viz., A, B and C], he acquires it. One Master holds, Rab ruled thus only of a deposit, but not of a loan;[4] and the other maintains that there is no difference between a deposit and a loan.[5]

[Again,] Shall we say that this[6] is disputed by Tannaim? [For it was taught: If he says:] 'Be thou betrothed unto me with a note:' R. Meir said: She is not betrothed; R. Eleazar said: She is betrothed; the Sages ruled: The paper is valued: if it is worth a perutah, she is betrothed; if not, she is not betrothed. How is this note meant: shall we say, a note of debt against others — then R. Meir is self-contradictory?[7] Hence it must mean her own note of debt,[8] and thus they differ in respect to betrothal by debt! — Said R. Nahman b. Isaac: The meaning here is that he betroths her with a deed unattested by witnesses,[9] R. Meir being in harmony with his view that the witnesses who sign dissolve [the marriage]; while R. Eleazar is in agreement with his opinion that the witnesses to the delivery dissolve it;[10] while the Rabbis are in doubt whether it is as R. Meir or R. Eleazar; therefore the paper is valued, [and] if it is worth a perutah she is betrothed, and if not, she is not betrothed.[11]

Alternatively, [we] suppose, that it was not written specifically for her sake, and they differ in respect to Resh Lakish's [view]. For Resh Lakish propounded: What if a deed of betrothal is not written expressly for her [the betrothed's] sake? Do we assimilate betrothal to divorce: just as divorce must be expressly for her sake, so must betrothal be likewise; or perhaps, [different] forms of betrothal are assimilated to each other: just as betrothal by money need not be for her sake, so betrothal by deed need not be for her sake? After propounding, he resolved it: Betrothal is assimilated to divorce, [for Scripture writes] and when she is departed . . . she may be [another man's wife].[12] One Master agrees with Resh Lakish; the other does not.[13]

Alternatively, all agree with Resh Lakish, and here the circumstances are that it [the deed] was written expressly for her sake but without her knowledge, and they differ in the same dispute as Raba and Rabina, R. Papa and R. Sherabia. For it was stated: If it is written for her sake but without her knowledge, — Raba and Rabina maintain: She is betrothed; R. Papa and R. Sherabia rule: She is not betrothed.[14]

Shall we say that it [Rab's dictum] is dependent on the following Tannaim? For it was taught: [If a woman says to a man,] 'Make me a necklace, earrings and [finger] rings, and I will be betrothed unto thee,'[15] as soon as he makes them, she is betrothed: this is R. Meir's view. But the Sages rule: She is not betrothed until the money reaches her hand. What is meant by this 'money'? Shall we say, those self-same valuables? hence it follows that in the first Tanna's view even those self-same valuables [need] not [reach her hand]; then wherewith is she betrothed?[16] Hence it must surely refer to

different money,[17] which proves that they differ over betrothal by debt. For it is assumed that all hold that wages are a liability from beginning to end, hence it is a debt;[18] surely then they differ in this: one Master holds, If he betroths [a woman] with a debt, she is betrothed, while the other holds that she is not? — No: all agree that if he betroths with a debt, she is not betrothed, but here they differ as to whether wages are a liability from beginning to end. One Master holds,

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(1) Tosaf. suggests that the reason is that the sale of an IOU is only Rabbinically valid, and is therefore not strong enough to annul the first creditor's right of renunciation. [According to R. Tam (v. R. Nissim on Keth. 85b) it is based on the dual conception of the lien of the creditor or the debtor: (a) שעבוד הגוף a lien on his person; (b) שעבוד נכסים a lien on his property — a conception that has its parallel in the Greek and Old Babylonian Systems of Law. Whilst the latter is assignable, the former is not, and whenever the creditor chooses to renounce the inalienable part of his lien, the other automatically lapses; v. Neubauer. J. op. cit. pp. 112-114, n. 1.]

(2) The first Tanna agrees: hence the woman relies upon it, and the betrothal is valid.

(3) [And therefore in the case of an ordinary transaction of real estate, a note does not rank as money to confer possession upon the purchaser.]

(4) Hence in the case under discussion the woman is not betrothed.

(5) V. Git. (Sonc. ed.) p. 47. n. 3.

(6) Rab's dictum, supra 47a.

(7) V. supra 47b.

(8) Recording her debt.

(9) V. supra 2a; that is the note referred to here, but that it was not signed; it was, however, given to her in the presence of witnesses.

(10) This refers to a Get (q.v. Glos.) bearing no signature of witnesses. R. Meir holds that it is invalid, For only these witnesses give it its power of dissolution. R. Eleazar rules that it is valid, for the dissolution is really effected by the witnesses who attest its delivery. v. Git. 3b. The same applies to a deed of betrothal.

(11) Rashi and Tosaf. observe that the last clause must be omitted, For since we are in doubt, even if it is not worth a perutah she stands as doubtfully betrothed, and needs a divorce to free her.

(12) V. supra 95 for notes.

(13) Whilst the Rabbis are in doubt on the point.

(14) V. supra 9b for notes.

(15) In return for his labour, the gold being her own.

(16) Surely she must actually receive something!

(17) I.e., in addition to the jewels she must receive money.

(18) When a man does work, as he completes each perutah's worth his employer is liable for the payment of it. Consequently, when this goldsmith makes the jewellery, as soon as he finishes each perutah's worth of labour, she becomes indebted to him to the amount of a perutah, so that when he completes the work entirely, the fee, which is to effect betrothal, is a retrospective debt.

Talmud - Mas. Kiddushin 48b

Wages are a liability only at the end;[1] whilst the other holds that wages are a liability from beginning to end. Alternatively, all hold that wages are a liability from beginning to end, and that betrothal by debt is invalid, but here they dispute whether an artisan gains a title to the improvement of the utensil; one Master holds that an artisan does acquire title to the improvement of the utensil, and the other holds that an artisan does not acquire title to the improvement of the utensil.[2] Alternatively, all hold that an artisan does not obtain a title to the improvement of the utensil, and that wages are a liability from beginning to end, and that betrothal with debt is not valid, but the circumstances here are that he added a particle [of metal] of his own: one Master holds, [When one betroths a woman with a] debt and a perutah, her mind is set upon the perutah;[3] the other holds, her mind is set upon the debt.[4] And [they differ] in the [same] dispute as the following Tannaim. For it was taught: '[Be thou betrothed unto me] with the wage [owing to me] for the work I have done for thee, ' she is not betrothed; with 'the wage for what I will do for thee,' she is betrothed. R. Nathan said: 'With the

wage for what I will do for thee,' she is not betrothed; how much more so, 'with the wage [owing to me] for the work I have done for thee.' R. Judah the Prince said: In truth it was stated, whether [he declared], 'with the wage for what I have done,' or 'with the wage for what I will do for thee,' she is not betrothed; yet if he adds a consideration of his own, she is betrothed.[5] The first Tanna and R. Nathan differ in respect to wages.[6] R. Nathan and R. Judah the Prince differ in respect to [betrothal by] debt and a perutah: one holds that then her mind is set upon the debt, whereas the other holds that it is set upon the perutah.

MISHNAH. [IF A MAN SAYS TO A WOMAN], BE THOU BETROTHED UNTO ME WITH THIS CUP OF WINE,' AND IT IS FOUND TO BE OF HONEY, OR 'OF HONEY' AND IT IS FOUND TO BE OF WINE; 'WITH THIS SILVER DENAR,' AND IT IS FOUND TO BE OF GOLD, OR 'OF GOLD' AND IT IS FOUND TO BE OF SILVER; 'ON CONDITION THAT I AM WEALTHY,' AND HE IS FOUND TO BE POOR, OR 'POOR' AND HE IS FOUND TO BE RICH; SHE IS NOT BETROTHED. R. SIMEON SAID: IF HE DECEIVES HER TO [HER] ADVANTAGE,[7] SHE IS BETROTHED.

GEMARA. Our Rabbis taught: [Where he says] 'Be thou betrothed unto me with this cup' — one [Baraitha] taught: with that and its contents;[8] another taught; with that, but not with its contents; another taught: with its contents, but not with that itself. Yet there is no difficulty: one refers to water, another to wine, and the third to brine.[9]

IF HE DECEIVES HER TO [HER] ADVANTAGE, SHE IS BETROTHED, But does not R. Simeon agree [that if one sells] wine, and it is found to be vinegar, or, vinegar and it is found to be wine, both [the vendor and the purchaser] can retract?[10] This proves that some prefer wine and others prefer vinegar. So here too, some are pleased with silver and not with gold?[11] Said R. Shimi b. Ashi: I came across Abaye sitting and explaining this to his son: We deal here with a case where, for example, he said to his agent, 'Lend me a silver denar and go and betroth So-and-so on my behalf,' and he went and lent him a gold denar. One Master holds, [He was] particular [about this;][12] the other, that he merely indicated the place to him.[13] If so,[14] 'BE THOU BETROTHED UNTO ME' — BE THOU BETROTHED UNTO him is required; IF HE DECEIVES HER TO [HER] ADVANTAGE' — IF HE DECEIVES him TO [HIS] ADVANTAGE is required, 'IT IS FOUND [TO BE OF GOLD]' — but at the very outset it was of gold![15] — But, said Raba, I and a lion of our company, viz., R. Hiyya b. Abin, explained it, What are the circumstances here? If she said to her agent, 'Go forth and accept kiddushin on my behalf from So-and-so, who has proposed to me, "Be thou betrothed unto me with a silver denar"'; and went and was given a gold denar. One Master holds [she was] particular [about this]; the other, that she indicated the place to him. And what is [the meaning of] 'IT IS FOUND'?[16] It was wrapped up in a cloth.[17]

Abaye said: R. Simeon,[18] R. Simeon b. Gamaliel, and R. Eleazar, all hold that one merely indicates the place.[19] R. Simeon, as stated. 'R. Simeon b. Gamaliel:' for we learnt:

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(1) When the work is returned the whole wages become a simultaneous liability; hence there is no debt, and the betrothal is valid.

(2) When a man is employed by the hour, day, etc., all agree that his wages are a liability from beginning to end. Here, however, we deal with a case where he contracted for the work irrespective of time. In respect to this we have two views: one view is that the artisan acquires title to the increase in the value of the material upon which he works as a result of the improvements he effects, and when he gives it back, he is really selling it for the agreed cost of his labour. Hence, the woman is betrothed, since she receives something for which she would have to pay now. The other view is that he does not so acquire; consequently, his wages are a liability and debt, just as those of a time worker; and so she is not betrothed.

(3) His labour is a debt, whilst his own additional material is certainly like a coin given now. Since we assume that her mind is set upon the perutah, she is betrothed.

(4) Because its value exceeds his small addition.
(5) This proves that in R. Nathan's opinion she is not betrothed even then.
(6) Whether they are a liability from beginning to end or only at the end, but if the work is already done and in her possession, it is certainly a debt, on all views.
(7) The object being better than described.
(8) That is understood to be his meaning, and if they are together worth a perutah, she is betrothed.
(9) Or, oil. If the cup is filled with water, her mind is set upon the cup, hence that must be worth a perutah. With wine, she thinks of the wine, not the cup; with brine, (or oil) which must remain for some time in the cup, her mind is set upon both (Rashi).
(10) This is a Mishnah in B.B. 83b.
(11) Tosaf.: she may need the silver for its metal.
(12) He wanted to borrow only a silver denar, not gold; hence the betrothal is invalid.
(13) I.e., he intimated to him that he was to betroth that woman with money, but was not particular about the exact coin.
(14) That the reference in the Mishnah is to the agent.
(15) The agent knew full well that he was giving a gold denar.
(16) For here too it was thus given at the very outset.
(17) And it was discovered to be gold only upon reaching the woman's hand.
(18) I.e., b. Yohai.
(19) In circumstances similar to the above.

Talmud - Mas. Kiddushin 49a

A plain divorce [bears] its witnesses on the inside; a folded one [bears] its witnesses on the outside.[1] If the signatures of a plain one are written on the outside, or of a folded one on the inside, both are invalid. R. Hanina b. Gamaliel said: If the signatures of a folded one are written on the inside it is valid, because it can be converted into a plain one.[2] R. Simeon b. Gamaliel said: It all depends on local custom.[3] Now, we pondered thereon: does not the first Tanna agree that local custom [is the determining factor]? To which R. Ashi[4] replied: In the place where a plain one is customary and a folded one is made, or in the place where a folded one is customary and a plain one is made, all agree that the objection [is valid]. Where do they differ? Where both are customary, and he [the husband] instructs him [the scribe], 'Make me a plain one,' and he goes and makes him a folded one. One Master holds that he particularised; the other, that he indicated a place to him.[5]

'R. Eleazar' — for we learnt: If a woman says: 'Accept a divorce on my behalf at such and such a place,' and he accepts it elsewhere: R. Eleazar ruled it valid. This shews that he holds that she merely indicated a place to him.

'Ulla said: The controversy [in the Mishnah] refers to a monetary advantage. But in an advantage of birth,[6] all agree that she is not betrothed. What is the reason? 'I do not want a shoe too large for my foot.' It was taught likewise. R. Simeon admits that if he deceives her by a superiority of birth she is not betrothed. R. Ashi said: This follows from our Mishnah too. For it states:[7] 'On condition that I am a priest,' and he is found to be a Levite, or 'a Levite', and he is found to be a priest, 'a Nathin,'[8] and he is found to be a mamzer,[9] or a mamzer', and he is found to be a Nathin [she is not betrothed]; and R. Simeon does not disagree. Mar, son of R. Ashi, demurred: If so, when it is stated: 'on condition that I have a daughter or maidservant [meguddeleth][10] that is grown up', whereas he has none; or on condition that he has not, and he has, which is a monetary advantage, does he not disagree there either! But [what you must say is that] he differs in the first clause,[11] and the same is understood of the second;[12] so here too [in respect to superiority] of birth, he differs in the first clause, and the same applies to the last clause. How compare! There, since both refer to a financial advantage, he differs in the first clause and the same is understood of the last. Here, however, that it is superiority of birth, if it is so that he disagrees, it should be taught. Alternatively, here too superior birth [is meant]. Do you think that meguddeleth means literally an adult; meguddeleth means of

superior breeding,[13] for she [the woman betrothed] can say: 'It does not please me that she should take up my words and carry them about to the neighbours.'[14]

Our Rabbis taught: 'On condition that I am a karyana,'[15] once he has read three verses [of the Pentateuch] in the synagogue,[16] she is betrothed. R. Judah said: He must be able to read and translate it. Even if he translates it according to his own understanding! But it was taught: R. Judah said: If one translates[17] a verse literally, he is a liar; if he adds thereto, he is a blasphemer and a libeller.[18] Then what is meant by translation? Our [authorised] translation.[19] Now, that is only if he said to her 'karyana'. But if he says: 'I am a kara,'[20] he must be able to read the Pentateuch, Prophets and Hagiographa with exactitude.[21] [If he says,] 'On condition that I am learned' — Hezekiah said: [In] Halachoth.[22] R. Johanan ruled: In Torah.[23] An objection is raised: What is Mishnah?[24] R. Meir said: Halachoth. R. Judah said: Midrash.[25]

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(1) V. B.B. 160a.

(2) By leaving it unsewn.

(3) If it is customary to write a folded divorce, a plain one is invalid, and vice versa. For when a husband authorizes the scribe to write a divorce, it is tacitly understood that he wants it written in accordance with local custom; for notes v. B.B. 160a.

(4) Rashal in B.B. 165a reads Abaye. R. Ashi, being later than Abaye, is obviously an incorrect reading in an argument by the latter, unless it is assumed that Abaye merely made the statement cited above, the Talmud itself elaborating it; v. Kaplan, Redaction of the Talmud, p. 222.

(5) I.e., gave him a general intimation that he wanted a divorce to be indited.

(6) E.g., if he says, on condition that I am a mamzer (q.v. Glos.). and is found to be a Nathin, i.e., of higher caste.

(7) Infra b.

(8) V. Glos.

(9) V. Glos.

(10) V. infra p. 249, n. 8.

(11) Viz., in the Mishnah on 48b.

(12) Infra b.

(13) So Rashi.

(14) And because she is of superior breeding she has access to them and is listened to, where she would not be otherwise.

(15) I.e., able to read the Bible.

(16) In Talmudic times the reading of the Pentateuch, which was an important part of Sabbath and Festival services, was performed by a number of congregants, each of whom read not less than three verses, and not by a Reader, as to-day.

(17) This refers to the public translations in the synagogue alongside the Reading of the Law, which was also a feature of ancient times.

(18) Meharef and megaddef are synonyms. [Tosaf. In the name of R. Hananel cites Ex. XXIV. 10: **ויראו את אלקי ישראל** of which the literal rendering 'they saw the God of Israel' conveys a lie, as God cannot be seen, whilst the added words in the rendering 'they saw the angel of the God of Israel' involves a blasphemy; for further examples v. Harkavy, A., Teshuboth ha-Geonim, pp. 124ff.]

(19) The Aramaic translation known as Targum Onkelos; v. Bacher, Die Terminologie der Tannaiten, pp. 205 et seq., also art. 'Targum' in J.E.

(20) Likewise 'reader', but the word implies wider erudition.

(21) Of course, with full understanding.

(22) Rashi: traditional laws dating back to Moses. The probable meaning is traditional statements of laws in general, such as form the Mishnah, but without the exegetical knowledge of their derivation from the Bible, particularly the Pentateuch, v, Glos. s.v. Halachah.

(23) This is now assumed to mean the written law, i.e., the Pentateuch.

(24) 'Learning' a word of the same root as in the phrase 'that I am learned'.

(25) Exegesis. The exegetical literature, e.g., Sifra and Sifre, containing the laws derived from the Pentateuch and the manner of derival. — Thus on both views the knowledge of the Torah alone is insufficient.

Talmud - Mas. Kiddushin 49b

— What is meant by Torah? The exegesis [Midrash] of the Torah. Now, that is only if he says to her [‘on condition that I am] tinyana [learned]:’ but if he says to her, I am a tanna, he must have learned law, Sifra, Sifre and Tosefta.[1] ‘On condition that I am a disciple [talmid],’ we do not say, such as Simeon b. ‘Azzai and Simeon b. Zoma,[2] but one who when asked a single question on his studies in any place can answer it,[3] even in the Tractate Kallah.[4] ‘On condition that I am a Sage,’ we do not say, like the Sages of Jabneh[5] or like R. Akiba and his companions, but one who can be asked a matter of wisdom[6] in any place and he can answer it. ‘On condition that I am mighty,’ we do not say, [he must be] like Abner the son of Ner[7] and Joab son of Zeruiah,[8] but as long as he is feared by his companions on account of his strength. ‘On condition that I am wealthy,’ we do not say, like R. Eleazar b. Harsom and R. Eleazar b. Azariah,[9] but as long as he is honoured by his fellow citizens on account of his wealth. ‘On condition that I am righteous,’ even if he is absolutely wicked, she is betrothed, for he may have meditated repentance in his thoughts. ‘On condition that I am wicked,’ even if he is completely righteous, she is betrothed, for he may have meditated idolatry in his mind.

Ten kabs of wisdom descended to the world: nine were taken by Palestine and one by the rest of the world. Ten kabs of beauty descended to the world: nine were taken by Jerusalem and one by the rest of the world. Ten kabs of wealth descended to the world: nine were taken by the early Romans and one by the rest of the world. Ten kabs of poverty descended to the world: nine were taken by Babylon and one by the rest of the world. Ten kabs of conceit descended to the world: nine were taken by Elam[10] and one by the rest of the world. But did not conceit descend to Babylon! But it is written: Then lifted I up mine eyes, and saw, and behold, there came forth two women, and the wind was in their wings; now they had wings like the wings of a stork: and they lifted up the ephah between the earth and the heaven. Then said I to the angel that talked with me, Whither do these bear the ephah? And he said unto me, To build her a house in the land of Shinar.[11] Whereon R. Johanan said: This refers to hypocrisy and conceit, which descended to Babylon! — Yes, it did come down hither, but made its way thither [to Elam]. This follows too because it is written, to build her a house:[12] this proves it. But that is not so, for a Master said: A sign of conceit is poverty, and poverty is found in Babylon! — By poverty,[13] poverty of learning is meant,[14] as it is written, we have a little sister, and she hath no breasts,[15] whereon R. Johanan said: This refers to Elam, which was privileged to study but not to teach.[16]

Ten kabs of strength descended to the world: nine were taken by the Persians, etc. Ten kabs of vermin descended to the world: nine were taken by Media, etc. Ten kabs of witchcraft descended to the world: nine were taken by Egypt,[17] etc. Ten kabs of sores descended to the world: nine were taken by swine, etc. Ten kabs of immorality descended to the world: nine were taken by Arabia, etc. Ten kabs of impudence descended to the world: nine were taken by Mesene.[18] Ten kabs of gossip descended to the world: nine were taken by women, etc. Ten kabs of drunkenness[19] descended to the world: nine were taken by Ethiopians, etc. Ten kabs of sleep descended to the world: nine were taken by slaves,[20] and one by the rest of the world.

MISHNAH. ‘[BE THOU BETROTHED UNTO ME] ON CONDITION THAT I AM A PRIEST,’ AND HE IS FOUND TO BE A LEVITE, OR ‘A LEVITE’ AND HE IS FOUND TO BE A PRIEST; A NATHIN,’[21] AND HE IS FOUND TO BE A MAMZER,[22] OR ‘A MAMZER’ AND HE IS FOUND TO BE A NATHIN; ‘A TOWNSMAN, AND HE IS FOUND TO BE A VILLAGER, OR ‘A VILLAGER’ AND HE IS FOUND TO BE A TOWNSMAN; ‘ON CONDITION THAT MY HOUSE IS NEAR TO THE BATHS,’ AND IT IS FOUND TO BE FAR, OR ‘FAR’ AND IT IS FOUND TO BE NEAR; ON CONDITION THAT HE HAS A DAUGHTER OR MAIDSERVANT[23] THAT IS GROWN UP,[24] AND HE HAS NOT, ‘OR ON CONDITION THAT I HAVE [THEM] NOT’, AND HE HAS; ‘ON CONDITION THAT HE HAS NO SONS’, AND HE

HAS, OR 'ON CONDITION THAT HE HAS SONS, AND HE HAS NONE-IN ALL THESE CASES, EVEN IF SHE DECLARES, IT WAS MY INTENTION TO BECOME BETROTHED TO HIM NOTWITHSTANDING,' SHE IS NOT BETROTHED. IT IS LIKEWISE SO IF IT WAS SHE WHO DECEIVES HIM.

GEMARA. A certain man sold his property with the intention of emigrating to Palestine, but when selling he said nothing.[25] Said Raba: That is a mental stipulation,[26] and such is not recognised.[27] How does Raba know this? Shall we say, from what we learnt:

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(1) Sifra is a halachic commentary on Leviticus, also known as Torath Kohanim, the Law of the Priests. Sifre is a similar work on Numbers and Deuteronomy. In Sanh. 86a R. Johanan ascribes all anonymous passages in them to R. Judah and R. Simeon respectively. Tosefta ('addition') is a collection of laws not included by Rabbi in his compilation of the Mishnah, and of lesser authority. A number of Rabbis had such collections, but only those of R. Hiyya and R. Oshaia were considered authentic. The relation of the Tosefta to the Mishnah is one of the unsolved problems of Talmudic literature, but it is highly probable that part of it at least was intended as an elaboration of the Mishnah.

(2) These, though disciples, i.e., not ordained as Rabbis, were renowned for their wide erudition. Cf. Sotah, 49b, Yeb. 63b.

(3) [ואומרו Lit., 'he says it', Kaplan, op. cit. p. 203 explains this term as denoting the ability to discuss the point in question, and not merely to quote correctly from some text.]

(4) One of the extra-canonical tractates. Rashi: though it is short and not difficult, it is enough if he can answer a question in it. Others (v. Tosaf. Ri) the laws of Festivals (Kallah was the name given to the general assemblies in Elul and Adar, when the laws of the Festivals were popularly expounded.), in which most people were well-versed. V. J.E. s.v. Kallah; v. [Higger, M. מסכתות כלה pp. 13ff.].

(5) A town to the north west of Jerusalem, whither R. Johanan b. Zakkai transferred the great Sanhedrin after the fall of Jerusalem; v. Sanh. (Sonc. ed.) p. 204 n. 8.

(6) Rashi: a matter dependent on logic.

(7) Formerly Ishbosheth's chief general against David, but subsequently he went over to David; II Sam. II, 8 seqq; III, 12 seqq.

(8) David's chief general.

(9) Who were credited with enormous wealth: V. Yoma 35b and Shab. 54b.

(10) V. Sanh. (Sonc. ed.) p. 138, n. 1.

(11) Zech. V, 9f. Shinar is Babylon.

(12) Rashi offers two explanations: (i) the inf. 'to build' implies that it was only an intention, not subsequently carried out; (ii) the sing. 'her', instead of 'them', intimates that only one took up her permanent residence in Babylon, viz., hypocrisy.

(13) Which betokens conceit.

(14) The conceited man is too proud to seek learning from others.

(15) Cant. VIII, 8.

(16) V. Sanh. (Sonc. ed.) p. 238. n. 5. Which proves that their conceit prevented them from attaining sufficient knowledge to teach.

(17) Cf. Sanh. (Sonc. ed.) p. 460. n. 6.

(18) The island formed by the Euphrates, the Tigris and the Royal Canal.

(19) Var. lec, 'blackness'.

(20) Cf. B.M. 64b-65a.

(21) V. Glos.

(22) V. Glos.

(23) V. supra p. 245.

(24) [Meguddeleth, others: 'a hairdresser' Tosaf. Ri].

(25) And subsequently he was prevented from going.

(26) Lit., 'it is words that are in the heart'.

(27) Lit., 'words that are in the heart are no words'. Even though we know that that was his reason, e.g., he had mentioned it previously.

Talmud - Mas. Kiddushin 50a

[If his oblation be a burnt-offering of the herd, he shall offer it with a tale without blemish:] he shall offer it [at the door etc.]:[1] this teaches that he is compelled.[2] I might think, against his will-hence it is taught: 'with his free will'.[3] How is this possible? He is compelled, until he declares, 'I am willing'. Yet why, seeing that in his heart he is unwilling! Hence it must surely be because we rule; A mental affirmation is not recognised! — But perhaps it is different there, for we ourselves are witnesses that he is pleased to gain atonement. But [it follows] from the second clause: and you find it likewise in the case of women's divorce and slaves' manumission: he [the husband or master] is compelled, until he declares,'I am willing.'[4] Yet why: seeing that in his heart he is unwilling! Hence it must surely be because we say: A mental declaration is not recognised! — But perhaps it is different there, because it is a religious duty to obey the words of the Sages! — But, said R. Joseph, [it is deduced] from the following: If one betroths a woman and [then] declares, 'I thought her to be a priest's daughter, whereas she is the daughter of a Levite,' or 'a Levite's daughter and she is the daughter of a priest'; 'is poor, whereas she is wealthy', or 'is wealthy whereas she is poor' 'she is betrothed, because she has not deceived him. Yet why, seeing that he declares, 'I thought [etc.]'? But it must be because we say: A mental stipulation! — Said Abaye to him: Perhaps it is different there, for it [the ruling] is in the direction of stringency![5] — But, said Abaye, [it is deduced] from this: IN ALL THESE CASES, EVEN IF SHE DECLARES, 'IT WAS MY INTENTION TO BECOME BETROTHED TO HIM NOTWITHSTANDING', SHE IS NOT BETROTHED. Yet why, seeing that she declares, ' IT WAS MY INTENTION'? — But perhaps it is different there, for since he stipulated, it does not rest with her to set aside his stipulation! — But, said R. Hiyya b. Abin, this occurred at R. Hisda's,[6] and R. Hisda [went] to R. Huna's [academy, to discuss the matter], and it was solved from the following: If one says to his agent, 'Bring me [money] from the window [sill] or the chest,' and he brings it to him, even if the master says: 'I was thinking only of this [purse],'[7] yet since he brought him the money from this [place], the master is guilty of trespass.[8] Yet why, seeing that he says: 'I was thinking [etc.]ð? Hence it must surely be because we say that a mental declaration is null. Yet perhaps it is different there, because he comes to free himself from a sacrifice? — Then let him declare that he did it intentionally.[9] But it is unusual for a person to declare himself wicked? — Then let him say: 'I reminded myself.'[10] For it was taught: If the principal recollects [that it is of hekdesh] but not his agent, the latter is guilty of trespass.[11]

A certain man sold his property with the [express] intention of migrating to Palestine.[12] He migrated, but could not settle down. Said Raba: When one goes there, it is with the intention of settling, and this man has not settled.[13] Others state [that he ruled]: [He sold it] with the intention of migrating, and he has done so.[14] A certain man sold his property with the [express] intention of migrating to Palestine. Eventually he did not go. Said R. Ashi: He could have gone had he desired.[15] Others state [that R. Ashi declared]: Had he desired, could he have not gone?[16] Wherein do they differ? — They differ where an impediment cropped up on the road.[17]

MISHNAH. IF HE SAYS TO HIS AGENT, 'GO FORTH AND BETROTH TO ME SO-AND-SO IN SUCH AND SUCH A PLACE, AND HE GOES AND BETROTHS HER ELSEWHERE, SHE IS NOT BETROTHED. 'SHE IS IN SUCH AND SUCH A PLACE, AND HE BETROTHS HER ELSEWHERE, SHE IS BETROTHED.

GEMARA. Now, we learned the same of divorce: If he says: 'Give my wife a divorce in such and such a place,' and it is given to her elsewhere, it is invalid. 'She is in such and such a place,' and it is given to her elsewhere, it is valid. And both are necessary. For if we were informed this of kiddushin, where he comes to unite her to himself,[18] [he may have thought:] 'in this place I am popular and nothing will be said against me, but in that place I am hated and slander[19] will be piled up against me.'[20] But in respect to divorce, seeing that he comes to drive her away, I might argue

that he does not care.[21] And if we were informed this of divorce, [I might argue] in this place he is willing to be disgraced, but not in the other; [whereas] in respect to betrothal, I might argue that he does not care. Thus [both are] necessary. MISHNAH. IF HE BETROTHS A WOMAN ON CONDITION THAT SHE HAS NO VOWS UPON HER, AND IT IS FOUND THAT SHE HAS, SHE IS NOT BETROTHED, IF HE MARRIES HER[22] UNCONDITIONALLY, AND IT WAS FOUND SHE HAD VOWS UPON HER, SHE IS DIVORCED[23] WITHOUT HER KETHUBAH.[24] [IF HE BETROTHS HER] ON CONDITION THAT SHE HAS NO BLEMISHES, AND BLEMISHES ARE FOUND IN HER, SHE IS NOT BETROTHED. IF HE MARRIES HER UNCONDITIONALLY AND BLEMISHES ARE FOUND IN HER, SHE IS DIVORCED WITHOUT HER KETHUBAH. ALL BLEMISHES WHICH INCAPACITATE PRIESTS [TO SERVE AT THE ALTAR] RENDER WOMEN UNFIT.[25]

GEMARA. And we learned this likewise [in the tractate] on Kethuboth.[26] Here he [the Tanna] desires [to give the ruling on] betrothal, and settlements are taught incidentally to betrothal. There settlements are necessary [to be dealt with], and betrothal is taught incidentally to settlements.

MISHNAH. IF HE BETROTHS TWO WOMEN WITH THE VALUE OF A PERUTAH, OR ONE WOMAN WITH LESS THAN A PERUTAH'S WORTH, EVEN IF HE SUBSEQUENTLY SENDS GIFTS,[27]

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(1) Lev. I, 3: the second ‘he shall offer it’ is superfluous.

(2) To fulfil his vow.

(3) E.V. that he may be accepted.

(4) This refers to those who are compelled to free their wives or slaves.

(5) I.e., we may be uncertain whether a mental stipulation is valid or not. Consequently she is betrothed, in the sense that she is not free to remarry. Nevertheless, if she accepts kiddushin from another, she may be betrothed to the second, the betrothal of the first being null on account of the mental condition, and so she will require a divorce from both.

(6) I.e., he was requested to give a judicial ruling on such a matter.

(7) Whereas he brought the money from a different purse lying in the same place.

(8) The money brought to him was sacred money, for the unwitting secular use of which one is liable to a trespass-offering. Now, if this is done through an agent: if the agent carries out instructions, the principal is liable; if he does not carry out instructions, he himself is liable. (The liability is incurred not for actual use, but for taking it to use it, whereby it is removed from the ownership of hekdesh.)

(9) Which involves no sacrifice.

(10) After my servant went to expend it on my instructions.

(11) Hence if he wished to free himself by a lie he could have had recourse to this statement which is considered effective, and so we believe him that he meant a different purse; and yet he, not his agent, is liable, which proves that a mental declaration is not valid.

(12) Stating thus at the time of the sale.

(13) Hence the sale is null.

(14) Hence notwithstanding his return the sale stands.

(15) Hence the sale is valid.

(16) Surely he could (Rashi) — hence the sale stands. [Others: (even) if he desires he cannot go. Hence the sale is null. V, Joseph Karo on Tur. H.M. 206, and commentaries a.l.]

(17) E.g., it became infested with highwaymen. According to the first version, R. Ashi declared that he nevertheless could have gone, e.g., by joining a large company of travellers; hence the sale stands. But according to the second version, ‘could he have not gone,’ it is implied that there was nothing to prevent him. Here, however, there was, and so the sale is null.

(18) Lit., ‘bring her near’.

(19) Lit., ‘words’.

(20) Hence he was particular that she should be betrothed only where he stated.

(21) And when he says. ‘Divorce her in such and such a place,’ he merely indicates where she is to be found.

(22) This refers to nissu'in. q.v. Glos.
(23) Lit., ‘goes forth’.
(24) V. Glos.
(25) And they can be divorced without their kethubah.
(26) The Tractate dealing with women's settlements.
(27) Heb. siblonoth, cf. Gr. ** ‘dona sponsalitia’, the gifts which one usually sent his betrothed.

Talmud - Mas. Kiddushin 50b

SHE IS NOT BETROTHED, BECAUSE THEY WERE SENT ON ACCOUNT OF THE FIRST KIDDUSHIN.[1] IT IS LIKEWISE SO IF A MINOR BETROTHS.[2]

GEMARA. And it is necessary [to state both]. For if we were informed the case of a perutah's worth [for two women], [I might argue,] since money has gone forth from him, he may err [and think the kiddushin valid]. But [with respect to] less than a perutah's worth, I might say that he knows that kiddushin with less than a perutah's worth is invalid, and so when he sends gifts, he sends them as kiddushin.[3] And if these two cases were taught, that is because one may not be clear on a perutah's worth and less;[4] but when a minor betroths, all know that such betrothal is nothing; hence when he sends gifts, I might reason that he sends them as kiddushin. We are therefore informed otherwise.

It was stated: R. Huna said: We pay regard to[5] gifts: and Rabbah said likewise: We pay regard to gifts.[6] Rabbah said: An objection is raised against our teaching: EVEN IF HE SUBSEQUENTLY SENDS GIFTS, SHE IS NOT BETROTHED! — Abaye answered him: There the reason is as stated: BECAUSE THEY WERE SENT ON ACCOUNT OF THE FIRST KIDDUSHIN. Others state, Rabbah said: Whence do I know it?[7] From the reason stated: BECAUSE THEY WERE SENT ON ACCOUNT OF THE FIRST KIDDUSHIN: hence, it is [only] here, because he may err;[8] but elsewhere,[9] they [the gifts] may be kiddushin. And Abaye?[10] — The most remarkable case is taught.[11] It is unnecessary to state in general [that gifts are not betrothal], Seeing that he has not entered into the state of kiddushin at all.[12] But even here, when he has entered the state of kiddushin,[13] I might think that they [the gifts] are kiddushin:[14] hence we are informed [that it is not so].

What is our decision on the matter — R. Papa said: In that place where one [first] betroths and then sends gifts, we pay regard thereto;[15] but in that place where gifts are [first] sent and then one betroths, we have no fear. ‘[Where] one [first] betroths and then sends gifts’. — But that is obvious! — It is necessary [to state it] only where the majority [first] betroth and then send gifts; but the minority first send gifts and then betroth: I might argue, Let us pay regard to the minority; hence we are informed [otherwise].[16]

R. Aha son of R. Huna propounded to Raba: What if a deed of settlement became known in the market place?[17] — He replied: Simply because a marriage settlement becomes known in the market place we are to assume her a married woman! What is our decision thereon? — Said R. Ashi: ‘Where betrothal is [first] performed and then a kethubah[18] is written, we pay regard thereto; but in the place where they first write a kethubah and then betroth. we have no fear. In the place where there is [first] betrothal and then writing’ — but that is obvious! — It is necessary to state it only where scribes are rare: I might have thought that he just chanced to find a scribe:[19] hence we are informed [otherwise].

MISHNAH. IF ONE BETROTHS A WOMAN AND HER DAUGHTER OR A WOMAN AND HER SISTER SIMULTANEOUSLY,[20] THEY ARE NOT BETROTHED. AND IT ONCE HAPPENED TO FIVE WOMEN, AMONGST WHOM WERE TWO SISTERS, THAT A MAN GATHERED A BASKET OF FIGS, WHICH WAS THEIRS, AND WHICH WAS OF THE

SEVENTH YEAR,[21] AND DECLARED, BE — HOLD, BE YE ALL BETROTHED UNTO ME WITH THIS BASKET, AND ONE ACCEPTED IT ON BEHALF OF ALL: THE SAGES RULED, THE SISTERS ARE NOT BETROTHED.

GEMARA. Whence do we know it? — Said Rami b. Hama: Because Scripture saith, and thou shalt not take a woman to her sister, to be a rival to her [li-zeror]:[22] The Torah decreed that when they become rivals[23] to each other, he can have no marital connection with [even] one of them.[24] Said Raba to him: If so, how is it written, even the souls that do them shall be cut off from among their people:[25] but if kiddushin with her is not valid, is he then liable to kareth?[26] But, said Raba, the verse refers to consecutive [marriage],[27] and our Mishnah is in accordance with Rabbah, who said: That which cannot be [done] consecutively cannot be [done] simultaneously.

The text [stated]: 'Rabbah said: That which cannot be [done] consecutively cannot be done simultaneously.' Abaye raised an objection against him:

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(1) But not as new kiddushin.

(2) And sends gifts on attaining his majority.

(3) And the fact that no declaration accompanies them makes no difference, such being unnecessary when preceded by marriage negotiations: v. supra 6a.

(4) He may have over-estimated the value of the article.

(5) Lit., 'fear'.

(6) If a marriage is arranged, and the would-be husband sends gifts in the presence of witnesses, we fear that these may be meant as kiddushin, and so she is a doubtful married woman. Should another man then betroth her, both must divorce her.

(7) That we pay regard to gifts.

(8) Thinking the first kiddushin valid.

(9) Where no kiddushin preceded the gifts.

(10) Does he accept this proof?

(11) Lit., 'he (the Tanna) says: "It is unnecessary".'

(12) The man not having given her previously any token of kiddushin.

(13) By actually offering something as such.

(14) For he discovered his error.

(15) If the gifts are first sent, we fear that they were meant for kiddushin.

(16) So the text in cur. edd. This however involves a difficulty: 'I might argue, let us fear the minority' implies that we are to impose a stringent ruling on that account, whereas here, by regarding the minority, we are lenient. Ri, quoted in Tosaf. s.v. dðv gives another reading: where gifts are first sent and then betrothal is performed — then it is obvious that she is not betrothed. It is necessary to state it only where the majority first send gifts and then betroth, yet a minority do the reverse. I might argue, let us fear the minority, so she is betrothed. Hence we are informed otherwise.

(17) A marriage settlement (kethubah) between a certain man and woman was seen, though it was not known whether they had actually become betrothed, and then she accepted kiddushin from another.

(18) V. Glos.

(19) And had the settlement drawn up before the betrothal, to take advantage of the scribe's presence.

(20) Saying, 'Be ye both betrothed unto me'.

(21) The Talmud discusses this below.

(22) Lev. XVIII, 18.

(23) Heb. zaroth, the technical designation of wives of the same husband in their relationship toward each other.

(24) It is now assumed that the verse refers to a simultaneous betrothal.

(25) Ibid. 29.

(26) V, Glos. in fact, he is not married to either, and so may take the sister.

(27) Lit., 'this after this'.

If one gives excessive tithes, his produce is made fit, but his tithes are unfit.[1] But why; let us say: That which cannot be [done] consecutively cannot be [done] simultaneously?[2] — Tithes are different, he replied, because it is possible in the case of half [grains]; for if one declares, 'Let half of each grain be sanctified [as tithe], it is sanctified.[3] But cattle tithes are impossible in halves,[4] and also impossible consecutively;[5] yet Rabbah said: If two [animals] came forth at the tenth, and he [their owner] proclaimed them both as 'tenth', the tenth and the eleventh are intermingled![6] — Cattle tithe is different, because it is valid in error. For we learnt: If the ninth was proclaimed 'tenth', the tenth, 'ninth', and the eleventh, 'tenth', all three are sanctified.[7] But what of the thanksgiving-offering which can neither be in error nor consecutively,[8] yet it was stated: If the thanksgiving-offering is slaughtered over eighty loaves, — Hezekiah said: Forty out of the eighty are sanctified; R. Johanan said: Not even forty out of the eighty are sanctified![9] — Was it not stated thereon: R. Joshua b. Levi[10] said: All agree that if he declared: 'Let forty out of the eighty be sanctified,' they are sanctified; 'forty are not to be sanctified unless eighty are sanctified,' they are not sanctified? They differ only where no specific statement is made:[11] one Master holds that his intention is [to arrange] for the risks;[12] the other, that his intention is for a large offering.[13] Now, why need Raba explain the Mishnah as Rabbah; let him deduce it from the fact that it cannot be followed by[14] intercourse?[15] — He [merely] explains it according to the view of Rami b. Hama.[16]

It was stated: Kiddushin which cannot be followed by intercourse, — Abaye says: It is valid kiddushin;[17] Raba said: It is not valid kiddushin. Raba said: Bar Ahina explained it to me: When a man taketh a woman and has intercourse with her;[18] [this teaches:] kiddushin[19] that can be followed by intercourse is [valid] kiddushin; that which cannot be followed by intercourse is not [valid] kiddushin.

We learnt: IF HE BETROTHS A WOMAN AND HER DAUGHTER OR A WOMAN AND HER SISTER SIMULTANEOUSLY, THEY ARE NOT BETROTHED. This implies, [if he betroths] one of a woman and her daughter or of a woman and her sister [without specifying which], she is betrothed: yet why, seeing that it is kiddushin which may not be followed by intercourse? Hence this refutes Raba! — Raba can answer you: Yet even on your view, consider the second clause: AND IT ONCE HAPPENED TO FIVE WOMEN, AMONGST WHOM WERE TWO SISTERS, THAT A MAN GATHERED A BASKET OF FIGS, WHICH WAS THEIRS, AND WHICH WAS OF THE SEVENTH YEAR, AND HE DECLARED, 'BEHOLD, YE ARE ALL BETROTHED UNTO ME WITH THIS BASKET, AND ONE ACCEPTED IT ON BEHALF OF ALL: THE SAGES THEN RULED, THE SISTERS ARE NOT BETROTHED. Thus, it is only the sisters who are not betrothed, but the strangers are. Now how is it meant? Shall we say that he declared: 'All of you'[20] — it is a case of 'you and the ass acquire', and such does not acquire.[21]

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(1) Lit., 'spoiled'. After measuring off four measures, he separated one whole measure as tithe, instead of the half (= one tenth) due. Actually. however, only half becomes tithe, while the other half remains ordinary, untithed produce (tebel), and the two are inextricably mixed up. No man may eat tebel, not even a priest or a Levite, and hence the whole tithe is forbidden until it is made fit by a further proportionate separation.

(2) For if he first separates half a measure as tithe and then another half, the second is certainly not tithe. Accordingly, when he separates the whole simultaneously, none of it is tithe, on Rabbah's principle: why then is the produce fit?

(3) Hence, when he separates excessive tithes, it is as though he declared that only half of each grain in the whole measure shall be tithe. But one cannot betroth half a woman.

(4) One cannot count off nine animals and then declare the two halves of the next two as tithe.

(5) After declaring the tenth tithe, the eleventh cannot be declared likewise.

(6) One is actual tithe, and the other is treated as a peace-offering, though it is not known which is which. Yet why so? If he declares the tenth tithe and then the eleventh too, the second declaration is invalid. Why then is his simultaneous declaration valid?

(7) This is not the same as the case mentioned in the previous note, where the eleventh is deliberately and knowingly

called ‘tenth’. — Hence, just as the eleventh is sanctified when it is designated ‘tenth’ in error, so are the tenth and the eleventh sanctified when designated simultaneously. But if one marries a second sister after the first in error, the second marriage is invalid; consequently they are invalid simultaneously.

(8) The thanksgiving-offering was accompanied by forty loaves, which were likewise sanctified (v. Lev, VII, 12ff: and Men. 76a). Now, if the animal is sacrificed to sanctify certain loaves, which, however, are not really those intended, they are not sanctified. Again, if after forty loaves are sanctified another forty are declared holy, the declaration is invalid.

(9) The controversy is assumed to centre on Rabbah's dictum. Hezekiah, R. Johanan's teacher, thus contradicts Rabbah.

(10) In ‘Er. 50a and Men. 78b the reading is R. Zera, and the same is required here.

(11) I.e., he merely declares that the slaughtering of the sacrifice shall hallow the loaves.

(12) He brings eighty so that if the forty sanctified loaves become unfit for any reason the other forty may replace them. Hence forty are sanctified.

(13) That the eighty should be sanctified: hence none are. This therefore has no bearing on Rabbah's dictum.

(14) Lit., ‘is not given over to’.

(15) For even if he betroths only one, but without specifying which, he cannot take either, for fear she is the sister of the betrothed, and Raba says below that such kiddushin is invalid.

(16) Who bases the ruling of the Mishnah on Lev. XVIII, 18.

(17) Hence he must divorce both, because of doubt.

(18) Deut. XXIV, 1.

(19) Implied by, when a man taketh, i.e., betroths.

(20) I.e., ‘All of you be betrothed to me’.

(21) If one bestows gifts upon a living person and an unborn child simultaneously, not even the first acquires his gift, because the second cannot, — metaphorically, ‘you and the ass acquire them’. Hence here too, since the sisters cannot acquire aught thereof as kiddushin, the others cannot either.

Talmud - Mas. Kiddushin 51b

Hence it must surely mean that he said: ‘One of you,’[1] and it is taught that the sisters are not betrothed.[2] On Raba's view, the first clause is difficult; on Abaye's, the second. Abaye reconciles it according to his opinion. IF HE BETROTHS A WOMAN AND HER DAUGHTER OR A WOMAN AND HER SISTER SIMULTANEOUSLY, THEY ARE NOT BETROTHED; but if [he betrothed] one of a woman and her daughter or of a woman and her sister, she is betrothed. But if he says: ‘She of you who is eligible for intercourse, let her be betrothed unto me,’ she is not betrothed.[3] And thus IT ONCE HAPPENED TO FIVE WOMEN, AMONG WHOM WERE TWO SISTERS, THAT A MAN GATHERED A BASKET OF FIGS AND SAID, ‘She of you who is eligible [for intercourse], let her be betrothed unto me’: THE SAGES THEN RULED: THE SISTERS ARE NOT BETROTHED, Raba reconciled it with his opinion: If a man betroths one of a woman and her daughter or a woman and her sister, it is as though he betrothed A WOMAN AND HER DAUGHTER OR A WOMAN AND HER SISTER SIMULTANEOUSLY, AND THEY ARE NOT BETROTHED. AND IT THUS HAPPENED TO FIVE WOMEN, AMONG WHOM WERE TWO SISTERS, THAT A MAN GATHERED A BASKET OF FIGS AND DECLARED, ‘Behold, all of you, and one of the two sisters, are betrothed unto me with this basket’: THEN THE SAGES RULED: THE SISTERS ARE NOT BETROTHED.

Come and hear: If he gives his daughters in betrothal without specifying which, bogeroth[4] are not included.[5] But minors are included: yet why, Seeing that it is kiddushin which cannot be followed by intercourse?[6] which refutes Raba! — Raba can answer you: Here the circumstances are that there are only one bogereth and one minor. But ‘bogeroth’[7] is taught! — By bogeroth, bogeroth in general are meant.[8] If so,[9] why state it? — We refer to the case where she [the bogereth] appointed him [her father] an agent.[10] I might have thought that when he accepted kiddushin he did it on her behalf: hence we are informed that a man does not put aside that by which he benefits.[11] But do we not refer [even] to where she said to him, ‘Let my kiddushin be yours!’ — Even so, a man does not leave undone an obligation [sc. marrying his daughter] which falls [primarily] upon himself,[12] to perform

one which does not.[13]

Come and hear: If one has two groups of daughters by two wives, and he declares, 'I have given in betrothal my senior daughter, but do not know whether the senior of the seniors[14] or the senior of the juniors, or the junior of the seniors who is senior to the senior of the juniors,' all are forbidden, excepting the junior of the juniors: this is R. Meir's opinion![15] — Here the circumstances are that they were [originally] known, and [only] subsequently mixed up.[16] This maybe proved, for it is taught: 'I do not know,' not, it is not known. This proves it. If so, why state it? — To counter R. Jose, who said: A man does not permit himself to be brought into doubt;[17] hence we are informed that one does bring himself into doubt.

Come and hear: If a man betrothed one of two sisters and does not know which, he must give a divorce to both![18] — Here [too] the circumstances are that they were [originally] known but only subsequently intermingled. This too may be proved, for it is taught: 'he does not know,' not, it is not known. If so, why state it? — The second clause is necessary: If he dies, and has one brother, he must perform halizah[19] with both; if he has two [brothers], one performs halizah and the other yibum;[20] yet if they forestall [the Rabbis' ruling] and marry them, they are not compelled to divorce them,[21] [Thus:] only halizah and then yibum [is permissible], but not yibum and then halizah, because he may infringe [the interdict against] the sister of one bound to him by the Levirate tie.[22]

Come and hear: If two [strangers] betroth two sisters, and neither knows which, each must give two divorces![23] — Here too it means that they were [originally] known but [only] subsequently mixed up. This may be deduced too, for it is taught: 'neither knows,' not, it is not known: this proves it. If so, why state it?The second clause is necessary: If each dies, and each had one brother, this one must perform halizah with both, and the other must perform halizah with both. If one had one brother and the other two brothers,

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(1) I.e., let the three strangers and one of you be betrothed to me.

(2) Proving that kiddushin which cannot be followed by intercourse is invalid.

(3) For neither is eligible.

(4) V. Glos.

(5) Because a father has no marriage rights over his adult daughters.

(6) As explained on p. 258, n. 2.

(7) Plural.

(8) I.e., in general when a man betroths his daughter without naming her, an adult is not meant.

(9) That he has only one adult and one minor daughter.

(10) To accept kiddushin on her behalf.

(11) Sc. the kiddushin of his minor daughter which belongs to him, whereas that of a bogereth is her own.

(12) Sc. the betrothal of his minor daughter.

(13) A bogereth can see to herself.

(14) From the earlier wife.

(15) This refutes Raba, since intercourse cannot follow such betrothal.

(16) He betrothed a particular daughter, but forgot which.

(17) V. Ned. 61b. So that all of whom there can be the least doubt are definitely excluded, and only the senior of the seniors is forbidden to strangers.

(18) Which again refutes Raba.

(19) V. Glos.

(20) V. Glos.

(21) Lit., 'they are not taken out of their hands'.

(22) Lit., 'he comes into contact with the sister etc'. — Thus: A betrothed X or Y, who are sisters, but does not remember which. On A's death, his brothers B and C perform halizah and yibum with X and Y respectively. Now, when B performs halizah with X, C may marry (perform yibum) Y. For if A had betrothed Y, she is C's yebamah, whom he

must marry; while if A had betrothed X, Y is a stranger to C, and he may certainly marry her. For though Y is then the sister of X, who was bound to him by the Levirate tie, and such is forbidden, that tie has already been dissolved by the halizah which B performed. But before the tie is dissolved by halizah marriage is forbidden; hence only that order is permissible, viz., halizah by one brother first and then yibum by the second, (Of course, that is only permissive: the second too may perform halizah, if he does not wish to marry her.) The prohibition mentioned in this note is only Rabbinical, and therefore not insisted upon if the brothers marry both sisters without consulting a Rabbi previously, Yeb. 23b,

(23) This too refutes Raba: v. p. 258, n. 2.

Talmud - Mas. Kiddushin 52a

the one [brother] must perform halizah with both, and of the two, one must perform halizah [first] and the other yibum; yet if they forestall [the Rabbis' ruling] and marry, they are not compelled to divorce them. Thus, only halizah and then yibum, but not yibum and then halizah, because he may infringe [the interdict against] a yebamah's marriage to a stranger.[1]

Come and hear: For Tabyumi learned: If A has five sons and B five daughters, and A declares; 'One of your daughters be betrothed to one of my sons,'[2] each requires five divorces. If one dies, each requires four divorces and halizah from one of them![3] And should you answer, here too it means that they were [originally] known and only subsequently mixed up — but it is taught: 'One of your daughters to one of my sons!'[4] This refutation of Raba is indeed a refutation. Now, the law agrees with Abaye in Y'AL KGM.[5]

IT HAPPENED TO FIVE WOMEN. Rab said: Four deductions follow from the Mishnah; yet Rab was sure only of three:[6] — [i] If one betroths [a woman] with seventh year produce, she is betrothed;[7] [ii] If he betroths her with a stolen article, even her own, she is not betrothed.[8] How does this follow? — Because it is stated: IT WAS THEIRS, AND IT WAS OF THE SEVENTH YEAR: thus, it is only because It was of the seventh year, and thus hefker;[9] but if of any other year,[10] it is not so.[11] [iii] A woman can be an agent for her companion,[12] even when she thereby becomes her rival.[13] And what is the fourth? — Kiddushin which cannot be followed by intercourse. — Then let him count it?[14] — Because he is doubtful whether it is [to be explained] according to Abaye or Raba.[15]

When R. Zera went up [to Palestine, from Babylon], he recited this pronouncement [of Rab] before R. Johanan. Said he to him: Did then Rab say thus! But did he himself not say [likewise]? Surely R. Johanan said: If one stole[16] [an article] and the owner did not abandon hope,[17] both cannot consecrate it: the one [the thief], because it is not his;[18] the other, because it is not [actually] in his possession! — He meant thus: Did Rab [truly] rule as I [did]?

An objection is raised: If one betroths a woman with an article of robbery, violence, or theft,[19] or if he snatches a sela' out of her hand and betroths her therewith, she is betrothed? — There it refers to her own robbery.[20] But since the second clause teaches 'or if he snatches a sela' out of her hand,' it follows that the first clause refers to robbery in general? — It is an explanation. If one betroths a woman with robbery. How so? If he snatches an article out of her hand and betroths her therewith.

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(1) Lit., 'a yebamah to the market place'. — The general reasoning is the same as in the previous case. When the one brother frees both sisters by halizah, the others may perform halizah and yibum. But before the one brother has performed his task, one of the sisters may be his yebamah, and so neither of the other two brothers can perform yibum.

(2) His sons had authorised him.

(3) This contradicts Raba.

(4) Shewing that there was doubt at the very outset.

(5) An abbreviation of six laws; v. Sanh. (Sonc. ed.) p. 159, n. 3. The K stands for kiddushin which cannot be followed

by coition. In every other controversy between Abaye and Raba the halachah is as the latter.

(6) As explained below — Lit., 'he held three in his hand.'

(7) Though it is free to all.

(8) 'Even her own' — and we do not say that her acceptance proves that she has forgiven him and renounced her rights therein, so that it ceases to be stolen property.

(9) V. Glos. Hence it is not stolen.

(10) Lit., 'the other years of the septennate.'

(11) But the betrothal is invalid.

(12) To accept kiddushin on her behalf.

(13) Zarah, q.v. Glos.

(14) Why is he in doubt?

(15) Supra 51a and b. According to their respective interpretations the Mishnah proves either that it is valid or that it is not; but Rab was not sure which interpretation was correct.

(16) Gazal denotes theft by violence.

(17) Of its return. Yi'ush is a technical term, despair or abandonment, whereby a stolen (or lost) article formally passes out of its first ownership into that of the person actually in possession. — The thief is then liable for having removed it from the ownership of the victim.

(18) But it is technically his if the owner abandons it.

(19) An article of robbery is one stolen by violence; 'theft' denotes stolen in secret; 'violence', an article forcibly taken from its owner and paid for.

(20) I.e., he robbed her, cf. p. 262, n. 7: the argument rejected there is admitted here.

Talmud - Mas. Kiddushin 52b

But our Mishnah [deals with] her own robbery,[1] yet Rab said: She is not betrothed?

There is no difficulty: in the one case, he had [previously] negotiated [with her for marriage];[2] in the other, he had not negotiated.

A certain woman was washing her feet in a bowl of water, when a man came, snatched a zuz from his neighbour, threw it to her and exclaimed: 'Thou are betrothed unto me!' Then that man went before Raba, who said to him; None pay regard to R. Simeon's dictum, viz.: Robbery in general involves the owner's abandonment.[3]

A certain aris[4] betrothed [a woman] with a handful of onions.[5] When he came before Raba he said to him, 'Who renounced it in your favour?'[6] Now, that applies only to a handful;[7] but as for a bunch, he [the aris] can say to him [the landowner], 'As I have taken a bunch, do you take one: one bunch is the same as another.'[8]

A certain agent-brewer[9] betrothed [a woman] with a measure of beer.[10] Then the owner of the beer came and found him. Said he to him, 'Why did you not give [her] of this [beer, which is] stronger?' When he came before Raba, he said to him. 'Go to the better' was said only in reference to terumah.[11] For it was taught: In which case was it ruled that if one separates [terumah] without [the owner's] knowledge, his separation is valid? If one enters[12] his neighbour's field, gathers [the crops] and separates [terumah] without permission: and he [the owner] resents it as [akin to] theft, his separation is not valid; otherwise, it is. And how does one know whether he resents it as theft or not? If the owner comes and finds him, and says to him, 'Go to the better [produce]': and better [crops] are found, the separation is valid;[13] if not, it is invalid.[14] If the owner gathers [crops] and adds [to that already separated], in both cases his separation is valid. But here he acted thus[15] through shame;[16] hence she is not betrothed.

MISHNAH. IF ONE [A PRIEST] BETROTHS [A WOMAN] WITH HIS PORTION;[17]

WHETHER [IT IS OF] THE HIGHER OR OF THE LOWER SANCTITY,[18] SHE IS NOT BETROTHED.[19] [IF] WITH SECOND TITHE,[20] WHETHER UNWITTINGLY OR DELIBERATELY, HE DOES NOT BETROTH [HER]: THIS IS R. MEIR'S VIEW.[21] R. JUDAH SAID: IF UNWITTINGLY, HE HAS NOT BETROTHED [HER]; IF DELIBERATELY, HE HAS. [IF] WITH HEKDESH,[22] IF DELIBERATELY, HE HAS BETROTHED HER; IF UNWITTINGLY, HE HAS NOT: THIS IS R. MEIR'S VIEW. R. JUDAH SAID: IF UNWITTINGLY, HE HAS BETROTHED HER; IF DELIBERATELY, HE HAS NOT.[23]

GEMARA. Shall we say that our Mishnah does not agree with R. Jose the Galilean? For it was taught: [If any one sin] and commit a trespass against the Lord [. . . then he shall bring his guilt-offering]:[24] this is to include lower grade sacrifices as his [the individual's] property:[25] this is R. Jose the Galilean's opinion! — You may even say that it agrees with R. Jose the Galilean: he stated [that view] only whilst it [the animal to be sacrificed] is alive, but not after it is killed. What is the reason? When they[26] acquire [thereof], it is from the table of the Most High that they acquire [it].[27] This may be deduced too; because it is stated: IF ONE BETROTHS [A WOMAN] WITH HIS PORTION, WHETHER [IT IS OF] THE HIGHER OR OF THE LOWER SANCTITY, HE HAS NOT BETROTHED HER.[28]

Our Rabbis taught: After R. Meir's demise, R. Judah announced to his disciples, 'Let not R. Meir's disciples enter hither, because they are disputatious and do not come to learn Torah but to overwhelm one with halachoth.'[29] Yet Symmachus forced his way through and entered. Said he to them: Thus did R. Meir teach me: If one betroths [a woman] with his portion, whether of the higher or of the lower sanctity, he has not betrothed [her]. Thereupon R. Judah became incensed with them and exclaimed: 'Did I not say to you, Let not R. Meir's disciples enter hither, because they are disputatious and do not come to learn Torah but to overwhelm me with halachoth: how then does a woman come to be in the Temple Court?'[30] Said R. Jose, Shall it be said: Meir is dead, Judah angry, and Jose silent: what is to become of the words of the Torah? Cannot a man accept kiddushin on his daughter's behalf in the Temple Court? And cannot a woman authorize a messenger to receive her kiddushin in the Temple Court? Again, what if she forces herself in?[31]

It was taught: R. Judah said: She is betrothed;[32] R. Jose ruled: She is not betrothed. Said R. Johanan: Both derive [their views] from the same verse: This shall be thine of the most holy things, reserved from the fire.[33] R. Judah holds, 'thine' [implies] for all thy needs;[34] whereas R. Jose maintains it is as [what is offered on] 'the fire':[35] just as the fire is for consumption only,[36] so that too is for consumption [by the priest] only.[37]

R. Johanan said:

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(1) Since it states 'IT WAS THEIRS'.

(2) Then she accepts it as kiddushin, and thereby it ceases to be robbery, as explained.

(3) V. n. 1. I.e., if we do not know whether the owner abandons the article or not, we assume that he does. Raba told him that this ruling is disregarded: hence the betrothal was invalid.

(4) A tenant-farmer, who pays a certain percentage of his crops as rent.

(5) Rashi. Jast.: leaves of onions, leek.

(6) The onions belong partly to the landlord; did he renounce his portion? I.e., it is theft, and the betrothal is invalid.

(7) Being an indeterminate quantity.

(8) Hence the kiddushin would be valid.

(9) Rashi: who brewed beer from dates supplied to him, receiving a fixed percentage of the profits.

(10) Others, reading 'pirzuma', the second run of barley beer.

(11) V. n. 6. infra.

(12) Lit., 'descends into'.

(13) For this proves that he meant what he said.

(14) For he thus sarcastically shewed his resentment. Now, this criterion applies only to terumah, since it must be separated in any case.
(15) Bidding him take stronger beer.
(16) Being ashamed to express an objection.
(17) Of the sacrifices.
(18) Sacrifices were of two degrees of sanctity: the higher (holy of holies), e.g., the sin-offering, and the lower (less holy), e.g., the peace-offering. The former were eaten by priests only; the latter, partly by priests and partly by their Israelite owners.
(19) Because it is regarded as God's, not the priests'.
(20) Which the Israelite separated and ate in Jerusalem.
(21) He regards second tithe too as God's.
(22) V. Glos.
(23) The reasons are explained in the Gemara.
(24) Lev. V, 21. The trespass referred to is repudiation of liability with a false oath.
(25) If one swears falsely that he did not vow a peace-offering, which is of the lower sanctity, he incurs this sacrifice. Though this law does not hold good in respect to God's property (deduced from, 'and deal falsely with his neighbour' ibid.), the phrase 'against the Lord' shews that even where there is an element of sanctity this sacrifice is involved. Hence it includes lower grade sacrifices, and thus teaches that these rank as the individual's property; this contradicts the ruling of the Mishnah.
(26) The owner and the Priest.
(27) I.e., having been sacrificed, it is certainly God's.
(28) 'HIS PORTION' implies that it is already divided — viz., after its death.
(29) To prove one ignorant.
(30) Sacrifices of the higher sanctity might not be taken out of the Temple Court, not even into the women's compartment. Rashi observes that women were forbidden to enter the Temple Court. Tosaf. holds this to be an error, and explains: how then does a woman come to be in the Temple Court for such a purpose? For that is too unusual to be dealt with.
(31) And accepts kiddushin, though she has no right to be there at all, according to Rashi; or, 'forces' is used metaphorically: what if she insists on entering there for that purpose, though it is unusual? (so presumably understood by Tosaf.)
(32) When given the priests' portion as kiddushin.
(33) Num. XVIII, 9.
(34) Which includes betrothal.
(35) Sc. on the altar.
(36) The portion belonging to God is consumed by fire on the altar, and cannot be disposed of in any other way.
(37) And he cannot put it to any other use.

Talmud - Mas. Kiddushin 53a

A vote was taken [among scholars] and it was resolved: He who betroths with his portion, whether of the higher or of the lower sanctity, has not betrothed. But Rab maintained: The dispute continues.[1] Said Abaye: Reason supports R. Johanan. For it was taught: How do we know that meal-offerings may not be apportioned as against sacrifices?[2] From the verse, and every meal-offering that is baked in the oven . . . shall all the sons of Aaron have.[3] I might think that meal-offerings may not be apportioned as against sacrifices, seeing that they cannot replace them in poverty, yet meal-offerings may be apportioned as against fowl-offerings, since they do replace them in poverty:[4] therefore it is stated, and all that is dressed in the frying pan . . . shall all the sons of Aaron have.[5] I might think that meal-offerings cannot be apportioned as against fowl-offerings, since the latter are blood species and the former a species of flour, but that fowl-offerings may be apportioned as against [animal] sacrifices, since both are blood species; therefore it is stated, and in the baking pan.[6] I might think, fowl-offerings may not be apportioned as against animal sacrifices, since the preparation of the former is by hand, whereas that of the latter is with a utensil;[7] but that meal-offerings can be

apportioned as against meal-offerings,[8] since the preparation of both is by hand:[9] therefore it is stated, and every meal-offering mingled with oil . . . shall all the sons of Aaron have.[10] I might think that a baking pan [offering] shall not be apportioned as against a frying pan [offering], or a frying pan [offering] as against a baking pan [offering], because one is made soft and the other hard;[11] but that one baking pan [offering] may be apportioned as against another,[12] and one frying pan [offering] against another, since both are hard or soft respectively; therefore it is said, or dry, shall all the sons of Aaron have.[13] Now, I might think that sacrifices of the higher sanctity[14] may not be [so] apportioned, yet those of the lower sanctity may be;[15] therefore it is stated: '[shall all the sons of Aaron have], a man as his brother,' and in proximity thereto,if [he offers it] for a thanksgiving:[16] just as higher sanctity sacrifices may not be [so] apportioned, so also offerings of the lower sanctity. 'A man' [teaches]: a man takes a share, even if he has a blemish, but not a minor, even if he is without blemish. Now, who is the author of an anonymous teaching in the Sifra? R. Judah:[17] And he states that it is not capable of apportionment at all.[18] This proves it.

Said Raba: And was it not taught as Rab too? But it was taught: The modest withdrew their hands, but the greedy shared.[19] [No.] By 'shared' is meant snatched [other priests' shares]. As the second clause states: It happened that one snatched his own and his neighbour's portion, and he was called Ben Hamzan[20] [robber] until the day of his death. Said Rabbah son of R. Shila: What verse [have we]?[21] — Rescue me, O my Lord, out of the hand of the wicked, Out of the hand of the unrighteous and violent [homez].[22] Rabbah said, [We learn it] from the following: learn to do well, seek judgment, set right the man of violence.[23]

WITH SECOND TITHE, WHETHER UNWITTINGLY OR DELIBERATELY, HE HAS NOT BETROTHED [HER]: THIS IS R. MEIR'S VIEW. R. JUDAH SAID: IF UNWITTINGLY, HE HAS NOT BETROTHED [HER]; IF DELIBERATELY, HE HAS etc. How do we know this? Said R. Aha son of Raba on the authority of tradition:[24] and all the tithe of the land, whether of the seed of the land, or the fruit of the tree, is the Lord's: it is holy unto the Lord:[25] 'unto the Lord', and not for betrothing a woman therewith. But what of the terumah of the tithe,[26] whereof it is written, thus ye shall also offer an heave-offering unto the Lord [of all your tithes],[27] — yet we learnt: If one betroths with terumoth,[28] she is betrothed? — That is because 'unto the Lord' is not written there.[29] But what of hallah,[30] whereof it is written, [of the first of your dough] ye shall give unto the Lord,[31] — yet we learnt: If one betroths [a woman] with terumoth,[32] she is betrothed? — That is because 'holy' is not written there. But what of the seventh year, whereof it is written: For it is a jubilee; it shall be holy unto you,[33] yet we learnt: If one betroths with seventh year produce, [the woman is] betrothed?[34] — That is because 'unto the Lord' is not written there. But what of terumah, whereof it is written: Israel is holy unto the Lord, the first-fruits [i.e., terumah] of his produce,[35] — yet we learnt: If one betroths [a woman] with terumoth, she is betrothed? — That refers to Israel.

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(1) There was no vote on the matter, in which case R. Judah would have revoked his ruling.

(2) One priest to receive meal-offerings and another portions of animal sacrifices to the equivalent value.

(3) Lev. VII, 9f; this implies that all the priests must share in the meal-offerings themselves.

(4) V. Lev. V, II.

(5) Ibid. This insistence that every kind of meal-offering shall be divided among all the priests shews that under no circumstance may they be divided against anything else.

(6) Lev. VII, 9. This being unnecessary for meal-offerings, which have already been dealt with in two verses, apply its teaching to the case under discussion.

(7) Fowl-offerings had their necks wrung by hand; animal sacrifices were slaughtered with a knife.

(8) One kind against another.

(9) The priest taking a handful of the meal and burning it on the altar-ibid. V, 12.

(10) I.e., each kind must be divided by all,

(11) The mahabath (baking pan) was very shallow, and the flour mingled with oil formed a thin dough which was fried by the fire; but the marhesheth (frying pan) was deep: this caused a thick dough which the fire could only cook.

(12) Do you take my portion in A's offering and give me your portion in B's.
(13) This further insistence teaches that each must keep his own.
(14) As the meal-offering.
(15) Do you take my portion of A's peace-offering and I will take yours in B's.
(16) Which is of lower sanctity.
(17) V. p. 247, n. 1.
(18) As explained: one portion cannot be exchanged for another. This proves that in his final opinion the priest's portion is not his own, to do as he likes with, but a gift from God to be consumed.
(19) This describes the state in the Temple after the death of Simeon the Just. Raba assumes that 'shared' means that they traded in their portions, bartering one for another. This must agree with R. Judah, who regards the priest's portion as his private property, to be used as he wishes, and shews that there was no majority decision.
(20) [A violent person. Ben (lit., 'son') expressing an attributive idea. V. Gesenius-Kautzsch Hebrew Grammar, 128t.]
(21) That hamzan connotes a man of violence, a robber.
(22) Ps. LXXI, 4.
(23) Isa. I, 17.
(24) I.e., it came to him anonymously; Kaplan, Redaction of the Talmud, p. 227.
(25) Lev, XXVII, 30.
(26) The tithe was given to the Levite, who further gave a tenth thereof, called the terumah of the tithe, to the priest.
(27) Num. XVIII, 28.
(28) Plur. of terumah, and this including the terumah of the tithe, v. infra 58a.
(29) It is the emphatic 'it is the Lord's' which teaches that it may not be used for betrothal.
(30) V. Glos.
(31) Num. XV, 21; unto the Lord is the same word in Heb. as it is the Lord's.
(32) Pl. of terumah; hallah is included in that term.
(33) Lev. XXV, 12.
(34) V. Mishnah on 50b re the man who betrothed five women with seventh year produce: the strangers among them were legally betrothed.
(35) Jer. II, 3.

Talmud - Mas. Kiddushin 53b

But does that not follow automatically?[1] Rabin the Elder explained it before Rab:[2] Scripture saith, it is [hu] — it must remain in its natural form.[3]

[IF] WITH HEKDESH, IF DELIBERATELY, HE HAS BETROTHED HER; IF UNWITTINGLY, HE HAS NOT: THIS IS R. MEIR' S VIEW. R. JUDAH SAID: IF UNWITTINGLY, HE HAS BETROTHED HER; IF DELIBERATELY, HE HAS NOT. R. Jacob said: I heard from R. Johanan two [reasons on the laws concerning] the unwitting [use of] tithes [for betrothal], according to R. Judah, and the unwitting [use of] hekdesh, on R. Meir's view, [that] in both cases a woman is not betrothed therewith. One [reason] is that the woman does not wish it;[4] the other, that both do not desire it. But I do not know which is which.[5] Said R. Jeremiah: Let us consider. As for tithes, she is unwilling because of the trouble of the journey;[6] he, however, is pleased that the woman should become his without effort.[7] But as for hekdesh, both are unwilling that hekdesh should be secularised through them.[8] But R. Jacob maintained: The logic is the reverse. Can we not argued as for tithes, she is unwilling on account Of the trouble of the journey, whilst he is unwilling on account of the risks of the journey.[9] But as for hekdesh: it is indeed well that she is unwilling that hekdesh is secularised through her;[10] but is he then unwilling that the woman should become his without effort?[11]

Raba asked R. Hisda: The woman [it is said.] is not betrothed; does the money[12] pass out into hullin? — Seeing that the woman is not betrothed,[13] how is the money to pass out into hullin? R. Hiyya b. Abin asked R. Hisda: How is it in the case of purchase?[14] — In the case of purchase too, he

replied, he gains no title. Thereupon he raised an objection: A shopkeeper ranks as a private individual: this is R. Meir's view. R. Judah maintained: A shopkeeper is as a money-changer.[15] Thus, they differ only in so far as one Master holds that a shopkeeper ranks as a money-changer. and the other regards him as a private individual. Yet all [including R. Meir] agree that if he expends it, trespass is committed?[16] — He argues on R. Judah's opinion. In my view, even if he expends it there is no trespass;[17] but even on your view,[18] you should at least agree with me that a shopkeeper is as a private individual. To which he answered him: No; he is as a money-changer.

Rab said:

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(1) Since Israel is likened to terumah and as such designated 'holy to the Lord', it follows that the same applies to terumah.

(2) The reason of the Mishnah with reference to the second tithe.

(3) I.e., the tithe must be used just as it is given to the Levite, viz., consumed by him, and not diverted to another purpose.

(4) Had she known what it was, she would not have accepted it as kiddushin, and therefore it is betrothal in error.

(5) For which opinion he gave the first reason, and for which the second — The practical difference is this: where the first reason applies — if the woman explicitly declares that she had no objection, the betrothal is valid, and it may be assumed that the man too was willing.

(6) It has to be taken to Jerusalem.

(7) Giving her the tithe actually saves him trouble.

(8) When he gives her hekdesh he withdraws it from its sacred ownership and it becomes secular (hullin). But since this involves a sacrifice, it may be assumed that both are unwilling.

(9) Rashi offers two explanations: (i) Since the tithe must be consumed in Jerusalem, he must bear the risks of the road-risks to which a woman is more exposed than a man, for until it reaches Jerusalem it has no value. For if she redeems it, the money must be carried to Jerusalem, and so he is in the same position. (ii) Even if he bears no responsibility for the risks of the road, yet if she loses it she may be resentful with him for having betrothed her with something of which she derived no benefit, and therefore he too is displeased. Tosaf. accepts the second.

(10) Since she has no particular benefit therefrom — he would have given her something else.

(11) I.e., without any outlay of his own for the present.

(12) Which is hekdesh.

(13) So that his statement is null.

(14) On R. Meir's view, what if one unwittingly buys an article with money belonging to hekdesh; does he acquire it or not?

(15) Me'il. 21b. If the Temple treasurer deposits money of hekdesh with a money-changer and it is bound up, he may not use it; if he does, he is liable for trespass, not the treasurer. If loose, he may use it, for the treasurer knows that he is continually in need of change, and by giving it to him loose he tacitly authorizes him to use it: therefore, if he does, the treasurer is liable. But if he deposits it with a private individual, whether loose or bound up, the bailee may not expend it; therefore if he does use it he is liable. A shopkeeper stands midway between the two.

(16) Now, one is liable for trespass only if the money actually becomes hullin: but that in turn demands that the action shall be effective and the purchase valid.

(17) Because his action is invalid. (Consequently R. Meir must hold that trespass is possible only when one eats food of hekdesh.)

(18) That expenditure is trespass.

Talmud - Mas. Kiddushin 54a

We have scrutinised R. Meir['s views] from every angle, and have not found that hekdesh, unwittingly used, is not secularised; if deliberately, it is.[1] But our Mishnah refers to priestly tunics which were not worn out, since they stand[2] to be used, for the Torah was not given to angels.[3] Come and hear: Worn out priestly tunics involve trespass: this is R. Meir's view. Surely the same holds good even if they are not worn out?[4] — No: only when they are worn out.[5]

Come and hear: Trespass can be committed with the new ones, but not with the old. R. Meir said: Trespass can be committed with the old too; for R. Meir used to say: Trespass can be committed with the surplus of the Chamber.[6] Yet why; let us say, since they stand to be used, for the Torah was not given to angels [no trespass is committed with them]. For the walls of the city and its towers came out of the Chamber surplus, as we learnt: The city wall and its towers and all city requirements were provided for out of the chamber surplus![7] — Say not 'R. Meir', but 'R. Judah'.[8]

Come and hear: For it was taught: R. Ishmael b. R. Isaac said: If the stones of Jerusalem fall out [of their place in the walls], no trespass is incurred with them: this is R. Meir's view! — Say not, 'R. Meir', but, 'R. Judah'. If R. Judah, is then Jerusalem [the city itself] sanctified? But we learnt: 'As the lamb', 'As the Temple sheds of cattle' or 'As the wood', 'As the [altar] fire', 'As the altar', 'As the Temple', [or] 'As Jerusalem . . .' R. Judah said: He who says: 'Jerusalem', has said nothing.[9] And should you answer, that is because he did not say: 'As Jerusalem',[10] — surely it was taught: R. Judah said: He who says: 'as Jerusalem' has said nothing, unless he relates his vow to that which is sacrificed in Jerusalem![11] —

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(1) I.e., not a single statement by R. Meir elsewhere warrants this assumption, which is implicit in R. Johanan's explanation of the Mishnah.

(2) Lit., 'were given'.

(3) Lit., 'ministering angels'. Since the tunics are still fit For service, their unwitting use is no trespass, because they were sanctified in the first place on this tacit understanding. For the priests cannot be expected to disrobe immediately they finish the service and not wear them a moment after. Consequently, they do not pass out of the ownership of hekdesh through unwitting use, and therefore R. Meir holds that she is not betrothed.

(4) Thus proving that their unwitting use involves trespass. (There is no liability to a trespass-offering for the deliberate use of hekdesh.)

(5) Being unfit for service, they are not to be used.

(6) There was an annual tax of one shekel for the public sacrifices payable between the first of Adar and the first of Nisan. The money was placed in a chamber and with it were bought sacrifices between Passover and Pentecost. If the tax was paid between the second of Nisan and the first of Sivan in the year it fell due, it was placed in special chests, which bore the inscription, 'New shekels', with which were bought sacrifices between Pentecost and Tabernacles. The same applied to the shekels paid between the second of Sivan and first of Tishri. The chests were then placed in the shekel chamber where they were divided into three baskets, (v. Shek. III, I, 2.) If the tax was not paid in the year it was due but in the following, it was placed in other chests marked 'old shekels.' These, together with the surplus from the chamber fund each year, were not used for sacrifices but for general town purposes, such as repairing the walls, etc.

(7) This proves that though the money might be used for that, yet if it was unwittingly employed for another purpose, liability is incurred. Hence the same should apply to the priestly tunics.

(8) For R. Judah does indeed hold the view expressed in the last note, as shewn in our Mishnah too,

(9) I.e., the vow is invalid; v. Ned. (Sonc. ed.) p. 27.

(10) I.e., Jerusalem itself is sanctified, and so a vow that something (e.g., food) shall be as Jerusalem is valid and renders the object forbidden. But R. Judah's reason is that the vower omitted 'as'.

(11) For notes v. Ned. (Sonc. ed.) p. 28, n. 3,

Talmud - Mas. Kiddushin 54b

Two Tannaim differ as to R. Judah's view.[1]

'Ulla said on Bar Pada's authority: R. Meir used to say that hekdesh, deliberately used, is secularised; unwittingly, it is not secularised.[2] And only in respect to sacrifice was it said that it is secularised by unwitting [misuse].[3] But since it is not secularised, whereby does he become liable to a sacrifice?[4] But when Rabin came [from Palestine], he explained it in Bar Pada's name: R. Meir used to say that hekdesh, deliberately used, is secularised; unwittingly, is not secularised. And only

in respect of consumption was it said that it is secularised by unwitting misuse.[5]

R. Nahman said in R. Adda b. Ahaba's name: The halachah agrees with R. Meir in respect to [second-] tithe, since the Tanna taught his view anonymously;[6] and the halachah is as R, Judah in respect to hekdesh, since the Tanna taught his view anonymously.

[We learnt anonymously] as R. Meir in respect to [second-] tithe. To what is the reference? For we learnt. Fourth year vintage:[7] Beth Shammai maintain: It is not subject to a fifth[8] or removal;[9] Beth Hillel rule: It is. Beth Shammai rule: The law of fallings and gleanings apply to it;[10] Beth Hillel say: It is all for the vault.[11] What is Beth Hillel's reason? — They deduce the meaning of 'holy' from [second-] tithe:[12] just as tithe is subject to a fifth and removal, so is fourth year vintage too. While Beth Shammai do not deduce the meaning of 'holy' from tithe. Now, when Beth Hillel rule that it is as [the second-] tithe, with whom do they hold? If with R. Judah, why is it all for the vault, but he maintains that the [second-] tithe is secular property?[13] Hence surely [they agree] with R. Meir.[14]

'[We learnt anonymously] as R. Judah in respect to hekdesh.' To what is the reference? — For we learnt: If he [the Temple treasurer] sends it[15] by a responsible person[16] and recollects[17] before it reaches the shopkeeper's hands, the latter is guilty of trespass when he expends it.[18] Yet did we not learn [anonymously] as R. Judah in respect to [second-] tithe? But we learnt: If one redeems his own second-tithe, he must add a fifth,[19] whether it was his [in the first place] or given to him as a gift.[20] Whose [view] is this? Shall we say: R. Meir's? Can one give it as a gift: surely he maintains that [second-] tithe is sacred property? Hence it must surely be R. Judah's![21] — No. After all, it is R. Meir's, but the circumstances are that [the donor] gave it to him [mixed up] in its tebel,[22] and he holds that unseparated gifts[23] rank as unseparated.[24]

Come and hear: If one redeems his own fourth year plantings,[25] he must add a fifth, whether it was [originally] his or given to him as a gift. Who is the author of this? Shall we say: R. Meir? Can one give it away; surely he deduces the meaning of 'holy' from second-tithe?[26] Hence it must surely be R. Judah![27] — [No.] After all, it is R. Meir; but here the circumstances are that he gave it in its budding stage;[28] and this does not agree with R. Jose, who maintained: Budding fruit is forbidden [as 'orlah],because it counts as fruit.[29] Come and hear: If he drew into his possession the [second-] tithe [of another] to the value of a sela', and had no time to redeem it[30] before it appreciated to two, he must pay a sela'[31] and thus profits a sela', and the second-tithe is his.[32] Now, whose view is this? Shall we say: R. Meir's; why does he profit a sela', Scripture saith, And he shall give the money, and it shall be assured to him?[33] Hence it must surely be R. Judah's! — It is indeed R. Judah's, but here we have one anonymous teaching, whereas there we have two.[34] But if an anonymous [ruling] was intentionally taught,[35] what does it matter whether there is one or two? — Said R. Nahman b. Isaac, The halachah is as R. Meir, since we learnt his view in Behirta.[36]

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(1) According to the first who deals with trespass, R. Judah holds Jerusalem to be sanctified; according to the second, on vows, it is not.

(2) I.e., 'Ulla agrees with R. Johanan supra 53b.

(3) The Torah decreeing a sacrifice (Lev. V, 15). as though it were converted to hullin. Nevertheless it actually remains hekdesh.

(4) Seeing that his act is null.

(5) I.e., when the object is actually consumed; then it has obviously passed out of the ownership of hekdesh.

(6) As explained below. It is a general principle that if the view of an individual is found cited in a Mishnah anonymously, that is the halachah.

(7) The first three year's vintage of a vineyard, as the first three years' crop of any tree, was forbidden; the fourth year's was permitted, but on the same terms as second-tithe, viz., it had to be eaten in Jerusalem.

(8) If one redeems it and expends the money in Jerusalem, he need not add a fifth, which is necessary in the case of second-tithe.

(9) If an Israelite separated tithes but did not render them to their rightful owners, he might not keep them in his own house beyond the end of the third and the sixth years of the Septennate, but had to remove and give them to their owners. Likewise, second-tithe might not be kept in the house after that, but had to be taken to Jerusalem. This does not apply to fourth year vintage.
(10) Heb. peret and ‘olleloth respectively. Peret, single grapes that fall off during vintaging; ‘olleloth, small single bunches, which must not be vintaged but left for the poor, v. Lev, XIX, 10.
(11) I.e., it must all be gathered, to be made into wine.
(12) Fourth year produce, Lev. XIX, 24: But in the fourth year all the fruit thereof shall be holy; second-tithe, ibid. XXVII, 30: and all the tithe of the land, . . is the Lords; it is holy unto the Lord.
(13) With respect to fallings and gleanings it is written: Lev. XIX, 10: and thou shalt not glean thy vineyard, neither shalt thou gather the fallen fruit of thy vineyard. ‘Thy’ excludes sacred property, which is God's. But if Beth Hillel agree with R. Judah, second-tithe is secular, and since fourth year vintage is assimilated thereto, that also is likewise.
(14) And since the halachah is always as Beth Hillel, that is the equivalent of an anonymous teaching as R. Meir.
(15) Money of hekdesh.
(16) Pikeah, lit., ‘bright’, ‘understanding’, connotes the opposite of a deaf-mute, idiot, or minor, who are irresponsibles.
(17) That it is hekdesh.
(18) But not the treasurer; for since he recollected that it was hekdesh, its expenditure is not unwitting as far as he is concerned, and a trespass-offering is incurred only for unwitting misuse: v. Lev. V, 15, and sin through ignorance. This proves that it becomes hullin by unwitting, not deliberate use. For if deliberate use likewise secularises it, the treasurer should he liable, since its secularisation was pursuant to his action, which at the outset was unwitting.
(19) Lev, XXVII, 31: and if a man will redeem aught of his tithe, he shall add unto it the fifth part thereof.
(20) ‘His’, that it was separated of his own produce; ‘given to him as a gift,’ that somebody had tithed his produce and then given him the tithe.
(21) And it was taught anonymously.
(22) l.e., he gave him untithed corn, which therefore contained some second-tithe.
(23) ‘Gifts’ is the technical term for the priestly and Levitical dues, and here includes the second-tithe, though that belonged to the Israelite.
(24) There is an opposing view that they rank as already separated. According to that, if A gives B untithed corn (tebel), what should be separated is already separated, and therefore since on the present hypothesis this agrees with R. Meir that second-tithe is sacred property and cannot be given away, the tithe in it remains A's. Hence it is explained that he holds that it ranks as unseparated and so it can be given to B together with the rest.
(25) V. p. 273, n, 10.
(26) V. supra. Hence it is sacred property.
(27) Thus we have an anonymous Mishnah in agreement with R. Judah in respect to second-tithe.
(28) When the fruit is recognisable, after the flower has dropped off.
(29) On that view fourth year fruit, being sacred property, could not be given away. But here we hold that the term ‘fourth year fruit’ is as yet inapplicable, because it is not fruit at all.
(30) By paying the owner the money.
(31) , Because he acquired it by meshikah (v. Glos.) and it appreciated in his possession.
(32) Because the second-tithe is secular property, hence it is acquired by meshikah.
(33) Hence tithe is acquired only by money, not meshikah. Actually there is no such verse, and this would appear to be a free paraphrase of Lev. XXVII, 19: then he shall add the fifth part of the money of thy estimation unto it, and it shall be assured to him; Tosaf. Shab. 128a s.v. i,bu. V. supra p. 12, n. 6. — The verse refers to the redemption of a sanctified field, and since R. Meir regards the second-tithe as sacred property, its teaching applies to that too.
(34) The anonymous Mishnah agreeing with R. Meir is found twice, in M.Sh. V, 3 and ‘Ed. IV, 5; that agreeing with R. Judah is found only in M.Sh. IV, 6.
(35) Thus, to shew that it is the halachah; v. p. 273. n. 9.
(36) Lit., ‘selected (Mishnah).’ another name for ‘Eduyyoth. This consists of testimonies by scholars on traditional laws, which were examined and declared authentic.

Talmud - Mas. Kiddushin 55a

We learnt elsewhere: If an animal is found between Jerusalem and Migdal Eder[1] or an equal distance [from the city] in any direction: the males are burnt-offerings; the females are peace-offerings.[2] Now, can males be only burnt-offerings and not peace-offerings![3] — Said R. Oshaia: The reference here is to one who comes to accept responsibility for its value; and this is its meaning: we fear that they may be burnt-offerings; it being in accordance with R. Meir, who ruled: Hekdesh can be deliberately converted into hullin.[4] But can [an object of] intrinsic sanctity[5] be redeemed? Did we not learn: There cannot be consecutive trespasses in respect of sacred objects,[6] excepting in the case of [consecrated] animal[s] and vessels of ministry.[7] How so? If a man rode on a [dedicated] cow, then his neighbour came and rode, and then another came and rode, all are guilty of trespass. If he drank out of a golden goblet, then his neighbour came and drank, and then another, all are guilty of trespass? — The latter[8] is according to R. Judah; the former,[9] R. Meir. But from R. Judah we may understand R. Meir's view. Does not R. Judah maintain that hekdesh may be unwittingly converted into hullin, and yet intrinsic sanctity cannot be secularised;[10] hence according to R. Meir too, although hekdesh, by deliberate misuse, is secularised, yet intrinsic sanctity cannot be secularised![11] — There he does not intend to withdraw it into hullin; here he does.[12] But when do you know R. Meir to hold this? [Only] in the case of higher sanctity;[13] do you know him [to hold this view] in respect to lower sanctity?[14] — Said one of the Rabbis to him [the questioner], R. Jacob by name, It follows a fortiori: If objects of the higher sanctity can be secularised, surely those of the lower sanctity can be! It was stated likewise. R. Hama b. 'Ukba[15] said in R. Jose son of R. Hanina's name: R. Meir used to assert, Hekdesh is secularised by deliberate conversion, but is not secularised by unwitting conversion; this applies to objects of both higher and lower sanctity, a fortiori: if objects of higher sanctity can be secularised, surely those of lower sanctity can be.

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(1) Gen, XXXV, 21. Lit., 'Fold Tower,' a place not far from Jerusalem, on the road to Bethlehem.

(2) Most cattle that wandered out of Jerusalem had been consecrated for sacrifices, and cattle found within this distance were feared to have strayed out. The females are peace-offerings, since only males could be burnt-offerings (Lev. I, 3).

(3) Surely not. They may be the latter: how can they be sacrificed as burnt-offerings?

(4) The animal itself can certainly not be sacrificed. But if a person wishes to accept responsibility, redeem it, and so clear up all doubt, he must reckon with the possibility of its being a burnt-offering. Hence he must bring two animals or two sums of money and declare: 'If this found animal is a burnt-offering, let it be redeemed by one animal, or by one sum, which shall be likewise a burnt-offering, and the other shall be a peace-offering. Whereas if it is a peace-offering, let it be redeemed by the second, and the first be a burnt- offering, while the animal found becomes hullin.

(5) Lit., 'sanctity of the body,' i.e., an animal which is sacred and without blemish, so that it can be offered on the altar; as opposed to monetary sanctity, e.g., a consecrated animal which subsequently receives a blemish; it cannot be sacrificed itself, but must be redeemed and another animal bought with the money, which is sacrificed.

(6) For when the first commits trespass they become hullin and cease to be subject to further trespass.

(7) Used in the Temple. These do not become hullin when secularly used, because they cannot be redeemed as long as they are fit for their purpose.

(8) The Mishnah just quoted.

(9) On the finding of an animal.

(10) For the latter Mishnah, which agrees with R. Judah, must refer to unwitting use, since no offering is incurred for deliberate misuse, and yet it teaches that animals of intrinsic sanctity involve consecutive trespasses, which proves that they are not secularised by the first misuse.

(11) For unwitting misuse, in R. Judah's opinion, is the same as deliberate misuse in R. Meir's.

(12) I.e,, deliberate conversion, according to R. Meir, is stronger than unwitting misuse, on R. Judah's opinion, and therefore it secularises even intrinsic sanctity.

(13) I.e., anything which is entirely used in the service of the Temple. E.g., an article consecrated for Temple repair, and a sacrifice of the higher sanctity, which belonged entirely to God, none of it being eaten by its owner.

(14) And the Mishnah on a strayed animal refers to such, since it may be a peace-offering, which is of the lower sanctity.

(15) Cur. ed.: Akiba; but a R. Hama b. R. Akiba is unknown in the Talmud.

Talmud - Mas. Kiddushin 55b

Now, R. Johanan was astonished thereat:[1] is then a man bidden, 'Arise and sin, that you may achieve merit!'[2] But, said R. Johanan, we wait until it is blemished;[3] then two animals are brought, and a stipulation made.[4]

The Master said: 'Males are burnt-offerings.' But perhaps it is a thanksgiving-offering?[5] — A thanksgiving-offering too is brought .[6] But then loaves are required?[7] — Loaves too are brought. Yet perhaps it is a guilt-offering?[8] — A guilt-offering requires a two year old [animal], whereas a yearling was found. Then perhaps it is a guilt-offering of a leper or a nazir?[9] — These are rare. Yet perhaps it is a Passover sacrifice? — One takes great care of the Passover sacrifice in its season,[10] and when not in its season[11] it is a peace — offering.[12] Yet perhaps it is a firstling or tithe? — In what respect? That it may be eaten when blemished?[13] Here too, it is eaten when blemished.[14]

The Master said: 'Females are peace-offerings.' But perhaps it is a thanksgiving-offering? — He brings a thanksgiving-offering. But then loaves are required? — Loaves too are brought. But perhaps it is a sin-offering? — A sin-offering is a yearling, whereas a two year old was found. Yet perhaps it is a sin-offering which has passed its year?[15] — That is rare. Then what if a yearling is found? — It was taught: Hanina b. Hakinai said: A yearling she-goat is [sacrificed] as a sin-offering. 'As a sin-offering' — can you think so![16] — But, said Abaye, it is [treated] as a sin-offering:[17] it is led into a stable and left to perish.

Our Rabbis taught: An animal may not be bought with second-tithe money;[18]

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(1) At R. Oshaia's explanation, supra a, top.

(2) For even if deliberate conversion is effective in respect of intrinsic sanctity, it is nevertheless forbidden; Men. 101a.

(3) When it loses its intrinsic sanctity — i.e., it may no longer be sacrificed, and as such must be redeemed, whereby it becomes hullin.

(4) V. p. 277, n. 1.

(5) Which may likewise be a male.

(6) I.e., two animals are sanctified; cf. p. 277, n. 1.

(7) V. Lev, VII, 2.

(8) And that cannot be settled by bringing a third, because a guilt-offering cannot be vowed but must be incurred by sin.

(9) V. Glos. These were yearlings.

(10) Animals were separated for that purpose on the tenth of Nisan and sacrificed on the fourteenth. During this time they were carefully guarded, and could not have strayed.

(11) I.e., if these are not sacrificed then.

(12) Which he does bring.

(13) I.e., the fear that it may be a firstling or tithe can affect only the question of their redemption when blemished; for these cannot be redeemed, even when blemished, but must be eaten in semi-sanctity, i.e., they must not be killed in the general abattoirs nor weighed with the ordinary weights, in order to emphasize their character.

(14) In the same manner as firstlings and tithes.

(15) Having been lost a long time.

(16) It may not be one, nor is a stipulation possible (v. p. 277, n. 1), since a sin-offering cannot be vowed.

(17) Which for any reason may not be sacrificed, e.g., if its owner dies.

(18) Without Jerusalem. Either because it may become emaciated through the journey (one explanation by Rashi), or for fear that its owner may be tempted to keep it at home for breeding (Tosaf.).

Talmud - Mas. Kiddushin 56a

and if one does buy: if unwittingly, the money must be returned to its place;[1] if deliberately, it must be brought up and consumed in the Place.[2] R. Judah said: That holds good if he intentionally bought it in the first place for a peace-offering;[3] but if it was his intention to turn the second-tithe money

into hullin,[4] whether unwittingly or deliberately,[5] the money must be returned to its place.[6] But did we not learn: R. JUDAH SAID: IF DELIBERATELY, HE HAS BETROTHED [HER]?[7] — Said R. Eleazar: The woman knows that the second-tithe money does not become hullin through her [acceptance thereof as kiddushin], and so she will go up and expend[8] it in Jerusalem.[9]

R. Jeremiah demurred: But what of unclean cattle, slaves, and real estate, in regard to which a man knows that second-tithe money is not secularised by [the purchase of] them; yet we learnt: Unclean cattle, slaves, and land may not be bought with second-tithe money, even in Jerusalem; and if he does purchase [them], he must eat to the value thereof?[10] But [say] here [in the Mishnah] the reference is to a woman, a haberah,[11] who knows.[12]

The Master said: 'If he does purchase [them], he must eat to the value thereof.' Yet why: let the money return to its place, as there? — Said Samuel:

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(1) The owner. The vendor is compelled to return the money, which must have been given in error. For the purchaser would surely rather carry money than drive an animal to Jerusalem,

(2) Sc. Jerusalem.

(3) Like all animals purchased with second-tithe money.

(4) I.e., he bought the animal intending to eat it outside Jerusalem (Rashi). Tosaf.: He stipulated that the animal should remain hullin, while the vendor should expend the money in Jerusalem.

(5) Whether he knew the money was of second-tithe or not.

(6) If unwittingly, because it was a transaction in error, as above; if deliberately, as a punishment to the vendor for acting as an accessory (Rashi). Tosaf.: In both cases, for fear that the vendor may eat the animal outside Jerusalem, thinking that the stipulation is invalid.

(7) V. Mishnah 52b. This shews that since there is no error, the Rabbis did not nullify the transaction as a penalty (Rashi). Tosaf.: This shews that we do not fear that the woman may expend the money outside Jerusalem, as otherwise his act would be nullified: why then do we fear it in the case of the vendor?

(8) Lit., 'eat'.

(9) Hence there is no question of penalizing anyone (Rashi). Tosaf.: But the vendor thinks that since when one usually buys an animal with second-tithe money, the animal becomes sanctified and the money hullin, so is it now, the stipulation being unable to abrogate normal practice.

(10) I.e., he must take fresh money and declare, 'Wherever the first money is, let it be redeemed by this,' and expend it in Jerusalem. But we do not assume that the vendor himself will take the money thither.

(11) Fem. of haber, associate, one who is learned and very strict in all matters of tithes and laws of purity. Some suggest that the unsettled state of Palestine during the Maccabean wars led to the neglect of tithes and Levitical purity by the masses, the so-called 'am ha-'arez (lit., 'people of the land'), and this, in turn, by reaction, was responsible for the promotion of associations (haburoth), the members of which (haberim) were pledged strictly to observe these laws, V. J.E. art, 'Haber'.

(12) That second-tithe money does not become hullin by her acceptance, and therefore she will expend it in Jerusalem. But the average seller does not know these laws.

Talmud - Mas. Kiddushin 56b

This [holds good] if he [the vendor] has fled. Thus, the reason is that he has fled, but otherwise, we penalize the vendor:[1] but let us penalize the purchaser?[2] — Not the mouse steals, but the hole steals![3] Yet but for the mouse, what harm is done by the hole! — It is reasonable that where the transgression lies, there we impose a penalty.[4]

MISHNAH. IF HE BETROTHS [A WOMAN] WITH 'ORLAH, OR KIL'AYIM[5] OF THE VINEYARD, OR AN OX CONDEMNED TO BE STONED,[6] OR THE HEIFER WHICH IS TO BE BEHEADED,[7] OR A LEPER'S BIRD-OFFERINGS,[8] OR A NAZIRITE'S HAIR, OR THE FIRSTLING OF AN ASS, OR MEAT [SEETHED] IN MILK,[9] OR HULLIN[10] SLAUGHTERED

IN THE TEMPLE COURT, SHE IS NOT BETROTHED.[11] IF HE SELLS THEM AND BETROTHS [HER] WITH THE PROCEEDS,[12] SHE IS BETROTHED.[13]

GEMARA. WITH 'ORLAH: How do we know it? — Because it was taught: They shall be as uncircumcised unto you: it shall not be eaten:[14] thus I know only the prohibition of eating; whence do we know [that all] benefit [is forbidden], [i.e.,] that one must derive no benefit therefrom, [e.g.,] not dye nor kindle a lamp therewith? From the verse: 'Then ye shall count the fruit thereof as uncircumcised,' which includes all.

[WITH] KIL'AYIM OF THE VINEYARD. How do we know it? — Said Hezekiah, Scripture saith, [Thou shalt not sow thy vineyard with divers seeds:] lest [the fruit of thy seed which thou hast sown, and the fruit of thy vineyard,] be defiled [tikdash]:[15] i.e., tukad esh [it shall be burnt in fire]. R. Ashi said: [Interpret,] Lest it be as sanctified.[16] If so, just as a sanctified object transfers its character to its purchase price,[17] and itself becomes hullin, so should kil'ayim of the vineyard transfer its character to its purchase price, and itself become hullin?[18] Hence it must clearly be [explained] as Hezekiah.

[WITH] AN OX CONDEMNED TO BE STONED. How do we know it? — Because it was taught: From the implication of the verse, the ox shall be surely stoned,[19] do I not know that it is nebelah,[20] which is forbidden as food? Why then is it stated, and his flesh shall not be eaten?[19] It informs you that if it was killed after the trial was ended,[21] it may not be eaten, How do we know that benefit [is forbidden]? From the verse, and the owner of the ox shall be clear. How is this implied? — Said Simeon b. Zoma: As a man may say to his friend, 'So-and-so has gone out clear from his property, and has no benefit whatsoever from it.' Now, how do you know that this [verse], 'and his flesh shall tot be eaten,' comes [to teach the law] if it is [ritually] killed after the trial is ended: perhaps where it is killed after sentence, it is permitted, and this [verse], 'and it shall not be eaten,' refers[22] to when it is indeed stoned, and [its teaching is that of] R. Abbahu in R. Eleazar's name. For R. Abbahu said in R. Eleazar's name: Wherever it is said: It shall not, be eaten, thou shalt not eat, ye shall not eat, the prohibitions of both eating and benefit [in general] are understood, unless the writ expressly states [otherwise], as it does in the case of nebelah![23] — That is only where the prohibition of food is derived from, it shall not be eaten;[24] but here the prohibition of eating follows from, 'it shalt surely be stoned': for should you think that it is written to intimate prohibition of benefit, Scripture should state, 'and he shall not benefit',[25] or, 'it shall not be eaten': why add, 'its flesh'? [To shew that] even if it is slaughtered like [other] flesh, it is [still] forbidden.

Mar Zutra objected: Yet perhaps that is only if one examines a stone, [finds its edge perfectly free from a notch] and kills therewith, for it looks like stoning; but not if it is slaughtered with a knife? — Is then a knife stipulated in the Torah?[26] Moreover, it was taught: One may slaughter with everything,[27] with a stone, glass, or a reed haulm.

But now that the prohibitions of both eating and benefit are derived from, 'it shall not be eaten,' what is the purpose of this [clause], 'and the owner of the ox shall be clear'?[28] — In respect of the benefit of its skin.[29] I might think, 'its flesh shall not be eaten' is written: [hence] its flesh is forbidden while its hide is permitted. Now, according to those Tannaim who employ this verse: 'and the owner of the ox shall be clear', as referring to half ransom and indemnification for children,[30] how do they know [that] the benefit of the hide [is forbidden]? — From 'eth besaro' ['its flesh'], meaning, that which is joined to its flesh.[31] And the other?[32]

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(1) By making him return the money.

(2) That he should spend an equal sum in Jerusalem, or go to the vendor and declare, 'The money you hold is redeemed by this money I have,' and then expend the new money in Jerusalem (Tosaf.).

(3) The vendor makes possible this misuse of the money.

(4) The transgression, i.e., the money wrongly expended, lies with the vendor: hence he is penalized by the cancellation of the sale.
(5) V. Glos.
(6) V. Ex. XXI, 28f.
(7) V. Deut. XXI, 1-9.
(8) V. Lev. XIV, 1ff.
(9) Ex. XXIII, 19.
(10) V. Glos.
(11) Because all benefit of these is forbidden; hence she receives nothing of value.
(12) Lit., 'their money'.
(13) Because their forbidden character is not transferred to the money.
(14) Lev. XIX, 23.
(15) Deut. XXII, 9.
(16) Hence forbidden. Thus on both versions all benefit of kil'ayim is forbidden.
(17) Lit., 'holds its money', i.e., if sold, its prohibition passes on to the money paid.
(18) Whereas the Mishnah states that its prohibition is not transferable.
(19) Ex. XXI, 28,
(20) V. Glos.
(21) I.e., after sentence.
(22) Lit., comes.
(23) Deut. XIV, 21: Ye shall not eat any nebelah: thou mayest give it unto the stranger . . . or sell it unto a foreigner. Now, a stoned ox is nebelah, and so I might think that benefit is permitted; therefore Scripture states that its flesh shall not be eaten, thus intimating the contrary. And as to the verse 'and the owner of the ox shall be clear', it is needed for some other deduction v. infra.
(24) Then R. Abbahu's exegesis shews that 'eating' includes all benefit.
(25) When both eating and general benefit are to be forbidden, it is reasonable that the former only is mentioned as including the latter. But when only the latter is needed, the former already being known, surely benefit should be expressly stated?
(26) The Torah does not state that only a knife must be used in ritual killing: hence no distinction can be drawn.
(27) Which has a cutting edge free from notches. — Nevertheless, it had to be sharp enough to cut through the wind pipe and the gullet without undue delay; v, J.D. 23, – 4.
(28) Which was interpreted in the same way; supra.
(29) Teaching that even that is forbidden.
(30) Ransom, v. Ex. XXI, 28-30, 35f; it might be thought, by comparing these verses, that half ransom is payable. Payment for child: v. ibid. 22; I might think that the same holds good when the damage is done by a man's ox. Therefore 'and the owner of the ox shall be clear' (E.V. quit) teaches that he is free from both.
(31) Regarding eth, the sign of the acc., as an extending particle.
(32) What does eth teach on his view?

Talmud - Mas. Kiddushin 57a

He does not interpret eth.[1] As it was taught: Simeon the Imsonite[2] — others state, Nehemiah the Imsonite, — interpreted every eth in the Torah,[3] but as soon as he came to, thou shalt fear [eth] the Lord thy God,[4] he refrained.[5] Said his disciples to him, 'Master, what is to happen with all the ethin[6] which you have interpreted?' 'Just as I received reward for interpreting [them],' he replied: 'so do I receive reward for retracting.'[7] Subsequently[8] R. Akiba came and taught: Thou shalt fear [eth] the Lord thy God, that is to include scholars.[9]

THE HEIFER WHICH IS BEHEADED: How do we know it? — Said the School of R. Jannai: 'Forgiveness' is stated in connection therewith,[10] as with sacrifices.[11]

A LEPER'S BIRD-OFFERINGS: How do we know it? — For the School of R. Ishmael taught:

Qualifying and atoning [sacrifices] are mentioned within [the Temple], and qualifying and atoning [sacrifices] are mentioned without: just as with the qualifying and atoning [sacrifices] mentioned within [the Temple], qualifying is made equal to atoning [sacrifices], so with the qualifying and atoning [sacrifices] mentioned without, the qualifying [sacrifice] is made equal to that which atones.[12] It was stated: From what time are a leper's birds forbidden?[13] R. Johanan maintained: From the time of slaughter;[14] Resh Lakish said: From the time they are taken.[15] 'R. Johanan maintained, From the time of slaughter,' it is the slaughter that renders it forbidden. 'Resh Lakish said: From the time they are taken' — it is learned from the heifer that is to be beheaded. Just as the heifer that is to be beheaded is [forbidden] while it yet lives,[16] so are the leper's birds [forbidden] while yet alive. And from what time is the heifer that is to be beheaded itself forbidden? — Said R. Jannai: I have heard a time limit for it, but have forgotten it: while our colleagues maintain,[17] Its descent to the rugged valley,[18] that renders it forbidden.[19] If so, just as the heifer that is to be beheaded is not forbidden from the time it is taken, so are the leper's birds not forbidden from when they are taken? — How now! There it has another determining point;[20] but here, is there any other determining point?[21]

R. Johanan raised an objection to Resh Lakish: Of all clean birds ye may eat:[22] this includes the bird that is set free.[23] But these are they of which ye shall not eat:[24] that includes the slaughtered bird.[25] But should you think that it is forbidden while yet alive, is it necessary [to state it] after slaughter? — You might argue: It is analogous to sacrifices, which are forbidden whilst alive,[26] yet the slaughtering comes and qualifies them [as food]; therefore we are told [otherwise].

He raised an objection: If it is slaughtered and found to be trefa,[27] he must take a companion for the second,[28] and benefit from the first is permitted. But should you think that it is forbidden while yet alive, why may one benefit from the first![29] — The circumstances here are, e.g., it was found to be trefa in its inwards,[30] so that no sanctity fell upon it at all.

He raised an objection: If it is slaughtered without the hyssop, the cedar wood and the scarlet thread,[31] — R. Jacob said: Since it was set aside for its religious purposes it is forbidden; R. Simeon said: Since it was not slaughtered according to its regulations, it is permitted. Now, they differ only in so far as one Master holds that an unfit slaughtering[32] is designated slaughtering;[33] while the other Master holds that such is not designated slaughtering; but all agree at least that it is not forbidden while yet alive? — It is [a controversy of] Tannaim. For the School of Ishmael taught: 'Qualifying' and 'atoning' are mentioned within [the Temple], and 'qualifying' and 'atoning' are mentioned without: just as with the 'qualifying' and 'atoning' mentioned within, 'qualifying' is made equal to 'atoning', so with the 'qualifying' and 'atoning' mentioned without, 'qualifying' is made equal to 'atoning'.[34]

The text [above stated]: 'Of all clean birds ye may eat: this includes the bird that is set free. But these are they which ye shall not eat: that includes the slaughtered bird.' But may I not reverse it? — Said R. Johanan on the authority of R. Simeon b. Yohai: We do not find live creatures [permanently] forbidden.[35] R. Samuel son of R. Isaac demurred: Do we not? But

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(1) As indicating extension or having any particular significance apart from its grammatical one.

(2) Jast. conjectures that it may mean from Amasia, in Pontus.

(3) As an extending particle.

(4) Deut. VI, 13.

(5) Considering it impossible that this fear should be extended to another.

(6) Pl. of eth.

(7) Lit., 'separating' (myself from them). Since the eth in one verse has no particular significance, it can have none elsewhere. — It is a tribute to his character that although he must have interpreted an enormous number, he was prepared to admit his error and set them all aside.

(8) Lit., ‘until’.
(9) Who are the depositaries of God's word; hence the verse exhorts obedience to religious authority.
(10) V. Deut. XXI, 8.
(11) Betrothal with which is invalid.
(12) ‘Qualifying’ means a sacrifice whose purpose it is to qualify one to enter the Temple and partake of sacred food, i.e., to purify him from uncleanness; ‘atoning’, a sacrifice to atone for sin. Now, in his purification rites, a leper brought birds, which were sacrificed without the Temple (Lev. XIV, 2ff.) and an animal guilt-offering, which was sacrificed within the Temple (vv. 10-13). Though technically called a guilt-offering, its purpose was nevertheless purificatory, since he had not sinned. Again, the purpose of the beheaded heifer, whose rites were performed without the Temple, was atonement. Whilst within the Temple, all other guilt-offerings, excepting the leper's, had the same object. Now, just as Scripture draws no distinction between a leper's guilt-offering (qualifying) and other guilt-offerings (atonement) which are sacrificed within the Temple, so is no distinction drawn between ‘qualifying’ and ‘atoning’ without the Temple, i.e., between a leper's birds and the beheaded heifer. Since therefore betrothal with the latter is invalid, it is likewise so with the former.
(13) That no benefit may be derived from them.
(14) Then the slaughtered one becomes forbidden, while the other (v. Lev, XIV, 7), is likewise forbidden from then until it is actually freed. — Tosaf.
(15) I.e., set aside for that purpose. On the bird that is freed v. preceding note
(16) Like all sacrifices, which are forbidden as soon as they are dedicated.
(17) Lit., ‘take it up to say’.
(18) V. Deut. XXI, 4 and Sot. (Sonc. ed.) p. 235, n. 6,
(19) But not as soon as it is taken.
(20) Whilst alive, viz., its descent etc.
(21) If not from when it is taken, what other point of demarcation during its lifetime is possible?
(22) Deut. XIV, 11.
(23) ‘All’ is an extension.
(24) Ibid. 12.
(25) Both referring to the leper's birds.
(26) From when they are dedicated.
(27) V. Glos.
(28) But not a fresh pair.
(29) For perhaps it was not trefa when taken, in which case, being fit for its ultimate purpose. it became forbidden. How then was that prohibition lifted?
(30) The type of trefa which must have been with it from the very beginning when taken.
(31) V. Lev. XIV, 4.
(32) I.e., unfit to achieve its object, owing to the absence of the hyssop etc.
(33) Hence it is forbidden.
(34) V. p. 284, n. 9. Hence, just as sacrifices (‘atoning’) are forbidden while alive, so are the leper's birds (‘qualifying’) too. Thus the School of Ishmael disagrees with R. Jacob and R. Simeon.
(35) Hence ‘they which ye shall not eat’ cannot include the bird that is freed.

Talmud - Mas. Kiddushin 57b

what of a designated animal[1] and a worshipped animal,[2] which though living creatures, are yet forbidden?[3] — They are forbidden only in respect of the Most High, but are indeed permitted for ordinary use.[4] R. Jeremiah demurred: But animals, active or passive participants in bestiality attested by witnesses, are living creatures and yet forbidden?[5] But, said R. Johanan, we do not find as a rule live creatures that are [permanently] forbidden.[6]

The School of R. Ishmael taught: Because Scripture saith, and he shall let go the living bird it to the open field:[7] just as the field is permitted, so is this [bird] too permitted. Does ‘field’ come to teach this? But it is required for what was taught. ‘Field’ [teaches] that one must not stand in Joppa[8]

and cast it into the sea, or in Gabbath[9] and cast it to the wilderness, or stand without the city and throw it into the city; but he must stand within the city and throw it beyond the wall. And the other?[10] — If so, Scripture should write, 'field': why 'the field'? Hence both are inferred. Raba said: The Torah did not order, 'Send it away', for a stumbling-block.[11]

WITH A NAZIRITE'S HAIR, How do we know it? Because Scripture saith, He shall be holy, he shall let the locks of the hair of his head grow long,[12] [teaching], his growth shall be holy.[13] If so, just as a holy object stamps its purchase price[14] and itself passes out into hullin, so should the nazirite's hair stamp its purchase price and itself pass out into hullin?[15] — Do we then read kodesh? We read kadosh.[16]

WITH THE FIRSTLING OF AN ASS. Shall we say that our Mishnah does not agree with R. Simeon? For it was taught: Benefit is forbidden from the firstling of an ass: this is R. Judah's opinion; but R. Simeon permits it! — Said R. Nahman in Rabbah b. Abbuha's name: This means after its neck was broken,[17] and so agrees with all.[18]

MEAT [SEETHED] IN MILK. How do we know it? — For the School of R. Ishmael taught: Thou shalt not seethe a kid in its mother's milk [is stated] three times:[19] one is a prohibition against eating, one a prohibition of benefit [in general], and one a prohibition of seething.[20] Our Mishnah does not agree with the following Tanna. For it was taught: R. Simeon b. Judah[21] said: Meat [seethed] in Milk may not be eaten, but benefit is permitted, for it is said: For thou art an holy people unto the Lord thy God. Thou shalt not seethe a kid in its mother's milk;[22] whilst elsewhere it is said: And ye shall be holy men unto me: [therefore ye shall not eat any flesh that is torn of beasts in the field; ye shall cast it to the dogs.]:[23] just as there it may not be eaten, yet benefit is permitted, so here too.

AND HULLIN SLAUGHTERED IN THE TEMPLE COURT. How do we know it? — Said R. Johanan on R. Meir's authority: The Torah decreed, slaughter mine [i.e., sacrifices] in mine [i.e., the Temple] and thine [i.e., hullin] in thine [i.e., without the Temple]: just as mine [slaughtered] in thine is forbidden,[24] so is thine [slaughtered] in mine forbidden. If so, just as thine in mine is punished by kareth,[25] so is mine in thine punished by kareth? — Scripture saith, and he hath not brought it unto the door of the tent of meeting, to offer it as a sacrifice unto the Lord . . . then he shall be cut off:[26] for a sacrifice [slaughtered without] there is punishment of kareth, but not for hullin slaughtered in the Temple Court. [That being so,] it [the analogy] may be refuted: as for mine in thine [being forbidden], that is because it is punished by kareth! — But, said Abaye, [it is deduced] from this: and he shall kill it [at the door of the tabernacle of the congregation],[27] and he shall kill it [before the tabernacle of the congregation],[28] and, and he shall kill it [before the tabernacle of the congregation],[29] are three superfluous verses.[30] Now, why are they stated? Because it is said: If the place [which the Lord thy God shall choose to put his name there] shall be far from thee . . . then thou shalt kill [of thy herd etc.],[31] [teaching] you may kill far from the place [sc. the Temple], but not in the place, thus excluding hullin, [viz.,] that it may not be killed in the Temple Court. Again, I know this only of unblemished animals, which are eligible to be sacrificed: whence do I know to include blemished ones? I include blemished animals, since they are of a fit species.[32] Whence do I know to include beasts?[33] I include beasts, since they require shechitah,[34] as a [domestic] animal,[35] How do I know to include birds?[36] Therefore it is stated, and he shall kill it, and he shall kill it, and he shall kill it.[37] I might think, One may not kill [hullin in the Temple Court]; yet if he does, it is permitted [to eat it]: therefore it is stated: If the place be far from thee, then thou shalt kill . . . and thou shalt eat: you may eat what you kill far from the place, but not what you kill in the place, thus excluding hullin killed in the Temple Court.[38] Now, I know this only of unblemished animals,

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(1) An animal designated as an idolatrous sacrifice.

(2) One itself worshipped as an idol.

(3) As sacrifices.

(4) Lit., ‘for a layman’.
(5) These are stoned, and benefit is forbidden as soon as they are sentenced.
(6) Hence it is illogical to reverse it.
(7) Lev. XIV, 7.
(8) Jaffa. On the sea coast.
(9) Later name For Gibbethon, in the territory of Dan. It bordered on the desert.
(10) The School of R. Ishmael: how do they know this?
(11) To order it to be freed and at the same time forbidden is a stumbling-block before any person who may capture and eat it, ignorant of its nature.
(12) Num. VI, 5.
(13) Hence forbidden.
(14) If sold; i.e., the money becomes sacred.
(15) Whereas the Mishnah (q.v. 56b) states the reverse.
(16) Not a nominal form but a verbal form. I.e., he himself is not holiness, but in a holy state, and hence not as strong as holiness itself, which teaches that his sanctity is nontransferable. — Actually, the word as written (ase) might read kodesh, but according to tradition (masorah) it is read kadosh.
(17) If unredeemed; v. Ex. XIII. 13.
(18) The Baraitha adds that R. Simeon agrees in that case.
(19) Ex. XXIII, 19; XXXIV, 26; Deut. XIV, 21.
(20) Even without the intention of eating it.
(21) Rashi (infra 58a) appears to read: R. Simeon b. Yohai. But in Bek. 10a the reading is, R. Simeon b. Judah on the authority of R. Simeon (i.e., b. Yohai).
(22) Deut. ibid.
(23) Ex. XXII, 30: ‘casting to the dogs’ is benefit.
(24) The consecrated animal is forbidden while yet alive, and becomes permitted through the sprinkling of its blood on the altar, which is absent if it is not killed in the Temple. The prohibition, dating from while it is alive, is naturally of benefit in general.
(25) V. Glos.
(26) Lev. XVII, 4.
(27) Lev. III, 2.
(28) Ibid. 8.
(29) Ibid. 13.
(30) They all refer to the killing of peace-offerings, and all imply a limitation: it, i.e., the peace-offering, is to be killed by the Tabernacle, but not others.
(31) Deut. XII, 21.
(32) I.e., fit for sacrifice.
(33) Hayyah, wild beast (e.g., the deer), as opposed to behemah, domestic animal.
(34) V. Glos.
(35) Hence, both may not be done in the Temple Court.
(36) Shechitah is not explicitly stated in the Bible in their case.
(37) One intimates that beasts shall not be killed in the Temple Court; one, fowls; as for the third, two explanations are offered: (i) that it excludes blemished animals; or (ii) that it teaches that these may not be eaten if killed within the Temple. — Hence, when the Baraitha states: I include blemished animals because . . . beasts because . . . the meaning is that these might be deduced by analogy, but for the three verses quoted.
(38) That it may not be eaten.

Talmud - Mas. Kiddushin 58a

which are eligible to be sacrificed; how do I know to include blemished ones? I include blemished animals, seeing that they are of a fit species. And how do I know to include beasts? I include beasts, because they require shechitah, as domestic animals. How do I know to include birds? Therefore it is stated, and he shall kill it, and he shall kill it, and he shall kill it.[1] I might think, One may not kill

[hullin in the Temple]; yet if he does, he may cast it to dogs: therefore it is taught, [ye shall not eat any flesh that is torn of beasts in the field], ye shall cast it to the dogs:[2] 'it' ye may cast to the dogs, but not hullin killed in the Temple Court.

Mar Judah met R. Joseph and R. Samuel, son of Rabbah b. Bar Hanah, standing by the door of Rabbah's academy. Said he to them: It was taught: If one betroths [a woman] with the firstling of an ass, meat [seethed] in milk, or hullin killed in the Temple Court, R. Simeon maintained: She is betrothed; while the Sages rule: She is not betrothed. This proves that in R. Simeon's opinion hullin killed in the Temple Court is not Biblically forbidden.[3] But the following contradicts it: R. Simeon said: Hullin that was killed in the Temple Court must be burned, and likewise a beast of chase killed in the Temple Court![4] They were silent. When they came before Rabbah [and put the difficulty to him], he exclaimed: That controversialist [Mar Judah] has prompted you! The circumstances here[5] are that it was killed and found to be trefa. R. Simeon following his general view. For it was taught: If one kills[6] a trefa,[7] or if one kills [an animal] and it is discovered to be a trefa, both being hullin in the Temple Court,--R. Simeon holds that benefit is permitted; but the Sages forbid it.[8]

IF HE SELLS THEM AND BETROTHS HER WITH THE PROCEEDS, SHE IS BETROTHED. How do we know it? — Since the Divine Law revealed in reference to idolatry, [and thou shalt not bring an abomination into thine house,] lest thou be a cursed thing like it,[9] [which means,] whatever you produce out of it is as itself,[10] it follows that all other objects forbidden in the Torah are permitted.[11] Let us [rather] learn from it?[12] — Because idolatry and seventh year [produce] are two verses that come with the same teaching, and such do not illumine [others].[13] Idolatry, as stated. What about seventh year [produce]? — It is jubilee; it shall be holy unto you:[14] just as a holy object stamps its purchase price [with its own sacred character]. so does seventh year [produce] likewise. If so, just as a holy object stamps its purchase price but itself becomes hullin, so does the seventh year [produce] stamp its purchase price and itself becomes hullin?[15] Therefore it is stated: 'it shall be,' [meaning], it shall remain [be] in its present form. How so? If one buys meat with seventh year produce, both must be removed [from the house] in the seventh year;[16] [if he purchases] fish with the meat, the meat passes out [from seventh year provisions] and the fish enters [i.e., takes its place]; [if he barters] the fish for wine, the fish passes out and the wine enters; oil for the wine, the wine passes out and the oil enters. Thus, how is it? The last on each occasion is stamped with [the nature of] the seventh year, while the [original] produce itself remains forbidden. Now, that is well on the view that [two verses with the same teaching] do not illumine [others]; but on the view that they do, what can be said? — Limitations are written. Here it is written: 'lest thou be a cursed thing like it';[17] and there it is written, it is jubilee: [thus,] only it, but nothing else.[18]

MISHNAH. IF ONE BETROTHS [A WOMAN] WITH TERUMOTH,[19] TITHES, [PRIESTLY] GIFTS, THE WATER OF PURIFICATION AND THE ASHES OF PURIFICATION,[20] SHE IS BETROTHED, EVEN IF AN ISRAELITE.[21]

GEMARA. 'Ulla said: The benefit of disposal[22] does not rank as money. R. Abba [thereupon] raised an objection against 'Ulla: IF ONE BETROTHS [A WOMAN] WITH TERUMOTH, TITHES, [PRIESTLY] GIFTS, THE WATER OF PURIFICATION AND THE ASHES OF PURIFICATION, SHE IS BETROTHED, EVEN IF AN ISRAELITE![23] — He answered: This refers to an Israelite who inherited tebalim[24] from his maternal grandfather[25] [who was] a priest. Now he [Tanna of the Mishnah] holds that unseparated gifts are as though already separated.[26]

R. Hiyya b. Abin asked R. Huna: Does the benefit of disposal rank as money or not? — Said he to him: We have learned it: IF ONE BETROTHS [A WOMAN] WITH TERUMOTH, TITHES, [PRIESTLY] GIFTS, THE WATER OF PURIFICATION AND THE ASHES OF PURIFICATION, SHE IS BETROTHED, EVEN IF AN ISRAELITE. But did we not interpret it as referring to an Israelite who inherited tebalim from his maternal grandfather [who was] a priest, he questioned?

(1) I.e., since the three verses shew that these may not be killed in the Temple Court, just as an unblemished animal, they also shew that they are like it too in that they may not be eaten.
(2) Ex. XXII, 30.
(3) For if it were, it is worthless, since one may derive no benefit from it. But if it is Biblically permitted, she receives something of value, and is betrothed; when the Rabbis then forbid all benefit from it, they cannot thereby nullify a betrothal that is Biblically valid. — The reason of this Rabbinical interdict is that one seeing it may mistake it for a sacrifice that became unfit after it was killed, so that its blood could not be sprinkled, and think that one may benefit from such, whereas that is forbidden.
(4) But burial is insufficient. Now, if the interdict is only Rabbinical, why this stringency? Granted that it may be necessary in the case of an animal, which can be mistaken for a sacrifice which became unfit after it was killed (which must be burned, not buried), yet why demand it for a beast of chase, which cannot be mistaken? Hence the interdict must be Biblical: then it is logical that the Rabbis were stringent in the method of disposal.
(5) With the case of betrothal.
(6) I.e., by ritual shechitah.
(7) Perceptible as such even before it is killed.
(8) In R. Simeon's view, if the slaughter does not qualify it for food, because it is otherwise forbidden, it is not slaughter at all, and no interdict which would normally result from the killing takes effect. Therefore one may benefit therefrom and it is valid for betrothal.
(9) Deut. VII, 26.
(10) I.e., if an idol is sold, the money too is accursed, viz., forbidden.
(11) Sc. the money received for them if sold.
(12) That others are similar.
(13) V. p. 169, n. 7.
(14) Lev. XXV, 12.
(15) In the sense that it is no longer subject to seventh year prohibitions.
(16) I.e., private ownership must be renounced.
(17) The text as emended by Maharsha.
(18) I.e., the peculiar laws of idolatry and seventh year produce as stated here do not apply to anything else.
(19) Plur. of terumah, v. Glos.
(20) V. Num. XIX.
(21) I.e., even if he who betroths is an Israelite; that is the assumed meaning. Now, an Israelite has no direct benefit in these, save the indirect one of being able to dispose of them to whatever priest or Levite he desires; and she too has only the same benefit. Since the Mishnah rules that the betrothal is valid, it follows that this benefit of disposal is considered to possess a monetary value.
(22) V. preceding note; lit., 'the benefit of pleasure' — the pleasure of disposing to whomever one desires.
(23) This proves the reverse; v. n. 5.
(24) Pl. of tebel, q.v. Glos.; lit., 'tebalim fell to him'.
(25) Lit., 'from the house of the father of his mother'.
(26) Even a priest had to separate the priestly gifts. but retained them for himself. Hence the priestly dues contained in these tebalim belong to the heir, who may sell, since he cannot eat them himself, and so they rank as money. But ordinary gifts which must be given away do not rank as money.

Talmud - Mas. Kiddushin 58b

— He replied: You are huza'ah.[1] So he was ashamed, for he thought that he meant it with reference to the subject.[2] I meant this, he reassured him, R. Assi of Huzal[3] agrees with you.

Shall we say that it[4] is a controversy of Tannaim? [For it was taught.] He who steals his neighbour's tebel must pay him the value of his tebel:[5] this is Rabbi's view. R. Jose son of R. Judah said: He must pay only for the hullin it contains. Surely they differ in this: one Master holds that disposal rights are money, while the other maintains that they are not? — No: all agree that disposal

rights are not money, but here, however, the reference is to tebalim which he inherited from the house of his maternal grandfather, a priest, and they differ as to whether unseparated [priestly] dues are regarded as separated: one Master holds that they are regarded as separated,[6] and the other that they are not. Alternatively, all agree that they are regarded as separated, and disposal rights have no monetary value. Here, however, they differ in respect to Samuel's dictum, for Samuel said: One grain of wheat frees the whole stack:[7] One Master accepts Samuel's ruling; the other does not accept it.[8] Another alternative: All reject Samuel's dictum, but here this is Rabbi's reason, viz., the Rabbis penalized the thief. Another alternative: all agree with Samuel; but here this is R. Jose son of R. Judah's reason: The Rabbis penalized the owner, for he should not have tarried with his tebel.[9]

We learnt: IF ONE BETROTHS [A WOMAN] WITH TERUMOTH, TITHES, [PRIESTLY] GIFTS, THE WATER OF PURIFICATION AND THE ASHES OF PURIFICATION, SHE IS BETROTHED, EVEN AN ISRAELITE. But the following is opposed thereto: If one accepts payment for judging, his judgments are null; for testifying, his testimony is worthless; for sprinkling and mixing [with water] the ashes [of the Red Heifer],[10] his water is cavern water[11] and his ashes are ashes of a hearth![12] — Said Abaye. There is no difficulty: here it [the Mishnah] refers to payment for bringing [the ashes] and drawing [the water];[13] there, payment for sprinkling and mixing [are meant].[14] This may be proved too, for here it is stated: WITH THE WATER OF PURIFICATION AND THE ASHES OF PURIFICATION,[15] while there it is taught, for sprinkling and mixing. This proves it.

CHAPTER III

MISHNAH. IF HE SAYS TO HIS NEIGHBOUR, 'GO FORTH AND BETROTH ME SUCH A WOMAN,' AND HE GOES AND BETROTHS HER TO HIMSELF, SHE IS BETROTHED TO THE SECOND. LIKEWISE, IF HE SAYS TO A WOMAN, 'BE THOU BETROTHED UNTO ME AFTER THIRTY DAYS,' AND ANOTHER COMES AND BETROTHS HER WITHIN THE THIRTY DAYS, SHE IS BETROTHED TO THE SECOND: THUS AN ISRAELITE'S DAUGHTER [BETROTHED] TO A PRIEST MAY EAT TERUMAH.[16] [BUT IF HE DECLARES, BE THOU BETROTHED UNTO ME [FROM NOW AND AFTER THIRTY DAYS,'[17] AND ANOTHER COMES AND BETROTHS HER WITHIN THE THIRTY DAYS, SHE IS BETROTHED AND NOT BETROTHED [TO BOTH]:[18] AN ISRAELITE'S DAUGHTER [THUS BETROTHED] TO A PRIEST, OR A PRIEST'S DAUGHTER TO AN ISRAELITE, MAY NOT EAT TERUMAH.[19]

GEMARA. IF HE SAYS TO HIS NEIGHBOUR . . . A Tanna taught: What he did is done, but that he has behaved toward him as a cheat. And our Tanna?[20] — When he states: AND HE GOES,[21] he indeed means, He goes in cheating fashion. Why is it taught here, IF HE SAYS TO HIS NEIGHBOUR,

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(1) This is explained in the text.

(2) Deriving the word from huza, 'shrub', he understood him to say 'You are a shrubcutter'; i.e., your suggestion shows that your knowledge is only fit for this work.

(3) An ancient town below Nehardea, but nearer to Sura, within whose province it lay in matters of jurisdiction. Obermeyer, p. 299f.

(4) The question whether disposal rights rank as money.

(5) Including the terumoth and tithes which were yet to be separated. Ran in Ned. 84b explains: including the value of the disposal rights of the terumoth and tithes.

(6) Hence they have a monetary value to the Israelite, and so the thief must pay for them.

(7) [The removal of one single grain is sufficient to raise the prohibition that rests on the stack, as far as a non-priest is concerned, though the precept of 'giving' terumah is not fulfilled except on setting aside for the priest an amount varying between one fortieth to one sixtieth.]

(8) It is now understood that the reference is to one's ordinary produce, not to a legacy. Now, Rabbi agrees with Samuel: hence the robbed person can say: 'It was all mine, for I would have separated only one grain.' According to this, the controversy refers only to the value of terumah, which, notwithstanding Samuel's dictum, varied from one fortieth to one sixtieth. But the thief is certainly not liable for the tithe it contains, on all views, since that must be one tenth.
(9) But should have separated the dues when the obligation arose.
(10) An unclean person. v. Num. XIX, 17ff.
(11) I.e., useless, for running ('living') water is specified; ibid. 17.
(12) I.e., like ashes of any substance, not those of the red heifer, hence unfit. — This shews that they have no monetary value, since payment is forbidden.
(13) That is permitted.
(14) Which is forbidden.
(15) [They were, that is to say, still unmixed, and he betrothed her with them. Tosaf. Ri.]
(16) Because she is certainly betrothed to him.
(17) As though it were a long ceremony, commencing immediately but requiring thirty days for its completion.
(18) I.e., she is not free from either, nor may she live with either; v. p. 47. n. 10.
(19) Her status being undetermined.
(20) Does he too not condemn him?
(21) Lit., 'AND HE WENT'.

Talmud - Mas. Kiddushin 59a

whilst elsewhere[1] it is taught. 'If he says to his agent'?[2] — We are informed of something noteworthy here, and likewise there. We are informed of something noteworthy here: for if 'his agentð were stated: I might think, Only his agent is stigmatised a cheat, because he relies upon him, thinking, 'He will perform my bidding';[3] but as for his neighbour, seeing that he does not rely upon him,[4] I might say that he is not a cheat. There too we are taught what is noteworthy. For if it were stated: 'If he says to his neighbour.' I might think, Only if his neighbour betroths her elsewhere is she not betrothed, because he thinks that he will not trouble;[5] but as for his agent, who will trouble. I might think, He merely indicates the place to him.[6] Hence we are taught [otherwise].

Rabin[7] the pious went to betroth a certain woman for his son, but betrothed her for himself. But was it not taught. What he did is done, but that he has behaved toward him as a cheat? — They would not give her to him [his son]. Then he should have informed him![8] — He feared that in the meantime another man might come and betroth her.

Rabbah b. Bar Hanah gave money to Rab [and] instructed him, 'Buy this land for me,' but he went and bought it for himself. But did we not learn, What he did is done, yet he has behaved toward him as a cheat? — It was a stretch of land belonging to lawless[9] men;[10] for Rab they shewed respect. but would not for Rabbah b. Bar Hanah. Then he should have informed him? He feared that in the meantime another person might come and buy it.

R. Giddal was negotiating for a certain field, when R. Abba went and bought it. Thereupon R. Giddal went and complained about him to R. Zera, who went [in turn] and complained to R. Isaac Nappaha.[11] 'Wait until he comes up to us for the Festival,' said he to him. When he came up he met and asked him, 'If a poor man is examining[12] a cake[13] and another comes and takes it away from him, what then?' 'He is called a wicked man,' was his answer: 'Then why did you, Sir, act so?' he questioned him. 'I did not know [that he was negotiating for it],' he rejoined. 'Then let him have it now,' he suggested. 'I will not sell it to him,' he returned, 'because it is the first field [which I have ever bought]. and it is not a [good] omen;[14] but if he wants it as a gift, let him take it.' Now, R. Giddal would not take possession,[15] because it is written: But he that hateth gifts shall live,[16] nor would R. Abba, because R. Giddal had negotiated for it; and so neither took possession, and it was called 'The Rabbis' field'.[17]

LIKEWISE, IF ONE SAYS TO A WOMAN, BE THOU BETROTHED UNTO ME etc. What if another does not come and betroth her within these thirty days? — Rab and Samuel both rule: She is betrothed, even if the money [of betrothal] is consumed. What is the reason? This money is neither like a loan nor like a deposit. It is not like a deposit. [because] a deposit is consumed in its owner's possession,[18] whereas this is consumed in her possession. Again, it is not like a loan, [because] a loan is given to be expended,[19] whereas this was given to her for betrothal.

What if another does not come and betroth her, but she herself retracts? — R. Johanan said: She can retract, [because] words can come and nullify words.[20] Resh Lakish maintained: She cannot retract, [because] words cannot come and nullify words — R. Johanan refuted Resh Lakish: If he annuls,[21] if before he [his agent] has made a separation, his separation is invalid. Now here it is speech against speech,[22] yet one comes and nullifies the other? — Giving money into a woman's hand is different, because it is like action, and words cannot come and annul action.

He refuted him: If one sends a divorce to his wife, and then overtakes the messenger or sends [another] messenger after him and says to him, 'The divorce which I gave you is null,' it is indeed null. Now, giving the divorce into the messenger's hand is like giving money into a woman's hand, and yet it is taught: 'it is indeed null'? — There too, as long as the divorce has not reached her hand, it is speech against speech, and so one comes and annuls the other.

Resh Lakish objected to R. Johanan: All utensils become liable to[23] their uncleanness by intention, but ascend thence only by a change in substance.[24]

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(1) Mishnah supra 50a.

(2) 'Agent' or 'messenger' implies that he sends him to a particular place to betroth her; 'neighbour', that he gives him a general commission, but does not send him: 'should you meet her, betroth her to me.'

(3) Lit., 'sending'.

(4) Because he did not actually send him.

(5) To go elsewhere, therefore he specifies that particular place.

(6) But does not insist upon it.

(7) Var. lec., R. 'Amram.

(8) To clear himself of unjust suspicions.

(9) Lit., 'strong'.

(10) Who would not allow any person to own a field near theirs.

(11) Or, the smith.

(12) Lit., 'turning over'.

(13) To buy it.

(14) To sell.

(15) Lit., 'descend to it'.

(16) Prov. XV. 27.

(17) [For the use of the students of the law, v. supra p. 192, n. 6.]

(18) In that he bears the loss.

(19) I.e., if one lends money to a woman and subsequently proposes it for kiddushin, the money was to have been spent before it was to effect betrothal, and therefore is theoretically non-existent.

(20) Her refusal can nullify his betrothal.

(21) If one appoints an agent to separate his terumah, and then cancels his authority.

(22) Both the appointment and the annulment are by words.

(23) Lit., 'go down to'.

(24) Lit., 'change (brought about) by action'. Utensils may become unclean only when they are finished for use; if they require smoothing, scraping, etc., they are not liable to uncleanness, unless their owner declares his intention to use them as they are. On the other hand, having done so, it is not enough that he subsequently declares he will not use them thus,

in order to free them from their liability to uncleanness, unless he actually begins smoothing them. Or, if utensils are unclean, it is insufficient for him to declare that he will not use them any more, so that they should cease to be regarded as utensils, but must render them unfit for use by an act, e.g., break or make a hole in them.

Talmud - Mas. Kiddushin 59b

An act can nullify both act and intention,[1] but intention can nullify neither act nor intention.[2] Now, it is well that it [intention] cannot nullify an act, because speech cannot nullify action; yet let it nullify intention?[3] — Intention, in respect to uncleanliness, is different, because it ranks as action, and in accordance with R. Papa. For R. Papa pointed out a contradiction. It is written, and if one put [yitten], whereas we read, and if it be put [yuttan]:[4] how is this [to be reconciled]? 'If it be put' [must be] similar to 'if one put': just as when one puts, he desires it, so when it is put, he must desire it.[5] R. Zebid recited this discussion in reference to the following: Likewise, if she authorized her agent to betroth her, and went and betrothed herself: if hers came first, her kiddushin is valid; if her agent's came first, her own kiddushin is not valid.[6] Now, what if she did not betroth herself, but retracted?[7] R. Johanan said: She can retract; Resh Lakish maintained: She cannot retract. R. Johanan said: She can retract: Speech comes and nullifies speech — Resh Lakish said: She cannot retract: speech cannot come and nullify speech R. Johanan refuted Resh Lakish: If he annuls, if he does so before he [his agent] has made a separation, his separation is invalid? — Said Raba: Here the circumstances are, e.g., that the owner anticipated [his agent] by separating terumah for his stacks, so that it is action. Resh Lakish refuted R. Johanan: All utensils become liable to their uncleanness by intention, but ascend thence only by a changeful act. An act can nullify both act and intention, but intention can nullify neither act nor intention. Now, it is well that it cannot nullify an act, because speech cannot nullify action; yet let it nullify intention? — He replied: Intention, in respect to uncleanness, is different, because it ranks as action, and in accordance with R. Papa. For R. Papa pointed out a contradiction. It is written: 'and if one put [yitten],' whereas we read: 'and if it be put [yuttan]': how is this [to be reconciled]? 'If it be put' [must be] similar to 'if one put': just as when one puts, he desires it, so when it is put, he must desire it.

R. Johanan objected to Resh Lakish: If one sends a divorce to his wife, and then overtakes the messenger or sends a messenger after him and says. 'The divorce which I gave you is null,' it is null. This is a refutation of Resh Lakish. It is indeed a refutation. Now, the law is as R. Johanan., even in the first [dispute]; for though we might argue [there]. 'Giving money into a woman's hand is different, for it is like an action,' yet even so, speech comes and nullifies speech. But one law contradicts another! For you say; The law is as R. Johanan, while we have an established principle that the law is as R. Nahman, For the scholars propounded: Can he change his mind and divorce therewith?[8] R. Nahman said: He can change his mind and divorce therewith; R. Shesheth ruled: He cannot change his mind and divorce therewith — And it is an established [principle] that the law is as R. Nahman![9] — Granted that he nullified it as far as the messenger is concerned, he did not nullify its efficacy as a divorce.[10]

SHE IS BETROTHED TO THE SECOND. Rab said: She is permanently betrothed to the second; Samuel ruled: She is betrothed to the second until [the end of the] thirty days, after which the betrothal of the second is lifted and that of the first is completed. R. Hisda sat, and found it difficult: Wherewith is the betrothal of the second lifted? — Said R. Joseph to him, You, Sir, learn this in connection with the first clause, and so find it difficult; but Rab Judah learns it in connection with the second clause, and finds no difficulty: FROM NOW AND AFTER THIRTY DAYS. etc. Rab said: She is permanently betrothed yet not betrothed; whereas Samuel ruled: She is betrothed and not betrothed only until [the end of the] thirty days, after which the betrothal of the second loses force and that of the first is completed. Now, Rab is in doubt whether it is a stipulation or a withdrawal;[11] whereas Samuel is certain that it is a stipulation. Now, this enters into the controversy of the following Tannaim: [If one declares, 'Be thou divorced] from to-day and after my death,' it is a

divorce and not a divorce: this is the view of the Sages.[12] Rabbi ruled: It is indeed a divorce.[13] Then let Rab say: The halachah agrees with the Rabbis, and let Samuel say: The halachah is as Rabbi? — It is necessary. For if Rab said: The halachah is as the Rabbis, I might argue. [That is only] there, seeing that he comes to alienate her;[14] but here, that he comes to attach her [to himself]. I would say that he agrees with Samuel that it is a stipulation.[15] And if Samuel said: The halachah is as Rabbi, I would argue, That is only there, because there is no divorce after death;[16] but here, seeing that the kiddushin can take effect thirty days later, I might say that he agrees with Rab. Thus it is necessary.

Abaye said: On Rab's view, If one came and said to her, 'Behold, thou art betrothed to me from now and after thirty days'; then another came and said to her, 'Behold, thou are betrothed unto me from now and after thirty days':[17]

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(1) E.g.. if he first slightly smoothed a utensil, shewing that he considered this enough, or declared his intention to use it without smoothing, and then began to smooth it properly, the latter act nullifies the former, and until he finished it is not liable to uncleanness.

(2) If he first declares his intention not to smooth it, or begins using it without smoothing, and then declares that he will smooth it, and so it is unfinished, his second intention cannot nullify his first, or his action.

(3) On R. Johanan's view that speech nullifies speech.

(4) Lev. XI, 38. Foodstuffs, e.g., grain, cannot become unclean unless they receive moisture after being harvested. Now, the text as it stands may be read יתן 'one puts', which implies that a person must actually wet it; but the traditional reading יותן 'it be put', implying even if water accidentally falls thereon.

(5) I.e., if it falls there in circumstances that the owner may be assumed to be pleased therewith, it becomes liable to uncleanliness. Thus Scripture intimates that mere thought has the force of action.

(6) V. infra 79a.

(7) cancelling her agent's authority. Rashi states: Whether she retracts in the agent's presence or not, Tosaf., more plausibly, explains: she retracted without informing the agent; for if she informed him it is obvious that she can withdraw.

(8) With a Get which he had annulled after giving it to the agent.

(9) Which proves that his second declaration does not nullify the validity of the document.

(10) I.e., he never intended to nullify the document itself, but merely the messenger's authority.

(11) When one declares, 'Be thou betrothed unto me from now and after thirty days', we do not know whether he means, 'Be thou betrothed unto me from now, providing that I am still willing in thirty days' time'; or, 'Be thou betrothed unto me from now — not after thirty days.' If the first is correct, when after thirty days he signifies his willingness, his betrothal was valid from the very beginning, and so the subsequent betrothal of another is null. But if the second is correct, this is the same as the first clause, and the second betrothal is valid. Hence her status remains permanently doubtful.

(12) Because we are doubtful: he might have meant, 'B thou divorced from to-day, providing that I die,' in which case it is valid, or, 'Be thou divorced from to-day — no! only after my death': then it is invalid. If he dies childless, she may not marry her brother-in-law, lest it was a divorce; nor is she free to marry a stranger, lest it was not, and so must be freed by halizah, q.v. Glos.

(13) For it was certainly a stipulation.

(14) And as it is hard for him, he postpones it as much as possible, and therefore he may have retracted.

(15) Because he certainly desires the betrothal to take effect as early as possible.

(16) That is generally known, and therefore it must have been a stipulation.

(17) Which ended within the thirty.

Talmud - Mas. Kiddushin 60a

then another came and said to her, 'Behold, thou art betrothed to me from now and after thirty days':[1] she requires a divorce from the first and the second, but not from the last. For on either alternative:[2] if it is a stipulation, that of the first is [valid] kiddushin, but not those of the second and third; if it is withdrawal, that of the last is kiddushin, but not of the first and the second.[3] But is this

not obvious? — I might say. This expression implies both stipulation and withdrawal, and she requires a divorce from each:[4] hence we are informed [otherwise]. 'Ulla said in R. Johanan's name: Even a hundred have a hold on her.[5] R. Assi said likewise in R. Johanan's name: Even a hundred have a hold on her. R. Mesharasheya son of R. Ammi said to R. Assi: I will explain R. Johananðs reason to you: they made themselves like a row of bricks, each leaving room for the next. R. Hanina raised an objection: [If one declares, 'Be thou divorced] from to-day and after my death,' it is a divorce and not a divorce, and if he dies, she must perform halizah, but not yibum.[6] Now, on Rab's view it is well, for this supports him; according to Samuel too, [there is no difficulty,] for [he may say], This agrees with the Rabbis, whereas I hold with Rabbi.[7] But according to R. Johanan who maintains that something is left over: every divorce which leaves something in her [tied to her husband] is entirely invalid:[8] then let him perform yibum? — Said Raba: The divorce is to free [her], and death is likewise; [hence] what the divorce leaves [undone] is completed by death — Abaye demurred: How compare! Divorce frees her from the yabam's authority, whereas death places her in the yabam's authority? But, said Abaye, there, what is the reason? As a preventive measure, on account of 'From to-day, if I die,' which is certainly a valid divorce.[9] Then let us enact that [if he says,] 'from to-day, if I die,' she shall perform halizah[10] on account of 'from to-day and after death!'[11] — Should you say that she must perform halizah, she may submit to yibum.[12] Then here too, if you say that she must perform halizah, she may submit to yibum? — Then let her, and it does not matter, seeing that it[13] is only a Rabbinical precaution.[14]

MISHNAH. IF ONE SAYS TO A WOMAN. 'BEHOLD, THOU ART BETROTHED UNTO ME[15] ON CONDITION THAT I GIVE THEE TWO HUNDRED ZUZ,' SHE IS BETROTHED, AND HE MUST GIVE IT. ON CONDITION THAT I GIVE THEE WITHIN THIRTY DAYS FROM NOW: IF HE GIVES HER WITHIN THIRTY DAYS, SHE IS BETROTHED; IF NOT, SHE IS NOT BETROTHED. ON CONDITION THAT I POSSESS TWO HUNDRED ZUZ, SHE IS BETROTHED, PROVIDING HE POSSESSES [THEM]. 'ON CONDITION THAT I SHEW THEE TWO HUNDRED ZUZ,' SHE IS BETROTHED, AND HE MUST SHEW HER. BUT IF HE SHEWS HER [MONEY LYING] ON THE COUNTER,[16] SHE IS NOT BETROTHED.[17]

GEMARA. It was stated: R. Huna said: [The Mishnah means] and he must give it;[18] Rab Judah said: When he gives it:[19] 'R. Huna said, and he must give it': it is a condition, [and so] he fulfils the condition and goes on.[20] 'Rab Judah said: When he gives it': when he gives it, the kiddushin is valid; nevertheless now it is not kiddushin. Wherein do they differ? — They differ where she stretches out her hand and accepts kiddushin from another: on R. Huna's view it is not kiddushin; on Rab Judah's it is kiddushin. Now, we learnt similarly with reference to divorce. If one says to his wife, 'Behold here is thy divorce on condition that thou givest me two hundred zuz,' she is divorced, and must give [it]. It was stated: R. Huna said: And she must give it; Rab Judah said: When she gives it. 'R. Huna said: And she must give it': it is a condition, [and so] she proceeds to fulfil the condition. 'Rab Judah said: When she gives it': when she gives it to him, then it is a divorce; now, however it is not a divorce.

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(1) Or simply, 'Behold, thou art betrothed unto me. ð 'From now,' etc., is only mentioned as a parallel to the first two (Rashi).

(2) Lit., 'what will you?'

(3) Hence only the first and last are in doubt.

(4) The first may have meant to retract, so that the second's kiddushin is valid, whilst the second himself may have stipulated, in which case his is valid. Again, both the first and second may have retracted, so the third's is valid; thus all three are in doubt.

(5) The kiddushin of each has partial force, because the declaration means, Let the kiddushin commence now, but be completed only in thirty days' time. On this view there is no question of stipulation or withdrawal.

(6) V. p. 301. n. 1.

(7) V. supra 59b.

(8) Cf. supra p. 13, n. 10.
(9) And yibum is then forbidden. But when he says: 'From to-day and after my death,' people may confuse it with the other. Hence the Rabbis forbade yibum in both cases.
(10) Though actually it is unnecessary.
(11) Which, being invalid, leaves her tied to the yabam, and necessitates halizah; and, as stated, these two may be confused.
(12) Thinking that there is a real tie.
(13) Sc. the law that she must not submit to yibum.
(14) Lit., 'fear'.
(15) E.g., with this perutah.
(16) Of a money-changer.
(17) Because it is understood that his own is meant.
(18) I.e., she is betrothed immediately, and then this obligation lies on him.
(19) Only then is she betrothed.
(20) I.e., when he can.

Talmud - Mas. Kiddushin 60b

Wherein do they differ? — They differ where the divorce document is torn or lost [before the money is given]: according to R. Huna, it is a divorce; according to Rab Judah, it is not a divorce. Now, it is necessary [to state both cases]. For if we were told this of kiddushin [only, I would say] in that case R. Huna says thus, because he comes to attach her [to himself];[1] but as for divorce, where he comes to alienate her, I might say that he agrees with Rab Judah. And if the latter were taught: only there does R. Huna rule thus, for he [the husband] is not ashamed to demand it of her; but here [in the case of marriage], seeing that she is ashamed to demand it of him, I would argue that he agrees with Rab Judah. Thus both are necessary.

An objection was raised: 'Here is thy divorce, on condition that thou givest me two hundred zuz,' she is divorced even though the document is torn or lost;[2] yet she may not marry another until she has given it. Again, it was taught: 'Here is thy divorce on condition that thou givest me two hundred zuz,' and then he dies, if she gave it [before his death], she is not bound to the yabam; if not, she is bound to the yabam.[3] R. Simeon b. Gamaliel said: She can give it to his brother, father, or one of his relations.[4] Now, they differ only in so far as one Master holds, 'To me' [implies] 'but not to my heirs', whilst the other rules: 'Even to my heirs'; but all agree that it is a condition, which refutes Rab Judah! — Rab Judah answers you: Who is the authority for this? Rabbi. For R. Huna said in Rabbi's name:[5] He who says. 'On condition,' is as though he says: 'From now';[6] but the Rabbis disagree with him, and I hold with the Rabbis.

The text [says]: R. Huna said in Rabbi's name: He who says. 'on condition,' is as though he says: 'From now.' R. Zera observed: When we were in Babylon[7] we used to say: With reference to R. Huna's dictum in Rabbi's name, 'One who says: "on condition," is as though he says: "from now"': the Rabbis dispute it. When I went up thither [Palestine], I found R. Assi sitting and expounding in R. Johanan's name: All agree that if he says: 'on condition,' it is as though he says: 'From now'. They differ only in respect of 'from to-day and after death'. And it was taught even so: 'From to-day and after [my death]': it is a divorce, yet not a divorce: this is the view of the Sages. Rabbi said: This indeed is a divorce.[8] Now, according to Rab Judah who maintains that they differ in respect of 'on condition' too' instead of disputing in [the case of] 'from to-day and after [my] death,' let them dispute in respect of 'on condition?' — That is to teach you the extent of Rabbi's view,[9] that even in the case of 'from to-day and after death,' it is a valid divorce. Then let them dispute with reference to 'on condition,' to shew you the extent of the Rabbis' view? — The extent of what is permitted is more important.[10]

ON CONDITION THAT I GIVE THEE WITHIN THIRTY DAYS FROM NOW' etc. But it is obvious? — I might have thought that it is not a condition,[11] and he said it to urge her on; hence we are told [that it is not so.]

ON CONDITION THAT I POSSESS TWO HUNDRED ZUZ' etc. But let us fear that he may possess it [secretly]? Moreover, it was taught: We fear that he may possess it? — There is no difficulty: The one refers to certain kiddushin; the other, to doubtful kiddushin.[12] 'ON CONDITION THAT I SHEW THEE TWO HUNDRED ZUZ' etc. A Tanna taught: Her purpose was to see none but his.

BUT IF HE SHEWS HER [MONEY LYING] ON THE COUNTER, SHE IS NOT BETROTHED. But it is obvious? — It is necessary [to teach it] only even when he holds the money in an investment.[13] MISHNAH. [IF HE SAYS TO HER 'BE THOU BETROTHED UNTO ME][14] ON CONDITION THAT I OWN A BETH KOR[15] OF LAND',[16] SHE IS BETROTHED, PROVIDING THAT HE DOES OWN IT. ON CONDITION THAT I OWN IT IN SUCH AND SUCH A PLACE', IF HE OWNS IT THERE SHE IS BETROTHED, BUT IF NOT SHE IS NOT BETROTHED. 'ON CONDITION THAT I SHEW THEE A BETH KOR OF LAND,' SHE IS BETROTHED, PROVIDING THAT HE DOES SHEW IT TO HER. BUT IF HE SHEWS IT TO HER IN A PLAIN,[17] SHE IS NOT BETROTHED.

GEMARA. But let us fear that he may possess it? Moreover, it was taught. We fear that he may possess it? — There is no difficulty: the one refers to certain kiddushin; the other, to doubtful kiddushin.[18]

Why must it be taught with respect to both land and money? — It is necessary: for if we were told this of money, [I would say] that is because people are accustomed to hide money;[19] but as for land I would say: If he possesses land, it is known:[20] hence we are informed [otherwise].

ON CONDITION THAT I POSSESS IT IN SUCH AND SUCH A PLACE,' IF HE POSSESSES IT. etc. But it is obvious? — I might argue that he can say to her, 'What does it matter to you? I will take the trouble of bringing [its produce where you want it].' Hence we are informed [that it is not so].

ON CONDITION THAT I SHEW THEE A BETH KOR OF LAND. A Tanna taught: Her meaning was to see none but his.

BUT IF HE SHEWS IT TO HER IN A PLAIN, SHE IS NOT BETROTHED. But that is obvious? — It is necessary [to teach it] only if he holds it on a farming tenancy.[21]

With respect to hekdesh we learnt:

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(1) Therefore we assume that both are anxious for the kiddushin to be valid as early as possible, and determine that the first perutah shall effect it.

(2) By the time the condition is fulfilled. This contradicts Rab Judah.

(3) If her husband dies childless.

(4) Whereupon the divorce is retrospectively valid.

(5) The reading supra 8a is Rab, which is more correct per se, since Rab was his teacher. But as a Tanna is necessary here, it is referred to Rabbi.

(6) V. p. 29, n. 8.

(7) R. Zera hailed from Babylon. and went to study in Palestine.

(8) V. supra 59b.

(9) Lit., 'Rabbi's strength.'

(10) I.e., it is more important to shew how far one maintains that a particular act is valid, rather than the opposing view how far it is invalid, for one must be more positive to permit than to forbid.

(11) That it be given within the thirty days.

(12) If he is not openly in possession of the stipulated sum she is not betrothed with certainty; v. p. 47. n. 10.

(13) He was trading with another man's capital at a fixed percentage of profit and loss, so that he had a proprietary interest therein. Nevertheless she is not betrothed.

(14) E.g., with this perutah.

(15) An area which requires thirty se'ahs of seed, which is estimated at 1500 cubits X 50 cubits.

(16) Lit., 'earth'.

(17) Which does not belong to him.

(18) v. p. 305. n. 5.

(19) Hence even if he is not openly in possession of it, she is doubtfully betrothed.

(20) Lit., 'it has a voiceð.

(21) Paying an agreed percentage of the crops in rent; v. p. 305, n. 6.

Talmud - Mas. Kiddushin 61a

He who sanctifies his field when Jubilee is in force, must pay [for its redemption] fifty silver shekels for [an area requiring] a homer of barley seed.[1] If it contains ravines ten handbreadths deep, or rocks ten handbreadths high, they are not measured with it;[2] if less than this, they are measured therewith. Now, we pondered thereon: Granted that they are not sanctified together with the [rest of the] field, yet let them be sanctified separately? And should you answer, whatever is less than a beth kor is not counted.[3] But the following contradicts it: [And if a man shall sanctify unto the Lord part of a] field [of his possession, etc.]:[4] why is this stated? Because it is said, the sowing of a homer of barley shall be valued at fifty [shekels of silver]; [hence] l know it only if he sanctifies in such a manner;[5] how do I know to include a lethek.[6] half a lethek, a se'ah, tarkab[7] half a tarkab, and even a quarter [se'ah]? Because it is stated: 'a field,' whatever its size! — Said Mar 'Ukba b. Hama: The reference here is to ravines filled with water, because they are unfit for sowing. This may be proved too, because it is taught analogous to high rocks.[8] This proves it. If so, [it is the same] even if less than this?[9] — Those are called basins of the field[10] and ridges[11] of the field.[12]

With respect to purchase we learnt: If one says to his neighbour, 'I sell you a beth kor of land,' and it contains ravines ten handbreadths deep or rocks ten handbreadths high, they are not measured with it. And Mar 'Ukba b. Hama said: Even if they are not filled with water. What is the reason? — Said R. Papa: Because a man does not wish to pay his money for one field and it should appear as two or three plots.[13] How is it here:[14] do we compare it with hekdesh or purchase? — It is rational that we compare it to hekdesh. because he can say to her, 'I will exert myself[15] sow it, and bring [you the crop].' MISHNAH. R. MEIR SAID: EVERY STIPULATION WHICH IS NOT LIKE THAT OF THE CHILDREN OF GAD AND THE CHILDREN OF REUBEN IS NOT A [VALID] STIPULATION, BECAUSE IT IS WRITTEN. AND MOSES SAID UNTO THEM, IF THE CHILDREN OF GAD AND THE CHILDREN OF REUBEN WILL PASS WITH YOU OVER THE JORDAN, [. . . THEN YE SHALL GIVE THEM THE LAND OF GILEAD FOR A POSSESSION]. AND IT IS ALSO WRITTEN. BUT IF THEY WILL NOT PASS OVER WITH YOU ARMED, THEN THEY SHALL HAVE POSSESSIONS AMONG YOU IN THE LAND OF CANAAN.[16] R. HANINA B. GAMALIEL MAINTAINED: THE MATTER HAD TO BE STATED. FOR OTHERWISE IT IMPLIES THAT THEY SHOULD HAVE NO INHERITANCE EVEN IN CANAAN.[17]

GEMARA. R. Hanina b. Gamaliel says well to R. Meir? — R. Meir answers you: Should you think that it does not come for [teaching] a double stipulation, it [Scripture] should write, 'but if they will not pass over . . . they shall have possession among you': why state, 'in the land of Canaan'?

(1) Whatever its actual value, in accordance with Lev. XXVII, 16.
(2) As part of the total area.
(3) Because that is the smallest area mentioned in Scripture.
(4) Ibid.
(5) I.e., this area.
(6) Half a kor.
(7) =Three kabs =half a se'ah.
(8) Where sowing is impossible.
(9) Ten handbreadths high or deep.
(10) Into which the water runs off.
(11) Lit., 'spine'.
(12) But are not considered as distinct. For fuller notes v. B.B. (Sonc. ed.) pp. 429ff.
(13) Such deep ravines etc. break up the field.
(14) In our Mishnah, if the field contains such deep ravines which are not waterlogged.
(15) Lit., 'trouble'.
(16) Num. XXXII, 29f; but not Gilead. Though the second follows from the first, Moses stated both contingencies explicitly. Again, the positive ('will pass') precedes the negative ('will not pass'). and the condition ('if they pass over') precedes the apodosis ('then ye shall give' etc.). Hence every stipulation, to be valid, requires these three factors: (i) it must be double, stating both contingencies; (ii) the positive must precede the negative; and (iii) the condition must be stated before the act (Rashi. Raabad, Adreth and Tur). Maim. interprets: the condition must be stated before the act is agreed upon, but not after.
(17) But if the negative clearly follows from the positive, the condition need not be doubled. Rashi holds that he differs on this point only, agreeing on the other two, while Tosaf. maintains that he differs on all three.

Talmud - Mas. Kiddushin 61b

This proves that it comes to necessitate a double stipulation. And R. Hanina b. Gamaliel? — If the Divine Law did not write, 'in the land of Canaan,' I would think that 'they shall have possession among you' in the land of Gilead, but nothing at all of the land of Canaan. And R. Meir? — 'Among you' implies, 'wherever you have possessions'.[1] It was taught: R. Hanina b. Gamaliel said: For example, to what may this matter be compared? To a man who divided his estate among his sons, and directed, 'That son shall inherit that field, that son shall inherit that field, while that son shall pay two hundred zuz and inherit that field.[2] But if he does not give it, he shall inherit the rest of my estate together with his brothers.' Now, what causes him to receive an inheritance together with his other brethren in the rest of the estate? His doubling [of the stipulation] effects it for him.[3] But the illustration is not similar to our Mishnah. There he states. [FOR OTHERWISE] IT IMPLIES THAT THEY SHOULD HAVE NO INHERITANCE EVEN IN CANAAN, which proves that the doubling served a purpose in respect of Gilead too;[4] whereas here he states: 'What causes him to receive an inheritance together with his other brethren in the rest of the estate? His doubling [of the stipulation] effects it for him,' which proves that the doubling is efficacious [only] in respect to the rest of the estate? — There is no difficulty: the former was before R. Meir told him [the implication of], 'then they shall have possession therein;'[5] the latter [the illustration], after R. Meir told him [the implication of], 'then they shall have possession therein'.[6]

As for R. Meir, it is well: hence it is written: If thou doest well, shalt thou not be rewarded? and if thou doest not well, sin coucheth at the door.[7] But according to R. Hanina, what is its purpose?[8] — I might have thought, If thou doest well, there is reward, but if thou doest not well, there is neither reward nor punishment. Hence we are informed [otherwise].

Now, as for R. Meir, it is well: hence it is written, then thou shalt be clear from this my oath;[9] but according to R. Hanina b. Gamaliel, what is its purpose?[10] — It is necessary: I might think, If she were willing but not they [sc. her family], he was to bring her against their will. Hence we are

informed [otherwise]. What is the purpose of, 'and if the woman be not willing?'[9] — It is necessary: I might think, If they [her family] were willing but not she, he should bring her against her will. Hence we are informed [otherwise].

Now, as for R. Meir, it is well: hence it is written. If ye walk in my statutes . . . and if ye shall reject my statutes.[11] But according to R. Hanina b. Gamaliel, what is its purpose? — It is necessary. I might think, 'if ye walk in my statutes', [ye shall have] a blessing; 'but if ye shall reject my statutes,' neither a blessing nor a curse. Hence we are informed [otherwise].

Now, as for R. Meir, it is well: hence it is written: If ye be willing and obedient etc. . . . but if ye refuse and rebel.[12] But according to R. Hanina b. Gamaliel, what is its purpose? — It is necessary. I might think, 'If ye be willing,' [it will be] well; 'but if ye refuse,' [it will be] neither well nor good. So we are informed [that it is not so].

What is the meaning of,

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(1) I.e., Canaan; hence R. Hanina's hypothetical assumption is impossible. — From the whole discussion it appears that even if they did not pass over they would still have a portion of Palestine. This is most unreasonable, and so Tosaf. explains the verses as follows: If they pass over armed at the head of the forces, bearing the brunt of the battle, they will be favoured with the special grant of Gilead. But if they merely take an equal share with their brethren in the conquest, they will receive the same as the rest, viz., a portion of Palestine proper.

(2) Which is worth more than his due share.

(3) [For but for the second claim, it might be maintained that if he does not give the two hundred zuz he can claim a share only in the third field, but receives nothing from the other two fields assigned to his two brothers. Similarly, in the verses under discussion, but for the second claim, it would be assumed that the Gaddites and Reubenites in the case of their non-fulfilment of the condition would share with the rest of the tribes the district of Gilead, while forfeiting all claim to the land of Canaan.]

(4) ['EVEN' implies that, but for this doubling, they would, on nonfulfillment of the condition, have no share in Gilead.]

(5) [R. Hanina in the Mishnah was but countering R. Meir's argument which he understood to be that the whole of the verses in question are required for the purpose of the doubling of the condition, and he thus said that the doubling was necessary, for without it, it would be assumed that they would have no share at all, even in the land of Canaan.]

(6) [When he learnt that R. Meir based his deduction from 'in the land of Canaan', he rejoined that these words are necessary to indicate that they would, on fulfilment of the condition, receive a share in the land of Canaan, as supra.]

(7) Gen. IV, 7.

(8) For one follows from the other.

(9) Ibid. XXIV. 8.

(10) Since it follows from the general context of the oath, q.v. (Tosaf.).

(11) Lev. XXVI, 3, 15.

(12) Isa. I, 19f.

'ye shall be fed with the sword'?[1] — Said Raba: Coarse salt, hard baked barley bread, and onions; for a Master said: Stale bread baked in a large oven with salt and onions is as harmful to the body as swords.

Now, as for R. Hanina b. Gamaliel, it is well: hence it is written: If no man have lain with thee, and if thou hast not gone aside to uncleanness, be thou free.[2] But according to R. Meir, it should [also] state, 'be thou strangled'?[3] — Said R. Tanhum: hinnaki is written.[4] [Then] as for R. Meir, it is well: hence it is written hinnaki. But according to R. Hanina b. Gamaliel. what is its purpose?[5] — It is necessary: I might think, If no man have lain [with thee] . . . be thou free; but if a man have lain [with thee], be thou neither free nor strangled, but merely [guilty of violating] a prohibition. Hence we are informed [otherwise].

As for R. Meir, it is well: hence it is written: He shall purify himself therewith on the third day, and on the seventh day, [then] he shall be clean: but if he purify not himself etc.[6] But according to R. Hanina b. Gamaliel, what is its purpose? — It is necessary: I might think, The precept of sprinkling is [that it be performed] on the third and the seventh [days]; yet if it is done only on one of these days, it is done [and effective]. Therefore we are told [that both days are essential]. What is the purpose of, and the clean person shall sprinkle upon the unclean on the third day, and on the seventh day?[7] — It is necessary: I might think, the third excludes the second, and the seventh excludes the sixth, because thereby one diminishes the days of purification; but if it is performed on the third and the eighth days. thereby increasing the period of purification. I might say that it is well. Hence we are informed [otherwise].[8] What is the purpose of, 'and on the seventh day he shall purify him'? — It is necessary: I might think, that [sc. sprinkling on these days] is only for sacred food,[9] but for terumah even one is sufficient: hence we are told [that it is not so]. MISHNAH. IF HE BETROTHS A WOMAN AND THEN DECLARES, 'I THOUGHT THAT SHE WAS A PRIEST'S DAUGHTER, WHEREAS SHE IS OF A LEVITE.' OR OF A LEVITE WHEREAS SHE IS OF A PRIEST; 'POOR', WHEREAS SHE IS WEALTHY, OR 'WEALTHY', WHEREAS SHE IS POOR, SHE IS BETROTHED, SINCE SHE DID NOT DECEIVE HIM. IF HE SAYS TO A WOMAN, BEHOLD, BE THOU BETROTHED UNTO ME AFTER I BECOME A PROSELYTE,' OR 'AFTER THOU BECOMEST A PROSELYTE, AFTER I AM LIBERATED,' OR 'AFTER THOU ART LIBERATED, AFTER THY HUSBAND DIES'. OR, 'AFTER THY SISTER DIES.'[10] OR 'AFTER THY YABAM PERFORMS HALIZAH FOR THEE'; SHE IS NOT BETROTHED. LIKEWISE, IF HE SAYS TO HIS NEIGHBOUR, IF THY WIFE BEARS A FEMALE, LET HER BE BETROTHED UNTO ME,' SHE IS NOT BETROTHED. (IF HIS WIFE, HOWEVER, IS PREGNANT, THE CHILD BEING DISCERNIBLE, HIS WORDS ARE VALID, AND IF SHE BEARS A FEMALE, SHE IS BETROTHED.)[11]

GEMARA. We learnt elsewhere: Terumah must not be separated from detached [corn] for that which is attached,[12] and if he does separate, his separation is not terumah. R. Assi asked R. Johanan: What if one declares, 'The detached produce of this furrow be terumah for the detached produce of this one, when it is plucked',[13] and then it is plucked? — He answered him: Whatever [act] lies in his power, is not as though that act were lacking.[14] He raised an objection: IF ONE SAYS TO A WOMAN, BEHOLD, THOU ART BETROTHED UNTO ME AFTER I BECOME A PROSELYTE, OR, 'AFTER THOU BECOMEST A PROSELYTE,' 'AFTER I AM LIBERATED, OR, 'AFTER THOU ART LIBERATED,' 'AFTER THY HUSBAND DIES,' OR, 'AFTER THY SISTER DIES,' OR, AFTER THY YABAM PERFORMS HALIZAH FOR THEE.' SHE IS NOT BETROTHED. As for all, it is well, for they are not in his power; but [to be] a proselyte surely lies in his power! — [To become] a proselyte is not in his power either. For R. Hiyya b. Abba said in R. Johanan's name:

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(1) Ibid., so translated here.

(2) Num. V. 19; but the reverse contingency is left to be understood.

(3) If thou hast gone aside, etc.; i.e., the reverse.

(4) Which also suggests, hinnaki, be thou strangled. v. Shebu (Sonc. ed.) p. 213, n. 6 and Sot. (Sonc. ed.) P- 89, n. 2.

(5) Why write a word capable of two readings?

(6) Num. XIX, 12.

(7) Ibid. 19. This difficulty arises on all views: why repeat third and seventh?

(8) By this repetition.

(9) I.e., sacrifices, which require a very high degree of purity.

(10) I.e., his own wife, whether living with him or divorced.

(11) From R. Hanina's statement infra but is evident that the bracketed passage must be deleted.

(12) Produce is not liable to terumah until it is harvested, but not while it is yet attached to the soil, and one may not separate from what is liable for what is not liable.

(13) That refers to both clauses.

(14) Since it rests with him to harvest the produce, it is accounted as already harvested, and his declaration is valid.

Talmud - Mas. Kiddushin 62b

A proselyte requires three [Israelites].[1] What is the reason? Judgment [mishpat] is written in connection therewith, as for a lawsuit:[2] who can say that these three will assemble for him?[3]

R. Abba b. Memel demurred thereto:[4] If so, if a man gives a perutah to his [heathen] bondmaid and says to her, 'Behold, thou art betrothed unto me after I liberate thee,' is it indeed [valid] kiddushin?[5] — How compare! There, she is originally like an animal,[6] whereas now [after liberation] she is an independent mind. Then when R. Oshaia said: If he gives his wife a perutah and says to her, 'Behold, thou art betrothed unto me after I divorce thee,' she is not betrothed: according to R. Johanan. is she indeed betrothed? — Granted that it rests with him to divorce, is it in his power to betroth her?[7] [From this answer, then,] solve R. Oshaia's problem. [Viz.] [What] if one gives two perutoth to a woman: With one he says to her, 'Be thou betrothed unto me to-day.' and with the other, 'Be thou betrothed unto me after I divorce thee': from this [then] deduce that it is not [valid] kiddushin! — [No.] Perhaps. just as kiddushin can be effective now, it can be effective afterwards.[8]

It was taught as R. Johanan: One must not separate from detached [produce] for attached; and if one does separate, his separation is not terumah. How so? If he declares, 'The detached produce of this furrow be terumah for the attached produce of that one,' or 'the attached produce of this furrow be terumah for the detached produce of that one', his statement is null. But if he declares, 'when it is cut off,' and then it is cut off, his declaration is valid. R. Eliezer b. Jacob went further.[9] Even if he declares, 'The detached produce of this furrow be terumah for the attached produce of this one,' or, 'the attached produce of this furrow be terumah for the detached produce of this one when it [the attached] is a third grown and cut off,' and it then grows to a third [of its full maturity] and is cut off, his declaration is valid.[10] Rabbah said: R. Eliezer b. Jacob ruled thus only of fodder,[11] but not of leek-like plants.[12] R. Joseph said: [He ruled thus] even of soft plants.[13] Where is it implied that this word 'agam' connotes leek-like plants? — R. Eleazar answered, because Scripture saith, is it to bow down his head as a rush [ke-agmon]?[14]

With whom does the following agree? For we learnt: IF ONE SAYS TO HIS NEIGHBOUR. 'IF THY WIFE BEARS A FEMALE, LET HER BE BETROTHED UNTO ME.' SHE IS NOT BETROTHED — whereon R. Hanina said: This was taught only if his wife is not pregnant; but if she is, his declaration is valid, — with whom [does it agree]? — If it is according to Rabbah, it means that her child was discernible; if as R. Joseph, even if her child is not discernible.[15] Others state, Rabbah said: R. Eliezer b. Jacob ruled thus only of the fodder of a naturally watered field, but not of the fodder of an artificially irrigated field.[16] R. Joseph said: Even of the fodder of an artificially irrigated field. With whom does the following agree? For we learnt: IF ONE SAYS TO

HIS NEIGHBOUR. 'IF THY WIFE BEARS A FEMALE, LET HER BE BETROTHED UNTO ME,' SHE IS NOT BETROTHED, whereon R. Hanina said: This was taught only if his wife was not pregnant; but if she was, his declaration is valid with whom [does it agree]? — It means that her child was discernible, and agrees with all.[17]

Abaye said: R. Eliezer b. Jacob, Rabbi, and R. Meir, all hold that one may transmit the title to an object which has not come into the world.[18] R. Eliezer b. Jacob, as stated. Rabbi, for it was taught:

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(1) For the ceremony of conversion, v. Yeb. 47a.

(2) Lev. XXIV, 22: Ye shall have one manner of judgment (mishpat), as well as for the proselyte (so understood here; E.V. 'stranger') as for the homeborn. 'Mishpat' really means a judgment in a civil suit, for which three are required.

(3) Hence it is not in his power. Views on proselytes varied in ancient Israel, v. J.E. X. pp. 221ff. But as it may, the answer given here shews that one encountered real difficulties before he could be converted, and often was denied it altogether.

(4) Sc. R. Johanan's ruling.

(5) Surely not, though it does rest with him.

(6) In that she has no independent will.

(7) Surely not.

(8) That is R. Oshaia's problem: seeing that he can betroth her now he can do so for the kiddushin to become effective after divorce. But if he gives his wife kiddushin, to take effect after he divorces her, no part of his declaration is valid there and then.

(9) Lit., 'said more than this'.

(10) Though before it is a third grown it is not regarded as produce at all, and even if he harvested it then he could not tithe it (R.H. 13a), and so it is something as yet non-existent; moreover, it does not rest with him to make it grow. Yet R. Eliezer b. Jacob maintains that his declaration is valid, for one can transmit title of what is yet non-existent. (Here by his declaration he transmits a title to priests.)

(11) I.e., corn which can be cut before it is a third grown and used for fodder.

(12) Jast.: soft, bending plants, which cannot be used as fodder.

(13) Rabbah holds that soft plants have no real worth at all before they are a third grown; R. Joseph holds that even so it is sufficient for R. Eliezer b. Jacob's view to operate.

(14) Isa. LVIII, 5.

(15) 'Discernible' and 'not discernible' are compared respectively to fodder, which can be put to use, and to soft plants. which cannot (before they are a third grown). On both views, however, R. Hanina's interpretation implies that one can transmit the title of an object which is as yet non-existent, and hence agrees with R. Eliezer b. Jacob.

(16) The former is more certain than the latter, which permits human error and neglect.

(17) Since the development of the embryo does not depend on artificial means, it is similar to the fodder of a naturally watered field.

(18) I.e., as yet non-existent.

Talmud - Mas. Kiddushin 63a

Thou shalt not deliver unto his master a servant [which is escaped from his master]:[1] Rabbi said: The Writ refers to one who buys a slave on condition that he emancipates him.[2] How so? Said R. Nahman b. Isaac: E.g., if he wrote for him, 'When I buy you, you belong to yourself from now.'[3]

R. Meir, for it was taught: If one says to a woman, 'Behold, thou art betrothed unto me after I become a proselyte', or, 'after thou becomest a proselyte', 'after I am freed,' or 'after thou art freed,' 'after thy husband dies,' or, 'after thy sister dies,' 'after thy yabam performs halizah for thee,' she is not betrothed. R. Meir said: She is betrothed.[4] R. Johanan the sandal maker said: She is not betrothed. R. Judah the Nasi[5] said: [By rights] she is betrothed, yet why did they [the Sages] say, she is not betrothed? Because of bad feeling.[6] Then let R. Judah the Nasi be counted too? — Rabbi and R. Judah the Nasi are identical. And let R. Akiba be counted too? For we learnt: [If a woman says to

her husband,] 'Konam be my work for thy mouth,'[7] he need not annul it.[8] R. Akiba said: He should annul it, lest she do for him more than she is obliged to do for him![9] — But was it not stated thereon, R. Huna son of R. Joshua said: It means that she vowed, 'Let my hands be sanctified to their Maker,'[10] and her hands are in existence?[11]

MISHNAH. IF ONE SAYS TO A WOMAN, BEHOLD. THOU ART BETROTHED UNTO ME ON CONDITION THAT I SPEAK TO THE GOVERNOR ON THY BEHALF', OR 'THAT I WORK FOR THEE AS A LABOURER', IF HE SPEAKS TO THE GOVERNOR ON HER BEHALF OR WORKS FOR HER AS A LABOURER, SHE IS BETROTHED; IF NOT, SHE IS NOT BETROTHED.

GEMARA. Resh Lakish said: Providing that he gives [her] the value of a perutah.[12] But not in payment [of speaking etc.]? Surely it was taught: '[Be thou betrothed unto me] in payment for that I drove thee on an ass,' or 'seated thee in the carriage or ship,' she is not betrothed.[13] 'In payment for that I will drive thee on an ass, or 'seat thee in a carriage or ship,' she is betrothed? And should you answer: Here too it means that he gives her the value of a perutah: but it states: 'in payment?' Again, it was taught: [If a woman says,] 'Sit with me as a companion, and I will become betrothed unto thee,' 'jest before me,' 'dance before me', 'do as was done in this public game',[14] we assess it: if it is worth a perutah, she is betrothed; if not, she is not betrothed. And should you answer, here too it means that he gives her the value of a perutah [in addition]; surely it states, we assess it, thus refuting Resh Lakish? — Resh Lakish can answer you: The Tanna of this Baraitha[15] holds, Wages are a liability only at the end; whereas our Tanna holds, Wages are a liability from beginning to end.[16] Now, what compels Resh Lakish to explain our Mishnah on the basis that wages are a liability from beginning to end and that he gives her [a perutah in addition]? — Said Raba: [For otherwise,] our Mishnah presents a difficulty to him: why state particularly, ON CONDITION: state, 'in payment for'? Hence this proves that wherever 'on condition' [is taught], it means that he gives her [something in addition].

MISHNAH. [IF HE SAYS,] 'ON CONDITION THAT [MY] FATHER CONSENTS,' IF HIS FATHER CONSENTS, SHE IS BETROTHED; IF NOT, SHE IS NOT BETROTHED. IF HIS FATHER DIES, SHE IS BETROTHED; IF THE SON DIES, THE FATHER IS INSTRUCTED TO SAY THAT HE DOES NOT CONSENT.[17]

GEMARA. What is meant by 'ON CONDITION THAT [MY] FATHER CONSENTS?' Shall we say, providing that my father [explicitly] says 'yes'? Then consider the middle clause: IF HIS FATHER DIES, SHE IS BETROTHED. Surely he did not say 'yes!' Hence [it must mean]

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(1) Deut. XXIII, 16.

(2) Or, for the purpose of emancipating him. If his master goes back on his word and the slave escapes, the Court must not deliver him up again.

(3) Thus he transmits to the slave something which, as far as he is concerned, is as yet non-existent, viz., his rights over him. (Such fall within the category of things which have not yet come into the world.) Since Rabbi applies the verse to such a case, he evidently holds such transmission valid.

(4) Though all these are non-existent at the time.

(5) The Prince.

(6) [Which such betrothal engenders in the mind of the sister and the husband whose death seems to be keenly awaited. R. Judah the Nasi refers to these two cases. In the other cases he agrees with R. Meir.]

(7) Forbidden be it by a vow, v. Ned. 85a.

(8) Since she must work for him, her vow is null in any case.

(9) For the extent of her obligation v. Ket. 64b. The vow in respect of the excess is binding, hence R. Akiba rules that her husband should annul it. This shews that he holds that one may make a binding declaration in respect of what is not yet in existence.

(10) In the sense that they may do nothing for her husband.
(11) Lit., 'in the world'.
(12) And stipulates, 'on condition that I speak' etc.
(13) Because this payment is a debt, which cannot effect kiddushin; v. supra 6b.
(14) Jast. Which games are alluded to is not stated. Rashi: Make for me such a masonry.
(15) Lit., 'this outside Tanna'.
(16) V. supra 48a.
(17) So that the kiddushin is null ab initio and she is not bound to the yabam.

Talmud - Mas. Kiddushin 63b

'on condition that my father is silent.'[1] Then consider the last clause: IF THE SON DIES. THE FATHER IS INSTRUCTED TO SAY THAT HE DOES NOT CONSENT: yet why, seeing that he was silent?[2] Hence [it must mean that] he said to her, on condition that my father does not [explicitly] object': thus the first clause has one meaning, while the middle and the last clauses have a different meaning? — Said R. Jannai. Even so, Resh Lakish observed: This proves that in R. Jannai's opinion we strain the Mishnah by giving two different connotations [to the same phrase], so that it agrees with one Tanna, rather than give it one connotation by making it reflect [the views of] two Tannaim.[3] R. Joseph b. Ammi said: After all, it has one connotation, and what is meant by 'ON CONDITION THAT [MY] FATHER CONSENTS'? On condition that he does not protest within thirty days from now.[4]

MISHNAH. [IF A MAN DECLARES,] 'I HAVE GIVEN MY DAUGHTER IN BETROTHAL, BUT DO NOT KNOW TO WHOM I HAVE BETROTHED HER,' AND THEN ONE COMES AND STATES, I BETROTHED HER, HE IS BELIEVED. IF ONE SAYS, I HAVE BETROTHED HER,' AND ANOTHER [ALSO] SAYS, 'I BETROTHED HER,' BOTH MUST GIVE A DIVORCE;[5] BUT IF THEY WISH, ONE GIVES A DIVORCE AND THE OTHER MARRIES HER.

GEMARA. Rab said: HE IS BELIEVED to give her a divorce, but he is not believed to take her. He is believed to give her a divorce: no man sins without profit.[6] But he is not believed to take her: passion may have mastered him. R. Assi said: He is even believed to take her. Yet R. Assi admits that if she declares, 'I have been betrothed, but do not know to whom,' and one comes and says: 'I betrothed her,' he is not believed to take her.[7] We learnt: BUT IF THEY WISH, ONE GIVES A DIVORCE AND THE OTHER TAKES HER: this refutes Rab! — Rab can answer you. There it is different: since another is with him, he is indeed afraid.[8] It was taught as R. Assi: 'I have given my daughter in betrothal, but do not know to whom I betrothed her,' and one comes and says: 'I betrothed her,' he is believed, even to take her. If he takes her and [then] another comes and says: 'I betrothed her,' it does not rest with the latter to forbid her to him [the first]. [But] if a woman says: 'I have been betrothed, but do not know to whom,' and one comes and declares, 'I betrothed her,' he is not trusted to take her, because she will shield him.[9]

The Scholars propounded: Can we stone [her] on his statement?[10] — Rab said: We do not stone [her]; R. Assi said: We stone [her]. Rab said: We do not stone [her]: the Divine Law gave credence to the father in respect of an interdict[11] but not of execution. R. Assi maintained, We stone [her]: The Divine Law gave credence to the father in the whole matter. R. Assi said: Yet I admit that if she herself says: 'I was betrothed,' we do not stone [her].[12] R. Assi said further: These rulings of mine break roofs![13] [For one may argue:] If you say that we stone her where one who comes to take her may take her,[14] how much the more should she be stoned where one who comes to take her may not take her![15] Yet it is not so. The Divine Law gave credence to the father, but it gave no credence to her.[16] But R. Hisda ruled: In both cases we do not stone. Now, R. Hisda follows his opinion [elsewhere]. For R. Hisda said: [If a man declares,] 'This my son is nine years and a day.' [or] 'this

my daughter is three years and a day,' he is believed in respect of sacrifice, but not in respect of flagellation or [other] punishment.[17] It was taught as R. Hisda: [If a man declares,] 'This my son is thirteen years and a day,' [or] this my daughter is twelve years and a day,'[18]

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(1) I.e., does not explicitly object.

(2) And the Kiddushin became effective.

(3) For it could be explained that he simply said: 'on condition that my father consents' and that the first and the middle and last clauses represent two differing views as to its meaning: the Tanna of the first explains it to mean that his father is silent; whereas the one of the middle and last, that his father does not explicitly object.

(4) I.e., within any agreed period, and CONSENTS and DOES NOT CONSENT mean within that period.

(5) To free her for others.

(6) Why should he want to divorce her if she is not his wife?

(7) The reason is stated below.

(8) [He is afraid to lie for fear that the father who gave her in betrothal will remember that he was not the man, but the other, and thus expose him].

(9) If her father betrothed her one is afraid to lie, because he will certainly expose him if he remembers that this was not the man; hence he is believed. But a woman, in her eagerness for marriage, may conceal his falsehood, and he may count upon this: hence he is disbelieved.

(10) Lit., 'at his hand'. If her father declares that he gave her in betrothal, but does not produce witnesses, and then she is unchaste, is he believed to the extent of stoning the daughter for adultery? V. Deut. XXII, 21.

(11) By his declaration he interdicts her to all men.

(12) For subsequent unchastity.

(13) They are paradoxical.

(14) Viz., when her father states that he does not know to whom he betrothed her. The fact that another is permitted to take her shews that the father is not so absolutely believed as to render her forbidden to all, including the claimant; yet she is stoned for unchastity.

(15) Viz., when she herself declares that she does not know to whom she was betrothed. Since the claimant may not take her, we evidently regard her as a married woman absolutely. Surely then we should stone her for unchastity?

(16) Hence she is not stoned; nevertheless, the claimant may not take her, because she rendered herself, by her declaration, forbidden to all.

(17) The intercourse of a male or female of these ages (and upwards) is regarded as such in respect of adultery, incest, etc. Now, if these were committed unintentionally, so that a sacrifice is incurred, the father's statement is accepted. But if intentionally and attested by witnesses, thus involving flagellation or death, according to the nature of the offence, the father's uncorroborated statement is not believed. They themselves, being minors, are in any case exempt, but the reference is to their adult partners.

(18) At these ages they are adults.

Talmud - Mas. Kiddushin 64a

he is believed in respect of vows, haramim,[1] sanctifications, and 'arakin;[2] but not in respect of flagellation and [other] punishments.

MISHNAH. [IF A MAN DECLARES.] 'I HAVE GIVEN MY DAUGHTER IN BETROTHAL,'[3] 'I GAVE HER IN BETROTHAL AND DIVORCED HER WHILST A MINOR,' AND SHE IS [NOW] A MINOR,[4] HE IS BELIEVED.[5] 'I GAVE HER IN BETROTHAL AND DIVORCED HER WHILST A MINOR,' AND SHE IS NOW AN ADULT, HE IS DISBELIEVED.[6] 'SHE WAS TAKEN CAPTIVE AND I REDEEMED HER,[7] WHETHER SHE IS A MINOR OR AN ADULT[8] HE IS DISBELIEVED.

GEMARA. Wherein do the first and the second clauses differ? — In the first clause, it is in his hand;[9] in the second, it is not in his hand. Is it not? Surely it is in his power to marry her to a halal,[10] whereby he unfits her for the priesthood![11] — That is no difficulty: it [our Mishnah] agrees with R.

Dosethai b. Judah, who maintained: The daughters of Israel are a purifying mikweh for halallim.[12]

But it is in his power[13] to marry her to a mamzer?[14] — This agrees with R. Akiba, who maintained, Kiddushin has no validity[15] with those [marriages forbidden by] negative injunctions.[16] But it is in his power to marry her, if a widow, to a High Priest, and in accordance with R. Simai; for it was taught: R. Simai said: [The issue] of all [marriages forbidden by a negative injunction] R. Akiba declared [to be] mamzer, excepting that of a widow [married] to a High Priest, since the Torah said, [a widow . . .] he shall not take, and he shall not profane [his seed]:[17] he renders [his seed] profane,[18] but not mamzer![19] — This is according to R. Yeshebab, who said: Come, let us cry out against Akiba son of Joseph[20] who declared: He who has no entry in Israel,[21] the issue is mamzer.[22] Now, on R. Yeshebab's view, it is well if he states an independent opinion [of R. Akiba's ruling].[23] But if he [merely] comes to combat R. Simai,[24] then it is [still] in his [the father's] power to marry her to a person forbidden by a positive injunction?[25] R. Ashi answered: Is it logical that the first clause [states that he is believed] because it is in his power? Granted that it is in his power to betroth her, is it in his power to divorce her? Moreover, if this person [to whom he desires to betroth her] says that he has no pleasure in her, can he then betroth her against his will? But, said R. Ashi, in the first clause the Divine Law declared him trustworthy, as R. Huna [said]. For R. Huna said in Rab's name: How do we know that a father is believed to interdict his daughter[26] by Biblical law? Because it is said: I gave my daughter unto this man [to wife]:[27] [with the words] 'unto a man,' he renders her forbidden [to all];[28] with 'this [one]', he frees her. [Now,] the Divine Law believed the father in regard to marriage[29] but in regard to captivity it did not believe him.

MISHNAH. IF A MAN SAYS AT THE TIME OF HIS DEATH I HAVE SONS, HE IS BELIEVED;[30] 'I HAVE BROTHERS,' HE IS DISBELIEVED.[31]

GEMARA. This shews that he is believed to free, but not to bind. Shall we say [then] that our Mishnah does not agree with R. Nathan? For it was taught: if at the time of betrothal one declares that he has sons, but at the time of his death he asserts that he has no sons; If at the time of betrothal he declares that he has brothers, while at the time of his death he declares that he has no brothers: he is believed to free, but not to bind: this is Rabbi's view. R. Nathan said: He is believed to bind too! — Said Raba, there it is different: since he retracts at the time of his death, I assume that he may be speaking truth. Abaye asked him: Does it [the reverse] not follow a minori: If there, though he contradicts his [former] words, you say that he may be speaking truth; surely it is all the more so in our Mishnah, where he does not contradict his [former] words! But, said Abaye, our Mishnah treats of one who is not presumed[32] to possess brothers or sons: hence we rule, since he is not presumed to possess either brothers or sons, if he says. 'I have sons,' he is believed;[33] but if he declares, 'I have brothers,' he is disbelieved, [because] it does not rest solely with him to forbid her to the whole world. [Whereas] the Baraitha refers

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(1) V. Glos.

(2) V. Glos. As they are of age, their vows, etc., are valid, and the father is believed on the question of age.

(3) Rashal adds: a minor (ketannah). and it is likewise so in Asheri and Alfasi.

(4) When he makes this declaration.

(5) She may therefore not marry a priest; v. Lev. XXI, 7.

(6) The reason is explained in the Gemara.

(7) A woman taken captive above the age of three years and a day may not marry a priest, lest she was ravished in captivity.

(8) When he makes this declaration.

(9) Since she is now a minor, he can betroth her even now and accept a divorce on her behalf, thus disqualifying her from the priesthood. Hence he is believed.

(10) 'Profaned'; the issue of a widow married to a High Priest in violation of Lev. XXI. 14.

(11) She may not marry a priest after that; infra 74b.

(12) Pl. of halal. If a halal marries a Jewess born in legitimate wedlock, his daughter may marry a priest. Now, since his daughter is fit, his widow too (i.e., the Jewess herself) is fit, according to the principle: you may marry the widow of any man whose daughter you may marry. — Of course, a father can in any case render his daughter, a minor, unfit by marrying and divorcing her; but that is only for a priestly marriage, yet if he is a priest she may still eat terumah, whereas when he declares that she was taken into captivity he desires to disqualify her from terumah too. (Rashi)
(13) Lit., 'his hand'.
(14) V. Glos. This likewise renders her unfit, even to eat terumah.
(15) Lit., 'cannot take hold on'.
(16) Which includes a mamzer, Deut. XXIII, 3. Since the kiddushin is invalid, it does not disqualify her from the priesthood.
(17) Lev. XXI, 14f.
(18) I.e., hallel.
(19) Since the child is not mamzer, the kiddushin, though forbidden, is valid, because it is a principle that the issue of marriage that cannot be valid is mamzer. Further, being valid, it disqualifies her from the priesthood.
(20) I.e., R. Akiba.
(21) I.e., with whom marriage is forbidden.
(22) Thus in his view, R. Akiba holds that even the issue of a High Priest and a widow is mamzer, whence it follows that the marriage is entirely invalid, which in turn implies that she is not disqualified from terumah, as above. Thus the Mishnah agrees with R. Akiba as R. Yeshebab explains his view,
(23) I.e., the issue of all interdicted marriages, no matter how forbidden, is mamzer.
(24) Who excepted the issue of a widow and a High Priest; yet he too refers only to unions forbidden by a negative injunction.
(25) V. Deut. XXIII, 8f: Thou shalt not abhor an Edomite . . . thou shalt not abhor an Egyptian. The children of the third generation that are born unto them shall enter into the assembly of the Lord. The 'third generation' after conversion is meant; hence the first and second are forbidden, and since that is implied by a positive statement, the interdict too ranks as a positive injunction. — Such a marriage, on the present hypothesis, is valid, and disqualifies her from terumah, v. infra 74b.
(26) To all men, by maintaining that he betrothed her to a particular one.
(27) Lit., 'unto a man, this one'. Deut. XXII, 16.
(28) Even to this particular man.
(29) Provided she is not a bogereth. The whole section speaks of a na'arah.
(30) And his wife is exempt from yibum.
(31) And even if he is childless his wife is free to marry a stranger.
(32) Lit., 'it is not established to us'.
(33) Since he does not change her present status; and he is believed even if a man subsequently claims to be his brother.

Talmud - Mas. Kiddushin 64b

to one who is presumed to have brothers but not sons. So we argue. Why should he lie? Why does he say it?[1] to free her from the yabam! Then he could Say, 'I will free her by a divorce [just before my death].' Now, Rabbi holds that [the argument,] 'why should I lie' is as [strong as] witnesses, so that the witnesses come and cancel[2] the presumption. But R. Nathan holds, [The argument,] 'why should I lie' is [only] as [strong as] a presumption, and one presumption cannot come and completely cancel another.[3] MISHNAH. IF ONE GIVES HIS DAUGHTER IN BETROTHAL WITH OUT SPECIFYING WHICH, THE BOGEROTH[4] ARE NOT INCLUDED. IF ONE HAS TWO GROUPS OF DAUGHTERS BY TWO WIVES, AND HE DECLARES, I HAVE GIVEN IN BETROTHAL MY ELDEST DAUGHTER, BUT DO NOT KNOW WHETHER THE ELDEST OF THE SENIORS OR THE ELDEST OF THE JUNIORS, OR THE YOUNGEST OF THE SENIORS WHO IS OLDER THAN THE SENIOR OF THE JUNIORS, ALL ARE FORBIDDEN, EXCEPT THE YOUNGEST OF THE JUNIORS: THIS IS R. MEIR'S OPINION. R. JOSE SAID: THEY ARE ALL PERMITTED, EXCEPT THE ELDEST OF THE SENIORS. I HAVE BETROTHED MY YOUNGEST DAUGHTER, BUT DO NOT KNOW WHETHER THE YOUNGEST OF THE

JUNIORS OR THE YOUNGEST OF THE SENIORS, OR THE ELDEST OF THE JUNIORS WHO IS YOUNGER THAN THE YOUNGEST OF THE SENIORS,' THEY ARE ALL FORBIDDEN, EXCEPT THE ELDEST OF THE SENIORS; THIS IS R. MEIR'S VIEW. R. JOSE SAID: THEY ARE ALL PERMITTED, EXCEPT THE YOUNGEST OF THE JUNIORS.

GEMARA. But minors are [apparently] included; this proves that kiddushin that cannot be followed by intercourse is kiddushin?[5] — The circumstances are that there is only a bogereth and a minor. But 'BOGEROTH' is taught! — By 'bogeroth', bogeroth in general are meant. Then it is obvious: what business have bogeroth [here]?[6] — We refer here to where she [the bogereth] appointed him [her father] an agent. I might have thought that when he accepted kiddushin he did so on her behalf; hence we are informed that a man does not put aside something by which he benefits to do something by which he does not benefit. But do we not refer [even] to where she said to him, 'Let my kiddushin be yours!' — Even so, a man does not put aside a good deed which [primarily] rests on him and perform one which is not incumbent upon him.[7]

IF ONE HAS TWO GROUPS OF DAUGHTERS. Now, it is necessary.[8] For if we were told the first one, [I would say only] here does R. Meir rule [so], for since there is yet a younger one than this, he calls this one 'elder', but in the latter [clause], I might say that he agrees with R. Jose that only the youngest of all he calls 'young'. Again, if the latter [clause only] were stated: I would say that only there does R. Jose rule thus, but in the former he agrees with R. Judah.[9] Thus both are necessary.

Shall we say that R. Meir holds that a man places himself in a position of doubt, while R. Jose maintains that he does not?[10] But we know them [to hold] the reverse. For we learnt: If one vows, '[This be forbidden me] until Passover,' it is forbidden until it arrives; 'until Passover shall be', it is forbidden until it is gone.[11] 'Until pene [before][12] Passover': R. Meir ruled: It is forbidden until it comes; R. Jose said: Until it is gone![13] — Said R. Hanina b. Abdimi in Rab's name: The passage [on vows] must be reversed. And it was taught even so: This is a general principle: That which has a fixed time. and one vows, until' — R. Meir said: It means, Until it goes; R. Jose said: Until it comes.

Abaye said: The controversy refers [only] to two groups of daughters; but in the case of one group, all agree that 'elder' and 'younger' are literal,[14] [for] the middle one is called by name. R. Adda b. Mattena said to Abaye: If so,

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(1) That he has sons.

(2) Lit., 'eradicate'.

(3) Thus: before marriage it was generally held that he had brothers but not sons, though there were no witnesses. Now, when he declared at betrothal that it was the reverse, we believe him; because he had no need to lie, since he could always free his wife from the yabam by a divorce. But the controversy arises where he retracts his words at death. Rabbi holds that the argument whereby we believed him at betrothal is as strong as witnesses, and completely eradicates the general pre-marriage presumption and establishes her as a woman not bound to a yabam. Hence it does not rest with him at death to interdict her. But R. Nathan holds that this argument does not completely eradicate the former presumption. Nevertheless, if he persists in his former statement we believe him; since, however, he reverses it at death, the original presumption holds good, and she is forbidden.

(4) Plur. of bogereth, v. Glos.

(5) V. supra 51a.

(6) For in any case the father has no authority over them, Now, it is well if the actual plural is meant, so that the Mishnah is necessary for its corollary that minors are included, thus shewing that kiddushin that cannot be followed etc. But if there is only one, neither the teaching itself nor its corollary is necessary.

(7) For notes on the whole passage and the Mishnah V. supra. 51b.

(8) For both clauses to be stated.

(9) By inverting the former reasoning.

(10) The meanings of 'my elder daughter' and 'my younger daughter' are doubtful. Thus R. Meir, by extending their scope, holds that he intends his words to bear a meaning which can be attributed to them only with doubt; whereas R. Jose maintains that he intends them to bear only that meaning which they certainly possess.

(11) I.e., the tense is regarded as future perfect — until it shall have been.

(12) [Of doubtful meaning, as each day of Passover is the one before the next day succeeding it (Rashi). For other interpretations. v. Ned. (Sonc. ed.) p. 191. n. 3,]

(13) Thus R. Meir includes even a doubtful meaning, while R. Jose excludes it.

(14) I.e., the oldest and the youngest respectively.

Talmud - Mas. Kiddushin 65a

let the middle one of the second [junior] group be permitted?[1] — The meaning here is that there are only an elder and a younger [daughter].[2] And reason supports this too: for if it is so,that there is [a middle one], let her be mentioned![3] But even on your view; the middle one of the first [senior] group, who is certainly doubtful and forbidden[4] — is she mentioned? — How compare! There [even] the one younger than her is taught as being forbidden, and the same applies to this [middle] one, who is older than her; but here,[5] if it is so that there is [a middle one], let her be mentioned! R. Huna, son of R. Joshua, said to Raba:[6] But Passover is as one group, and yet they differ? — There, he replied, they differ merely on language: one Master holds, 'until pene Passover' means until [just] before Passover, and the other maintains, until it has passed.[7]

MISHNAH. IF HE SAYS TO A WOMAN, 'I HAVE BETROTHED THEE,' AND SHE SAYS, THOU HAST NOT BETROTHED ME: HER RELATIONS[8] ARE FORBIDDEN TO HIM,[9] BUT HIS RELATIONS ARE PERMITTED TO HER. IF SHE SAYS, 'THOU HAST BETROTHED ME,' AND HE MAINTAINS, 'I HAVE NOT BETROTHED THEE,' HER RELATIONS ARE PERMITTED TO HIM. BUT HIS RELATIONS ARE FORBIDDEN TO HER. 'I HAVE BETROTHED THEE,' AND SHE REPLIES, THOU HAST BETROTHED NONE BUT MY DAUGHTER,' THE RELATIONS OF THE SENIOR [THE MOTHER] ARE FORBIDDEN TO HIM, WHILST HIS ARE PERMITTED TO THE SENIOR; THE JUNIOR'S RELATIONS ARE PERMITTED TO HIM, AND HIS RELATIONS ARE PERMITTED TO THE JUNIOR.[10] I HAVE BETROTHED THY DAUGHTER,' AND SHE REPLIES, 'THOU HAST BETROTHED NONE BUT MYSELF'; THE JUNIOR'S RELATIONS ARE FORBIDDEN TO HIM, WHILST HIS RELATIONS ARE PERMITTED TO THE JUNIOR; THE SENIOR'S RELATIONS ARE PERMITTED TO HIM, WHILST HIS RELATIONS ARE FORBIDDEN TO THE SENIOR.

GEMARA. IF HE SAYS TO A WOMAN, I HAVE BETROTHED THEE etc. Now, it is necessary.[11] For if we were informed this of him,[12] [that is] because a man does not care,[13] and so it happens that he speaks [thus].[14] But as for her, I might argue, were she not certain of her statement, she would not have made it,[15] and so her relations are forbidden to him. Hence we are informed [that it is not so].

I HAVE BETROTHED THEE,' AND SHE REPLIES ['MY DAUGHTER'] etc. Why do I need this too? — It is necessary. I might think, By Scriptural law the Merciful One gave credence to the father;[16] hence by Rabbinical law credence was given to her [sc. the mother], and so her daughter is interdicted on her statement. Hence we are informed [otherwise].

I HAVE BETROTHED THY DAUGHTER etc. What is the purpose of this too? Since the one is taught, the other is taught too.[17]

It was stated: Rab said: We force [him to divorce her]; Samuel said: We request. To what [does this refer]? Shall we say: To the first clause: there is neither compulsion nor request?[18] But if to the second clause:[19] as for requesting him, that is well; but we compel why? He can protest. 'I do not

wish to be forbidden to her rela — tions![20] — But these rulings were stated in reference to each other.[21] Samuel said: He is asked to give her a divorce; Rab said: If he gives a divorce of his own accord,[22] he is compelled to pay the kethubah.[23] It was stated likewise: R. Aha b. Adda said in Rab's name — others state. R. Aha b. Adda said in R. Hamnuna's name in Rab's name: We compel and request. Both?[24] — This is the meaning: He is requested to grant a divorce; but if he gives a divorce of his own accord, he is compelled to pay the kethubah.

Rab Judah said: If a man betroths in the presence of one witness, we disregard[25] his kiddushin.[26] Rab Judah was asked: What if both admit it?[27] He answered 'Yes' and 'no', being uncertain.[28] It was stated: R. Nahman said in Samuel's name: If a man betroths in the presence of one witness, we disregard his kiddushin even if both admit it. Raba objected before R. Nahman: IF ONE SAYS TO A WOMAN, 'I HAVE BETROTHED THEE,' AND SHE SAYS, THOU HAST NOT BETROTHED ME: HER RELATIONS ARE FORBIDDEN TO HIM, WHILST HIS RELATIONS ARE PERMITTED TO HER. Now, if there are witnesses, why are his relations permitted to her? And if there are no witnesses, why are her relations forbidden to him?[29] Hence it surely means that there is one witness![30] — [No.] The meaning is that he says to her, 'I betrothed thee in the presence of So-and-so,[31] who have [since] gone overseas.'

He raised an objection: If one divorces his wife and then stays overnight with her in an inn: Beth Shammai rule: She does not require a second divorce from him; while Beth Hillel maintain: She does require a second divorce from him.[32] What are the circumstances? If there are witnesses,[33] what is Beth Shammai's reason? And if there are no witnesses, what is Beth Hillel's reason?[34] Hence it must surely mean that there is one witness![35] — Yet according to your view, consider the second clause: But they agree that if she was divorced after erusin,[36] she does not require a second divorce from him, because he is not intimate with her.[37] Now if you think that one witness is believed, what does it matter whether [the divorce was] from erusin or nissu'in? Hence the meaning here is that we have witnesses of privacy, but not of intercourse. Beth Shammai maintain: we do not

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(1) This refers to the first clause of the Mishnah. There the middle one can be called 'elder' only by comparison with the youngest of all, which is the same as in the case of one group only.

(2) In the junior group.

(3) Sc. 'I do not know whether the middle one of the juniors'.

(4) Since she is a senior in comparison to those of the second group.

(5) With reference to the second group.

(6) Var. lec.: R. Adda b. Mattena said to Abaye.

(7) Taking pene to mean 'the turn', v. p. 325. n. 6.

(8) E.g., sister, mother, daughter.

(9) Because he himself has thrown an interdict upon them in respect of himself; v. p. 319. n. 8.

(10) Notwithstanding her mother's statement, because she has no power to cast an interdict upon her daughter.

(11) That all be taught.

(12) Viz., that when he says: 'I have betrothed thee,' his relations are not forbidden to her.

(13) If the relations of a particular woman are interdicted to him, he can marry someone else.

(14) Untruthfully.

(15) Since, unless he divorces her, she cannot marry at all.

(16) V. Mishnah 64a top.

(17) For the sake of parallelism.

(18) She is permitted to marry in any case-even his relations.

(19) Where she says: 'Thou hast betrothed me'.

(20) For if he divorces her, he establishes the presumption that she was his wife, and those relations who are interdicted even after divorce, e.g., a sister, are now forbidden to him.

(21) The reference is to the second clause, but Rab and Samuel do not dispute but supplement one another.

(22) And thus tacitly admits having betrothed her,

(23) v. Glos,
(24) Surely that is self-contradictory!
(25) Lit., 'have no fear of,
(26) She is not betrothed.
(27) Do we normally disregard because we disbelieve a single witness, but here, since both parties admit it, they are betrothed? Or perhaps kiddushin in the presence of one witness only is invalid?
(28) Lit., 'it was weak in his hand'. His answer vacillated.
(29) For unattested kiddushin is invalid,
(30) That proves that kiddushin in the presence of one witness is valid, since he is forbidden to her relations.
(31) In the presence of two witnesses.
(32) V. Git. 81a.
(33) That he betrothed her anew by intercourse.
(34) V. p. 328, n. 10.
(35) And they both admit, Beth Hillel holding that betrothal in the presence of one witness is valid.
(36) V. Glos.
(37) Lit., 'his heart is not bold towards her' — the marriage never having been consummated.

Talmud - Mas. Kiddushin 65b

say. The witnesses of privacy are likewise witnesses of intercourse;[1] Beth Hillel hold: The witnesses of privacy are likewise witnesses of intercourse.[2] But they certainly agree that if she was divorced from erusin, we do not say that the witnesses of privacy are likewise witnesses of intercourse, because he is not intimate with her.

R. Isaac b. Samuel b. Martha said on Rab's authority: If a man betroths in the presence of one witness, we disregard his kiddushin even if both admit it. Rabbah son of R. Huna said: If a man betroths in the presence of one witness, the Great Court rules: We disregard his kiddushin. Who is the Great Court? — Rab.[3] Others state, Rabbah b. R. Huna said in Rab's name: If a man betroths in the presence of one witness, the Great Court rules: We disregard his kiddushin. Who is the Great Court? — Rabbi.[4]

R. Ahadaboi b. Ammi raised an objection: If two come from overseas with a woman and chattels;[5] and one maintains. 'This is my wife, this is my slave, and these are my chattels', whilst the other says: 'this is my wife, this my slave, and these are my chattels'. while the woman claims, 'These two are my slaves and the chattels are mine', she requires two divorces, and collects her kethubah out of the chattels. How is this meant? If this one has witnesses and the other has witnesses,[6] can she claim, 'These two are my slaves and the chattels are mine!' Hence it surely means that there is one witness?[7] — Now, is that logical? Is one witness believed when he is rebutted?[8] But as for permitting her to the world,[9] all agree that she is permitted; here, however, the meaning is this: she needs two divorces in order to collect her kethubah from the chattels,[10] and it is according to R. Meir, who ruled: Movables are mortgaged for the kethubah.[11]

What is the result of the matter? — R. Kahana maintained, We disregard his kiddushin; R. Papa said: We pay heed to his kiddushin.[12] R. Ashi said to R. Kahana: What is your opinion? that we learn the meaning of 'dabar' [matter] here from civil matters?[13] If so, just as there the admission of the litigant is as a hundred witnesses,[14] then here too the admission of the litigant is as a hundred witnesses![15] — There, he replied, he does no injury to others; here, however, injury is done to others.[16]

Mar Zutra and R. Adda the elder, sons of R. Mari b. Issur, divided their property between them. Then they went before R. Ashi and asked him: When the Divine Law said: 'at the mouth of two witnesses . . . shall a matter be established,' is it so that they [the litigants] cannot retract if they

wish, whereas we do not desire to retract; or perhaps, a transaction can be established [i.e., given legal force] only by witnesses? — Witnesses were created only against liars, he answered them.[17]

Abaye said: If one witness says to a person[18] 'You ate heleb'.[19] while he is silent, he [the witness] is believed.[20] Now, a Tanna supports this: If one witness says to a person. 'You ate heleb,' and he replies, 'I did not eat,' he is not liable. Thus, it is only because he answered: 'I did not,' but if he is silent, he is believed.

Abaye also said: If one witness says to a person. Your clean [food] has been defiled,' and he is silent, he [the witness] is believed.[21] Now, a Tanna supports this: If one witness declares, 'They have been defiled',[22] and he [their owner] replies, 'They have not been defiled,'[23] he is not liable.[24] Thus, it is only because he says: 'No'; but if he is silent, he is believed.

Abaye also said: If one witness says to a person,

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(1) I.e., we do not assume that since he is intimate with her he certainly cohabited in their privacy.

(2) And, moreover, we assume that this intercourse was not unchaste but for the purpose of betrothal; v. Git. 81b.

(3) Rab, on his return to Babylon after studying in Palestine, was recognised as the greatest scholar of his time.

(4) Par excellence, i.e., R. Judah the Nasi, compiler of the Mishnah.

(5) Lit., 'a bundle'.

(6) Of betrothal.

(7) And she requires a divorce.

(8) Surely not! Even if she only denies it he is disbelieved, and no divorce is necessary.

(9) I.e., to marry another.

(10) She can collect her kethubah only if both voluntarily divorce her, in which case she is in any circumstance entitled to the chattels, v. supra a.

(11) Hence she can collect it from the parcel of goods. and this is what the Baraitha informs us, v. Keth. 80b.

(12) She is in the position of a doubtfully married woman; v. p. 47, n. 10.

(13) Lit., 'money'. Here — Deut. XXIV, 1: When a man taketh a wife and . . . she find no favour in his eyes, because he hath found some unseemly matter (dabar) in her; civil suits — ibid. XIX, 15: at the mouth of two witnesses . . . shall a matter (dabar) be established. Hence, just as there two are needed, so for marriage.

(14) No stronger proof is required.

(15) Since both parties admit, the marriage should be valid.

(16) In that their marriage interdicts their consanguineous relations

(17) They are not essential for the validity of a transaction.

(18) Lit., 'him'.

(19) V. Glos.

(20) This offence involves a sin-offering; since the accused is silent, he is liable.

(21) And the owner must treat it as defiled, eating it only when he himself is unclean.

(22) Var. lec.: 'you have been defiled'.

(23) Var. lec.: 'I etc.

(24) To a sacrifice; the reference is to flesh of sacrifices, which may not be eaten when defiled, or when the eater is unclean.

Talmud - Mas. Kiddushin 66a

'Bestiality was committed with your ox,' and he is silent, he is believed.[1] And a Tanna supports it: Or [an ox] with which a transgression was committed, or which had killed [a person] on the testimony of one witness, or by admission of its owner, he [the one witness] is believed.[2] How is this 'on the testimony of one witness' meant? If the owner admits, then it is 'by admission of the owner'? Hence it surely means that he is silent.

Now, it is necessary.[3] For if he told us this first one, [I would argue:] if he were not certain thereof himself, since he [otherwise] sacrifices[4] hullin in the Temple Court, he would not bring [an offering].[5] But as for 'Your clean food has been defiled,' we might say, the reason of his silence was that it is fit for him when he himself is unclean.[6] And if we were told of this: that is because he causes him a loss whilst he is clean;[7] but as for bestiality having been committed with his ox, he may say [to himself]. 'Not all oxen are for the altar.'[8] Thus all are necessary.

The scholars propounded: What if his wife [is charged with having] committed adultery on the testimony of one witness, and he [the husband] is silent?[9] — Abaye said: He is believed;[10] Raba said: He is disbelieved, because it is a sexual matter, and no sexual matter can be established by less than two.[11] Abaye said: Whence do I know[12] it? For there was a certain blind man who used to recite Baraithas in systematic order before Mar Samuel. One day it was late, but he did not come; so he sent a messenger for him. While the messenger was going by one road, he came by another. When the messenger returned, he stated that his [the blind man's] wife had committed adultery. When he came before Mar Samuel he said to him, 'If you believe him, go and divorce[13] her; if not, do not divorce her.' Now surely, 'if you believe him' means that he is not a robber?[14] And Raba?[15] — If you believe him as two [witnesses],[16] go and divorce her; if not, do not divorce her.

Abaye also said: Whence do I know it? Because it was taught. It once happened that King Jannai[17] went to Kohalith in the wilderness[18] and conquered sixty towns there. On his return he rejoiced exceedingly and invited all the Sages of Israel. Said he to them, 'Our forefathers ate mallows[19] when they were engaged on the building of the [second] Temple; let us too eat mallows in memory of our forefathers.' So mallows were served on golden tables, and they ate. Now, there was a man there, frivolous, evilhearted and worthless, named Eleazar son of Po'irah, who said to King Jannai. 'O King Jannai, the hearts of the Pharisees[20] are against thee.' 'Then what shall I do?' 'Test them[21] by the plate between thine eyes.'[22] So he tested them by the plate between his eyes. Now, an elder, named Judah son of Gedidiah, was present there. Said he to King Jannai. 'O King Jannai! let the royal crown suffice thee, and leave the priestly crown to the seed of Aaron.' (For it was rumoured that his mother had been taken captive in Modi'im.)[23] Accordingly, the charge was investigated, but not sustained,[24] and the Sages of Israel[25] departed in anger.[26] Then said Eleazar b. Po'irah to King Jannai: 'O King Jannai! That is the law even for the most humble man in Israel, and thou, a King and a High Priest, shall that be thy law [too]!'[27] 'Then what shall I do?' 'If thou wilt take my advice, trample then, down.'[28] 'But what shall happen with the Torah?' 'Behold, it is rolled up and lying in the corner: whoever wishes to study. Let him go and study!' Said R. Nahman b. Isaac: Immediately a spirit of heresy was instilled into him,[29] for he should have replied. 'That is well for the Written Law;[30] but what of the Oral Law?'[31] Straightway, the evil burst forth[32] through Eleazar son of Po'irah,[33] all the Sages of Israel were massacred, and the world was desolate until Simeon b. Shetah came and restored the Torah to its pristine [glory].[34] Now, how was it?[35] Shall we say that two testified that she was captured and two that she was not? what [reason] do you see to rely upon the latter rely upon the former?[36] Hence it must surely mean [that her captivity was attested] by one witness, and the reason [that his evidence was rejected] was that two rebutted him; but otherwise, he would have been believed.[37] And Raba? [He will reply:] After all, there were two against two, but it is as R. Aba b. R. Manyomi said [elsewhere]: that it refers to witnesses of refutation [hazamah]; so here too, there were witnesses of refutation.[38] Alternatively, this agrees with R. Isaac, who said: They substituted a bondmaid for her.[39] Raba said:

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(1) The ox is rendered unfit as a sacrifice.

(2) 'Is believed' is absent in Zeb. 70b and Bek. 41a, whence this is quoted, but it is presupposed there, 'With which a transgression was committed' refers to bestiality in Bek. 41a; in Zeb. 70b it is a general term including bestiality.

(3) To state all three cases.

(4) Lit., prepares'. Var. lec.: eats.

(5) A sin-offering can be brought only when it is incurred, but if a person dedicates a sin-offering without being liable, it

remains hullin. Hence this man would not be silent, thus admitting it, if the witnesses were false.
(6) Therefore he does not trouble to deny it. Yet actually the witness may not be believed, and the food remains fit even for a ritually clean person.
(7) Therefore he would deny it, if it were untrue.
(8) So that it is not worth while denying it; yet his silence may not imply agreement.
(9) When the witness testifies.
(10) In that the husband may not retain her as his wife, but must divorce her.
(11) E.g., marriage or divorce are invalid unless attested by two. This case too is a sexual matter.
(12) Lit., 'say'.
(13) Lit., 'send her forth'.
(14) I.e., that he is not ineligible to testify in general. Thus, since he did not rebut the witness, but was silent, he was to divorce his wife.
(15) How does he explain this?
(16) Then you are certain that he is right.
(17) I.e., John Hyrcanus, not Alexander Jannai, though Abaye held these to be identical, Ber. 29a; Halevi, Doroth, I, 3, p. 397, n. 13. [Friedlaender, I, JQR (N.S.) IV. pp. 443ff assigns the whole incident to Alexander Jannai].
(18) [In the course of his trans-Jordanic campaign.]
(19) The food of the very poor.
(20) The traditional, orthodox party, as opposed to the Sadducees.
(21) Lit., 'raise them up'. [הקם להם the phrase is difficult, and is so rendered by Graetz III, 678. Rashi takes it literally and explains: make them stand on their feet by wearing the plate on which the Divine Name is inscribed.]
(22) Worn by the High Priest; i.e., by their reactions toward your office as High Priest.
(23) In the days of Antiochus Epiphanes; Modi'm (Modim) was the birthplace of the Hasmoneans. As a son of a captive woman he would not be eligible for the priesthood.
(24) Lit., 'found'.
(25) [Identical with the Pharisees; v. Lauterbach, JQR (N.S.) VI, pp. 88ff.]
(26) Rashi: under the King's anger. Weiss, Dor, I, p. 133: in anger at the false accusation.
(27) There is probably a lacuna in the narrative, which may be supplied from Josephus. Ant. XIII, 10, – 6: The Rabbis sentenced him to flagellation, in accordance with the law of slander; but Eleazar urged that this was altogether inadequate in view of Jannai's exalted position, and proved that they secretly held with the slanderer (Goldschmidt). — In fact, the status of a person is taken into account when bodily injury is sustained (B.K. 83b), but not for slander.
(28) Destroy them.
(29) Jannai.
(30) I.e., the Pentateuch.
(31) The whole of the Rabbinical elaboration and development of the Written Law, so called because it was originally not committed to writing but preserved by oral tradition.
(32) Lit., 'blossomed'.
(33) [MS.M. adds 'and through Judah v. Gedidiah'.]
(34) In the reign of Queen Alexandra. The reference is probably to the educational reforms of setting up schools for children from the age of five or six. In B.B. 21a this is ascribed to Joshua son of Gamala, whereas in J. Keth. chapter VIII. end, it is attributed to Simeon b. Shetah. The latter was probably afraid to move himself in the matter, knowing that his actions were suspected by the Sadducees, and so he put himself in the background and worked through Joshua, who was persona grata with the ruling party. The whole Baraitha is carefully analysed and discussed in Halevi, Doroth, I, 3, pp. 397ff
(35) How was the charge found to be untrue?
(36) The Rabbis were extremely strict on the question of family purity, and therefore in such a case the former two witnesses could not be ignored (Tosaf.).
(37) This proves Abaye's point.
(38) Hazamah means refutation which takes the form of 'You who testify to having witnessed this at a certain place on a particular date were with us then elsewhere.' In that case the second witnesses were always believed; v. B.K. 72b.
(39) Sc. his mother, the captors being ignorant of it. Thus there was no real contradiction: two witnesses attested the capture of one whom they thought to be Hyrcanus's mother, and another two attested that it was a bondmaid.

Whence do I know it?[1] Because we learnt: R. Simeon said: It once happened that the water reservoir of Discus in Jabneh, which stood in the presumption of being full, was measured and found wanting.[2] Everything which had been rendered clean thereby. R. Tarfon declared clean and R. Akiba unclean.[3] Said R. Tarfon: This mikweh[4] stands in the presumption of being full,[5] and you come to declare it wanting because of a doubt: you must not declare it wanting on the strength of doubt. Said R. Akiba, This man[6] stands in the presumption of unclean, and you wish to declare him clean on the strength of doubt:[7] do not purify him on the strength of doubt.[8] R. Tarfon said: This may be compared to one [a priest] who stood and sacrificed on the altar, when he was discovered to be the son of a divorced woman or a haluzah, in which case his service [hitherto] is fit.[9] Said R. Akiba: This may be compared to one who stood and sacrificed on the altar, when it was learned that he was [physically] blemished, in which case his service is [retrospectively] unfit. Said R. Tarfon: You have compared it to a man with a blemish, while I have compared it to the son of a divorced woman or a haluzah. Let us then consider, to whom is it similar: if it is similar to the son of a divorced woman or a haluzah, we shall judge it like [the law] of a son of a divorced woman or a haluzah; if it is similar to a man with a blemish, we shall judge it like [the law] of one who has a blemish. [Thereupon] R. Akiba began to argue:[10] the unfitness of a mikweh is by one, and the unfitness of a man with a blemish is by one;[11] hence let not the son of a divorced woman or a haluzah prove it, since his unfitness [must be attested] by two. Again, the unfitness of a mikweh is in itself, and that of a man with a blemish is in himself: let not the son of a divorced woman or a haluzah prove it, seeing that his unfitness is through others.[12] Said R. Tarfon to him, 'Akiba! whoever separates himself from you is as though he separated himself from life!' Now, this case of a man with a blemish — whose unfitness is by one, how is it meant? If he contradicts him, is he [the witness] believed![13] Hence it must mean that he is silent, and by analogy, in the case of a son of a divorced woman or of a haluzah, he is also silent; and it is taught: 'The unfitness of a mikweh is by one, and the unfitness of a man with a blemish is by one; but let not the son of a divorced woman or of a haluzah prove it, since his unfitness [must be attested] by two!'[14] But Abaye maintains, After all, it means that he contradicts him; yet as to your argument. Why is he believed? [the answer is] because he can say to him, 'Strip, and I will shew you [the blemish].' And that is meant when it is taught: 'The unfitness of a mikweh is in itself and the unfitness of a man with a blemish is in himself,[15] but let not the son of a divorced woman or a haluzah prove it — whose unfitness is through others.'

And how do we know that the service of the son of a divorced woman or a haluzah is [retrospectively] fit? — Said Rab Judah in Samuel's name, Because Scripture saith, and it shall be unto him, and to his seed after him, [the covenant of an everlasting priesthood]:[16] this applies to both fit and unfit seed.[17] Samuel's father said, [It is deduced] from the following: Bless, Lord, his substance [helo], and accept the work of his hands:[18] accept even the profaned [hullin] in his midst.[19] R. Jannai said, [It is deduced] from this: And thou shalt come unto the priest that shall be in those days:[20] now, could you then imagine that a man should go to a priest who was not of his days? But this [must refer to one who] was [originally assumed to be] fit, and then became profane.[21]

How do we know that the service of a man with a blemish is [retrospectively] invalid? — Said Rab Judah in Samuel's name: Because Scripture saith, Wherefore say. Behold, I give unto him my covenant of perfection:[22] when he is perfect,[23] but not when he is wanting.[24] But shalom [peace] is written! — Said R. Nahman: The waw of shalom is broken off [in the middle].[25]

MISHNAH. WHEREVER THERE IS KIDDUSHIN AND THERE IS NO TRANSGRESSION,[26] THE ISSUE FOLLOWS THE STATUS OF THE MALE: SUCH IS THE CASE WHEN THE DAUGHTER OF A PRIEST, A LEVITE OR AN ISRAELITE IS MARRIED TO A PRIEST, A LEVITE OR AN ISRAELITE.[27] BUT WHEREVER THERE IS KIDDUSHIN AND THERE IS

TRANSGRESSION, THE ISSUE FOLLOWS THE STATUS OF THE INFERIOR;[28] THIS IS THE CASE WHEN A WIDOW IS MARRIED TO A HIGH PRIEST, OR A DIVORCED WOMAN OR A HALUZAH TO AN ORDINARY PRIEST, OR A MAMZERETH OR A NETHINAH[29] TO AN ISRAELITE, AND THE DAUGHTER OF AN ISRAELITE TO A MAMZER OR A NATHIN.[30] AND WHATEVER [WOMAN] WHO CANNOT CONTRACT KIDDUSHIN WITH THAT PARTICULAR PERSON[31] BUT CAN CONTRACT KIDDUSHIN WITH ANOTHER PERSON, THE ISSUE IS MAMZER. THIS IS THE CASE WHEN ONE HAS INTERCOURSE WITH ANY RELATION PROHIBITED IN THE TORAH.[32] AND WHATEVER [WOMAN] WHO CAN NOT CONTRACT KIDDUSHIN WITH THAT PARTICULAR PERSON OR WITH OTHERS, THE ISSUE FOLLOWS HER STATUS.; THIS IS THE CASE WITH THE ISSUE OF A BONDMAID OR A GENTILE WOMAN.

GEMARA. WHEREVER THERE IS KIDDUSHIN. R. Simeon[33] said to R. Johanan: Is it then a general principle that wherever there is kiddushin and there is no transgression the issue follows the status of the male? But what of

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(1) That one witness is invalid in sexual matters, even if he is not rebutted.

(2) It was used as a ritual bath, which requires a minimum of forty se'ahs.

(3) R. Tarfon maintains that the reservoir is regarded as containing the standard quantity until it is actually found to be short, while R. Akiba holds that its shortage is retrospectively assumed.

(4) Ritual bath.

(5) Until it is found otherwise.

(6) Who performed his ablutions therein.

(7) For we do not know whether the bath contained the requisite quantity when he bathed therein or not.

(8) It is a general principle that in a case of doubt we retain the status quo. Here, however, by applying this principle to the bath and the man respectively, we obtain contradictory results, and hence the controversy of R. Tarfon and R. Akiba.

(9) Though it will be unfit in the future, nevertheless that unfitness does not operate retrospectively.

(10) Lit., 'judge'.

(11) A single person testifying that the mikweh is deficient, or that a priest has a blemish, disqualifies them, v. infra.

(12) His mother.

(13) Surely not!

(14) This supports Raba.

(15) I.e., it can he directly ascertained.

(16) Num. XXV, 13.

(17) But nevertheless, only if the service has already been performed.

(18) Deut. XXXIII, 11.

(19) Deriving חילו from חול 'profane'; cf. however, Mak, (Sonc. ed.) p. 79 n. 10. This refers to the tribe of Levi, hence the priesthood. The son of a divorced woman or a haluzah by a priest is a halal, which is connected here with helo and hullin.

(20) Deut. XXVI, 3.

(21) I.e., was proved to be such, The verse intimates that until he is proved profane, the 'going to him' for service, etc. is valid.

(22) Num. XXV, 12 (sic).

(23) I.e., unblemished,

(24) I.e., blemished,

(25) Being written with a broken waw (ו) instead of שלום (with a complete waw); this intimates that it must be read without it too, שלם shalem, = whole, perfect, sound.

(26) I.e., the betrothal is valid and permitted.

(27) The child has the father's status.

(28) Lit., 'the defective'.

(29) Fem. of mamzer and Nathin respectively.

(30) In all these cases the betrothal is valid, though forbidden,

(31) I.e., the kiddushin, even if contracted, is invalid.

(32) E.g., a sister, mother, etc. A married woman too is included.

(33) Probably, R. Simeon b. Lakish.

Talmud - Mas. Kiddushin 67a

a proselyte who marries a mamzereth, where the kiddushin is valid and there is no sin, and yet the issue follows the status of the inferior?[1] For it was taught: If a proselyte marries a mamzereth, the issue is mamzer: this is the view of R. Jose! He replied: Do you think that our Mishnah agrees with R. Jose?[2] Our Mishnah is according to R. Judah, who maintained: A proselyte may not marry a mamzereth; hence there is kiddushin, but there is transgression, [and so] the issue follows the status of the inferior. Then let it be taught [in the Mishnah]?[3] — 'WHEREVER' of the second clause is taught as an extension.[4] Alternatively, it is after all, according to R. Jose, but 'THIS IS THE CASE'[5] is taught as a limitation.[6] Does then the 'THIS IS THE CASE' imply that there are no others? But what of a halal[7] who marries the daughter of an Israelite, where there is kiddushin and there is transgression, yet the issue follows the male?[8] — That is no difficulty: he [the Tanna of our Mishnah] holds with R. Dosethai son of R. Judah.[9] But what of an Israelite who marries a halalah,[10] where there is kiddushin and there is no transgression, and yet the issue follows the male? — 'WHEREVER' is stated in the first clause as an extension.[11] Then let it be explicitly taught? — Because it cannot be [conveniently] taught. [For] how shall it be stated: 'The daughter of a priest, a Levite, or an Israelite or a halalah who marries a priest, a Levite, or an Israelite?' Is then a halalah eligible to [marry] a priest?[12]

But there is the case of Rabbah b. Bar Hanah. For Rabbah b. Bar Hanah said in R. Johanan's name: If an Egyptian of the second degree[13] marries an Egyptian woman of the first degree, her son ranks as third degree![14] — 'WHEREVER' of the first clause is stated as an extension; whereas according to R. Dimi, who maintained that he belongs to the second degree,[15] 'THIS IS THE CASE' is taught as a limitation.

But there is [the following]: For when Rabin came,[16] he said in the name of R. Johanan: In the case of [other] nations, follow the male;[17] if they become proselytes, follow the more inferior status[18] of the two! — 'THIS IS THE CASE' is taught as a limitation.

[Reverting to the authorship of the Mishnah:] How now! If you say that our Mishnah agrees with R. Judah, it is well: then 'WHEREVER' of the first clause includes an Israelite who marries a halalah[19] and the case of Rabbah b. Bar Hanah; while 'THIS IS THE CASE' excludes the cases of R. Dimi and Rabin.[20]

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(1) Viz., it is mamzer.

(2) Who permits this union in the first place.

(3) Among the cases enumerated in this category

(4) I.e., to include cases not explicitly enumerated.

(5) Lit., 'and which is it? It is . . .

(6) Notwithstanding that a general principle is stated, the 'THIS IS THE CASE', teaches that it applies only to the cases enumerated.

(7) V. Glos.

(8) Hence this should be included in the first clause.

(9) That the daughter of this union may marry a priest, v. infra 74b, thus she does not follow the male.

(10) Fem. of halal.

(11) V. p. 338. n. 6.

(12) Surely not. Hence halalah could not be added simply, and so the Tanna implicitly includes it by stating 'WHEREVER'.

(13) I.e., the second generation after conversion, his father having been a proselyte.

(14) Hence, eligible to an ordinary Jewess, v. Deut. XXIII, 8. Thus, here we have kiddushin and no transgression, and the issue follows the male.

(15) Thus following the mother.

(16) V. p. 46, n. 6.

(17) If a man and a woman among them of two different peoples marry, the issue takes the father's status, v. infra.

(18) Thus, though their kiddushin is valid and involves no transgression, the status of the male is not invariably followed.

(19) His daughter may marry a priest, thus following her father's status. This union is permitted.

(20) As above.

Talmud - Mas. Kiddushin 67b

[Again] 'WHEREVER' of the second clause includes a proselyte who marries a mamzereth. But if you say that it agrees with R. Jose: 'WHEREVER' of the first clause is [to be explained] as we have said: 'THIS IS THE CASE' [likewise] as we have said: but what is 'WHEREVER of the second clause to include?[1] — Now on your view, according to R. Judah, what is the purpose of the 'THIS IS THE CASE' of the second clause? Hence [you must say] because the first clause states 'THIS IS THE CASE', the second likewise states: THIS IS THE CASE. So here too, because the first clause states 'WHEREVER,' the second does likewise state WHEREVER.

The [above] text [states]: 'When Rabin came, he said in the name of R. Johanan: In the case of [other] nations, follow the male; if they become proselytes, follow the more inferior status of the two'. What is meant by 'In the case of [other] nations, follow the male'? — As it was taught: How do we know that if a member of one of the nations[2] has intercourse with a Canaanitish woman[3] and begets a son, you may buy him as a slave?[4] Because it is said: Moreover of the children of the residents that do sojourn among you, of them shall ye buy.[5] I might think that even if a Canaanite has intercourse with a woman of other nations and begets a son, you may buy him for a slave; therefore it is said, which they have begotten in your land:[6] only of those who are begotten in your land, but not of those who dwell in your land.[7]

'If they become proselytes, follow the more inferior status of the two.' In which case? Shall we say, in the case of an Egyptian who marries an Ammonitess? What inferior status is there? [The Torah decreed,] An Ammonite [shall not enter unto the assembly of the Lord . . . even to the tenth generation],[8] but not an Ammonitess![9] — But [it means] an Ammonite who marries an Egyptian woman: now, if [the issue] is male, he follows[10] him [the father];[11] and if [the issue] is female, she follows her [the mother].[12]

WHATEVER [WOMAN] WHO CANNOT CONTRACT KIDDUSHIN WITH THAT PARTICULAR PERSON. How do we know it? — For R. Hiyya b. Abin said in R. Johanan's name, the matter eventually being ascribed to the authority of R. Jannai, while R. Aha son of Raba said that it was eventually ascribed to the authority of R. Jose the Galilean: Scripture saith, And when she is departed out of his house, she may go and be married to a strange man:[13] 'to a stranger', but not to relations.[14] R. Abba demurred to this: Yet say: 'a strange [man]', but not [her husband's] son?[15] — Of a son it is explicitly written: A man shall not take his father's wife;[16] what then is the purpose of 'a strange [man]' This proves, [it is to teach], to strangers, but not to relations. Yet perhaps both refer to the [husband's] son, one [treating of it] at the outset, the other, if performed![17] — [That it is interdicted] at the outset is deduced from a wife's sister: if one may not betroth a wife's sister, who is [forbidden on pain of] kareth;[18] how much the more so is this of those on account of whom death by Beth din is incurred![19] — Then perhaps both refer to a wife's sister, one [forbidding it] at the outset, the other, if performed![20] — That indeed is so. [Then] we have found [this] of a wife's sister; how we do know it of other consanguineous relations? — We learn then from a wife's sister: just as a wife's

sister is distinguished in that she is a consanguineous relation with whom a deliberate offence[21] involves kareth, and an unwitting offence involves a sin-offering, and kiddushin with her is invalid;[22] so with every consanguineous relation, with whom a deliberate offence involves kareth and an unwitting offence a sin-offering, kiddushin is invalid. Now, as for all [others], it is well: they may be [so] derived; but as for a married woman and a brother's wife, it [the analogy] can be refuted [thus:] As for a wife's sister, that [the invalidity of kiddushin] is because she is not permitted [even] where there is a precept;[23] will you say [the same] of a brother's wife, who is permitted where there is a precept? [The analogy with] a married woman too may be refuted: as for these, that [the invalidity of kiddushin] is because she cannot be permitted whilst they who cast the interdict upon her are alive;[24] will you say [the same] of a married woman, who can be permitted during the lifetime of him who renders her forbidden?[25] — But, said R. Jonah others state, R. Huna son of R. Joshua — Scripture saith, For whosoever shall do any of these abominations, even the souls that do them shall be cut off:[26] thus all consanguineous relations are assimilated to a wife's sister: just as kiddushin with a wife's sister is invalid, so is kiddushin with all other consanguineous relations invalid. If so,

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(1) No other case of kiddushin being legally recognised but forbidden, where the issue follows the status of the inferior, is known, barring those enumerated in the Mishnah.

(2) Other than the seven which inhabited Palestine at the time of the Conquest. Deut. XX, 16f.

(3) I.e., a member of the seven nations.

(4) The law of Deut. XX, 16f does not apply to him.

(5) Lev. XXV, 45. This is preceded by (v. 44) of the nations that are round about you (i.e., not the seven nations), of them shall ye buy bondmen and bondmaids. Hence, 'Moreover,' etc., implies not only of them, but even of the residents etc. Since the members of the seven races are excluded (Deut. XX. 16f), it must mean, not only the pure members of the other nations, but even those borne by Canaanitish women.

(6) Lev. XXV, 45.

(7) The Canaanites. Thus in both cases the issue takes the status of the father.

(8) Deut. XXIII, 4.

(9) The 'of more inferior status of the two' implies that they are both inferior, but one more so than another. But an Ammonitess has no inferior status at all, for she may marry a Jew immediately after her conversion.

(10) Lit., 'cast him after.'

(11) And ranks as an Ammonite; neither he nor any of his male descendants will be permitted to marry a Jewess.

(12) And counts as an Egyptian woman of the second generation; the following generation will be permitted to marry a Jew or a Jewess. But she does not take her father's status to count as an Ammonitess, in which case she herself could marry a Jew.

(13) Deut. XXIV, 2.

(14) Who are interdicted by the laws of incest; i.e., marriage with these is invalid.

(15) Only then is kiddushin invalid. But kiddushin with any other consanguineous relation, though forbidden, may be valid.

(16) Ibid. XXIII, 1 (E.V. XXII, 30); 'shall not take' intimates that such 'taking.' viz., betrothal, is invalid.

(17) One shews that this marriage may not be contracted in the first place. Yet I might think that if contracted it is valid and necessitates a divorce for its dissolution; therefore the other shews that even if performed it is not recognised.

(18) V. Glos.

(19) The latter includes a husband's son.

(20) Lev. XVIII, 28, thou shalt not take a woman to a sister, teaches that kiddushin is forbidden; and Deut. XXIV, 2 'to a strange man' implying but not to relations, may intimate that such kiddushin is invalid if contracted. But with respect to other relations enumerated in Lev. XVIII, 7-17 in connection with which Scripture does not say: 'thou shalt not take' — a term implying 'betrothal' — kiddushin with them, though forbidden, may be valid.

(21) I.e., coition,

(22) Even when performed.

(23) If A and B, two brothers, are married to C and D, two sisters, respectively, and A dies childless, B may not take C, though if she were not his wife's sister it would be incumbent upon him (Deut. XXV, 5ff.).

(24) Even if one divorces his wife, her sister is still prohibited as long as the former lives.

(25) I.e., — by her husband's divorce. And thus the question remains, whence do we know that kiddushin is invalid with consanguineous relations?

(26) Lev. XVIII, 29; the chapter enumerates the forbidden consanguineous relations.

Talmud - Mas. Kiddushin 68a

even a niddah too?[1] Why then did Abaye say: All agree that if one has inter — course with a niddah or a sotah,[2] the issue is not mamzer? — Said Hezekiah, Scripture saith, [and if any man lie with her,] and her menstruation[3] be upon him:[4] even during her 'menstruation' betrothal with her is valid.[5]

Consider: one can assimilate [all other consanguineous relations] to niddah, and one can assimilate her to a wife's sister:[6] what [reason] do you see to assimilate them to a wife's sister:[7] assimilate them to niddah? — [In a choice between] leniency and stringency, we assimilate to the case of stringency.[8]

R. Aha b. Jacob said: It is inferred a minori from yebamah: if kiddushin with a yebamah is invalid,[9] though she is [interdicted only] by a negative precept, how much the more so with those who are forbidden on pain of death or kareth! If so, should not others, interdicted [only] by negative precepts. be the same?[10] — Said R. Papa, of those interdicted by negative precepts it is explicitly stated: If there be to a man two wives, the one beloved, and the other hated.[11] Now is there before the Omnipresent a hated [woman] or a beloved one![12] But 'beloved' means beloved in her marriage, and 'hated' means hated in her marriage;[13] yet the Divine Law states: 'and if there be.'[14]

Now R, Akiba, who maintained, kiddushin with those who are interdicted by a negative precept is invalid, — to what does he apply, 'if there be'? — To [the betrothal of] a widow to a High Priest, and in accordance with R. Simai. For it was taught: R. Simai said: [The issue] of all [marriages forbidden by a negative injunction] R. Akiba declared mamzer, excepting that of a widow [married] to a High Priest, since the Torah said, [a widow . . . he shall not take,] and he shall not profane [his seed]:[15] he renders [his seed] profane, but not mamzer. But on the view of R. Yeshebab, who said: Come, and let us cry out against Akiba son of Joseph, who declared: He who has no entry in Israel, the issue is mamzer — it is well if R. Yeshebab comes to combat R. Simai; then it is right. But if he states an independent opinion, this including even those who are interdicted by a positive precept, to what can he apply it?[16] — To a non-virgin[17] [married] to a High Priest.[18] And wherein does it differ?[19] — Because it is a positive precept unapplicable[20] to all.[21] And the Rabbis: instead of explaining [the verse][22] as referring to those forbidden by negative precepts, let them refer it to those forbidden by positive precepts?[23] — Those who are forbidden by positive precepts, — how are they conceivable? If both are Egyptian women, both are 'hated'? If one is an Egyptian woman and the other a Jewess — we require that the 'two wives' shall be of one people: if [one is] a non-virgin [married] to a High Priest, — is it then written, [If] there be [two wives] to a priest?[24] And R. Akiba?[25] — You are forced to leave it to the verse to explain itself.[26]

AND WHATEVER [WOMAN] WHO CANNOT CONTRACT KIDDUSHIN etc. How do we know [it of] a Canaanitish bondmaid?[27] — Said R. Huna, Scripture saith, Abide ye here with ['im] the ass[28] — it is a people ['am] like unto an ass.[29] We have thus found that kiddushin with her is invalid:

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(1) If one betroths a woman during her menstruation the kiddushin should be invalid, and as a corollary, the issue conceived during menstruation should be mamzer, these two being interdependent. The prohibition of intercourse with a niddah is also stated in that passage.

(2) V. Glos. The sotah is forbidden to her own husband too, and to this Abaye refers.

(3) E.V. 'impurity'

(4) Lev. XV, 24.
(5) Lit., 'there is (being) — sc. betrothal — with her.' The verb 'to be' is understood to mean betrothal.
(6) Both being mentioned in Lev. XVIII.
(7) So that the kiddushin is not legally recognised.
(8) Owing to the doubt.
(9) V. Yeb. 23b.
(10) Granted that they cannot be deduced a minori, yet they follow by analogy.
(11) Deut. XXI. 15.
(12) Surely it is unthinkable that God will change the law of inheritance because a man loves one woman or hates another! Hence one general law that the firstborn receives a double portion of the patrimony would have sufficed.
(13) I.e., the marriages being permitted and forbidden respectively.
(14) Intimating that the kiddushin is recognised.
(15) Lev. XXI, 14f,
(16) Sc. 'hated' and 'beloved'. For notes on this passage v. supra 64a.
(17) A woman who is not a virgin.
(18) Forbidden in Lev. XXI, 23f.
(19) Why is she different from an Egyptian or an Edomite woman, since all three are interdicted by a positive command?
(20) Lit., 'not alike'.
(21) And not as stringent.
(22) 'And if there be'.
(23) Since by analogy with yebamah kiddushin with the former should be invalid.
(24) Hence the verse cannot refer to a woman who is forbidden by a positive precept.
(25) How does he overcome these difficulties?
(26) It cannot refer to those who are interdicted by negative precepts, since the analogy with yebamah teaches otherwise. Hence it must refer exclusively to one of those just mentioned, in spite of their improbability
(27) That kiddushin with her is invalid.
(28) Gen. XXII, 5; said by Abraham to his slaves.
(29) By reading עם ('am) for עם ('im); a mere chattel of the master.

Talmud - Mas. Kiddushin 68b

how do we know that the issue takes her status? — Because Scripture saith, the wife and her children shall be her master's.[1] How do we know [it of a freeborn] Gentile woman? — Scripture saith, neither shalt thou make marriages with them.[2] How do we know that her issue bears her status? — R. Johanan said on the authority of R. Simeon b. Yohai, Because Scripture saith, For he will turn away thy son from following me:[3] thy son by[4] an Israelite woman is called thy son, but thy son by a heathen is not called thy son.[5] Rabina said: This proves that thy daughter's son by a heathen is called thy son.[6] Shall we say that Rabina holds that if a heathen or a [non-Jewish] slave cohabits with a Jewess the issue is mamzer?[7] — [No.] Granted that he is not [regarded as] fit,[8] he is not mamzer either, but merely stigmatised as unfit.[9]

Now, that [verse] refers to the seven nations![10] whence do we know it of other nations? — Scripture saith, 'For he will turn away [thy son],' which includes all who may turn [him] away. That is well according to R. Simeon, who interprets the reason of Scripture.[11] But on the view of the Rabbis,[12] what is the reason?[13] — Scripture saith, and after that thou shalt go in unto her, and be her husband, [etc.],[14] whence it follows that before that kiddushin with her is invalid.

We have thus found that kiddushin with her is not recognised. How do we know that her child is as herself? — Scripture saith, If there be to a man [two wives] . . . and they bare to him [children]:[15] where we read 'if there be',[16] we also read: 'and they bare to him';[17] but where we do not read: 'If there be', we do not read: 'and they bare to him'. If so, is not a [heathen] bondmaid likewise? — Yes, it is even thus. Then what is the purpose of 'the wife and her children shall be her master's'? —

For what was taught:

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(1) Ex. XXI, 4. This refers to a Gentile bondmaid given as wife to a Hebrew slave. The children remain slaves when their father is freed, shewing that they bear their mother's status.
(2) Deut. VII, 3. The verse implies that such marriage is not recognised.
(3) Ibid. 4.
(4) Lit., 'who comes'.
(5) [Although the text speaks both of the case of a Jewess becoming the wife of a heathen, and of a heathen becoming the wife of a Jew, yet it gives only one reason for the prohibition of intermarriage: viz., lest 'he turn aside thy son from following after me', a reason which, as it stands appears applicable only to one prohibition. Hence the verse must be taken not as expressing the fear lest the Jewish partner in a heathen marriage may turn aside from God, since this is evident and is equally applicable to both cases, but states an additional reason for the prohibition with reference to the offspring — the fear that the heathen father 'will turn aside thy son' i.e., the son of thy daughter who is legally a Jew 'from following after me'; whereas in the case where a Jew marries a heathen woman the fear does not arise, since the child follows her status, and is not considered 'thy son' Rashi.] Tosaf.: Since Scripture states 'son' and not 'seed' which would include the son's son, it is evident that the fear is only for thy 'son' born of a Jewess, but not his son, born of a Gentile. That must be because his son is a heathen too, like the mother.
(6) [According to Rashi's interpretation (n. 5), whereas R. Johanan's main emphasis is on the heathen status of the offspring of a heathen woman by a Jew, Rabina stresses the other inference — the status of the offspring of a Jewish woman by a heathen. v. Strashun.] Tosaf. I.e., a Jew. This follows because Scripture does not say: for he will turn away thy son and thy daughter. Now, 'and thy daughter' would likewise imply, but not thy daughter's son, as in n. 5, whence we would learn that her son by a heathen is also a heathen. Since he is not excluded, it follows that Scripture objects to his being 'turned away' too, because he is a Jew (Tosaf.)
(7) For, since he is called 'thy son', he is a Jew, not a heathen. Yet he is the issue of a Jewess by one with whom kiddushin is not recognised, and therefore mamzer, in accordance with the Mishnah. — In that case his status is worse, for as a mamzer he can never marry a legitimately born Jewess (Deut. XXIII, 3), whereas as a Gentile he can become a proselyte and marry a Jewess.
(8) V. next note.
(9) Pasul. As such only a priestly marriage is barred to him.
(10) V. Deut. VII, 1, 2.
(11) In the sense that when we know the reason of a precept, we may extend it to all other cases where the same applies, and conversely, exclude those where it does not.
(12) Who oppose this.
(13) Seeing that for he will turn away too refers to the seven nations.
(14) Deut. XXI, 13. The verse refers to a woman captured in war; since the members of the seven nations were to be utterly exterminated, this must allude to a member of other nations, 'After that' means after her period of mourning. etc.
(15) Deut. XXI, 25.
(16) I.e., kiddushin is valid; v. p. 343, n. 4.
(17) The child takes his status.

Talmud - Mas. Kiddushin 69a

If he says to his bondmaid, 'Behold, thou art free, but thy child [yet to be born] shall be a slave,' the 'child is as herself: this is the view of R. Jose the Galilean; the Sages maintain: His words are valid,[1] for it is said: 'the wife and her children shall be her master's'. How does this teach it?[2] — Said Raba: This refers to R. Jose the Galilean's [ruling].[3]

MISHNAH. R. TARFON SAID: MAMZERIM[4] CAN BE PURIFIED.[5] HOW? IF A MAMZER MARRIES[6] A BONDMAID, HER SON IS A SLAVE;[7] IF HE IS FREED, IT IS FOUND THAT THE SON IS A FREE MAN.[8] R. ELIEZER SAID: BEHOLD, HE IS A SLAVE, A MAMZER.[9]

GEMARA. The Scholars propounded: Does R. Tarfon say [thus] at the very outset,[10] or only if it

is already done?[11] — Come and hear: They [the Sages] said to R. Tarfon: You have purified the males,[12] but you have not purified the females.[13] Now, if you say that he means at the very outset, let a mamzereth[14] too be married to a slave?[15] — A slave has no paternity.[16]

Come and hear: For R. Simlai's host was a mamzer, and he [R. Simlai] said to him, 'Had I known you earlier,[17] I would have removed the stigma from[18] your sons.' Now, if you say that it [sc. R. Tarfon's device] is at the very outset, it is well: but if you say, only when already done, what is it [that he could advise him]?[19] — He would have advised him by saying to him, 'Go and steal, and then be sold as a Hebrew slave.'[20] Were there then Hebrew slaves in R. Simlai's time?[21] Surely a Master said: [The institution of] a Hebrew slave is practised only when Jubilee is practised?[22] Hence it surely follows that R. Tarfon means at the very outset. This proves it. Rab Judah said in Samuel's name: The halachah is as R. Tarfon.

R. ELIEZER SAID: BEHOLD, HE IS A SLAVE, A MAMZER, R. Eleazar said: What is R. Eliezer's reason? Because Scripture saith, [A mamzer . . . even to the tenth generation shall none enter] to him [into the assembly of the Lord]:[23] [this teaches,] follow his ineligibility.[24] And the Rabbis?[25] — That refers to an Israelite who marries a mamzereth. For I might think, it is written, by their families, by their father's house:[26] [therefore] 'to him' comes and excludes it.[27] And R. Eliezer?[28] — Surely, though it is written: 'by their families, by their father's house,' yet 'to him' comes and excludes it; so here too, though it is written , 'the wife and her children shall be her master's,' yet 'to him' comes and excludes it.[29] And the Rabbis? — Every child in the womb of a heathen bondmaid is like the young in an animal's womb.[30]

C H A P T E R I V

MISHNAH. TEN GENEALOGICAL CLASSES WENT UP FROM BABYLON:[31] PRIESTS, LEVITES, ISRAELITES, HALALIM,[32] PROSELYTES, FREEDMEN, MAMZERIM, NETHINIM,[33] SHETHUKI[34] AND FOUNDLINGS. PRIESTS, LEVITES AND ISRAELITES MAY INTERMARRY[35] WITH EACH OTHER. LEVITES, ISRAELITES, HALALIM, PROSELYTES, AND FREEDMEN MAY INTERMARRY. PROSELYTES AND FREEDMEN, MAMZERIM AND NETHINIM, SHETHUKI AND FOUNDLINGS, ARE ALL PERMITTED TO INTERMARRY. NOW, THESE ARE THEY: SHETHUKI: HE WHO KNOWS HIS MOTHER BUT NOT HIS FATHER; FOUNDLING: HE WHO WAS GATHERED IN FROM THE STREETS AND KNOWS NEITHER HIS FATHER NOR HIS MOTHER, ABBA SAUL USED TO CALL THE SHETKUKI 'BEDUKI'.[36]

GEMARA. TEN GENEALOGICAL CLASSES WENT UP FROM BABYLON. Why is it particularly taught: WENT UP FROM BABYLON; let him state, migrated to Eretz Yisrael? He thereby tells us something en passant. As it was taught: then shalt thou arise and get thee up unto the place which the lord thy God shall choose:[37] this teaches that the Temple is higher than the rest of Eretz Yisrael, and Eretz Yisrael is higher than all [other] countries. As for the Temple being higher than the rest of Eretz Yisrael, it is well: even as it is written,

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(1) Lit., 'fulfilled'.

(2) The verse is assumed to be quoted by the Sages.

(3) Thus: only when the wife, i.e., the bondmaid, belongs to the master does the issue belong to him; but if she is free, the children are likewise.

(4) Pl. of mamzer.

(5) From their inferior status, which forbids them and their descendants ever to marry Jews.

(6) 'Marries' denotes a legal union; v. A. Buchler, MGWJ 1934 p. 133. n. 2.

(7) But not mamzer.

(8) Hence, permitted to marry a Jewess.

(9) And on obtaining his freedom he remains a mamzer.
(10) That this may be done in order to purify a mamzer.
(11) Because a mamzer is after all a Jew, and possibly may not marry a bondmaid.
(12) They can go where they are unknown, claim to be slaves, and marry bondmaids.
(13) Because a woman does not leave her home and disguise her identity in order to enter upon a forbidden marriage.
(14) Fem. of mamzer.
(15) Since none forbid her.
(16) The issue is not recognised as his, but as hers, and therefore if a mamzereth is married to a slave it will still remain mamzer.
(17) Before your marriage.
(18) Lit., 'purified'.
(19) He would surely not counsel him to do something that is forbidden in the first place!
(20) To whom a bondmaid is permitted. Of course, the same objection may still be raised: surely he would not advise him to steal! But then one could answer that he would advise him to sell himself, in accordance with the view that then too his master can give him a heathen bondmaid, supra 14b (Rashi).
(21) Lit., 'years'.
(22) Which it was not then.
(23) Deut. XXIII, 3.
(24) All his issue, no matter how born, share his own unfitness.
(25) R. Tarfon: how does he explain this?
(26) Num. IV, 2, and therefore the issue has the status of the father.
(27) I.e., this issue follows the mother, not the father.
(28) Does he not admit this?
(29) That in this case the child is not exclusively the master's, i.e., a slave, but also belongs to his father's rank and is a mamzer.
(30) Which has no connection with the male at all.
(31) After the first exile.
(32) V. Glos. s.v. halal.
(33) v. Glos. s.v. Nathin.
(34) Lit., 'the silenced one.' The Mishnah proceeds to define them.
(35) The language is Biblical: may come in unto each other; cf. Deut. XXIII, 2-4.
(36) Lit., 'one requiring examination.' The Gemara discusses this.
(37) Deut. XVII, 8, sc. the Temple.

Talmud - Mas. Kiddushin 69b

[If there arise...] matters of controversy in thy gates: then thou shalt arise and go up.[1] But how do we know that Eretz Yisrael is higher than all [other] countries? — Because it is written: Therefore behold, the days come, saith the Lord, that they shall no more say: As the Lord liveth, which brought up the children of Israel out of the land of Egypt; but, as 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 had driven them.[2]

Then why particularly state, WENT UP FROM BABYLON: let him teach, went up to Eretz Yisrael? — This supports R. Eleazar. For R. Eleazar said: Ezra did not go up from Babylon until he made it like pure sifted flour: then he went up.[3] Abaye said: We learnt: THEY WENT UP voluntarily; Raba said: We learnt: He [Ezra] brought them up [against their will]. And they differ over R. Eleazar ['s dictum,] viz.: Ezra did not go up from Babylon until he made it like pure sifted flour: then he went up. Abaye rejects it, Raba accepts it.[4] Alternatively, all accept R. Eleazar's dictum, but they differ in this: One Master [Abaye] holds that he [merely] separated them, whereupon they voluntarily ascended [to Palestine]:[5] the other Master holds that [even so] he led them up against their will.

Now, on the view that they went up [voluntarily], it is well: thus Rab Judah said in Samuel's name: All countries are as dough in comparison with Palestine,[6] and Palestine is as dough relative to Babylon.[7] But on the view that he [forcibly] led them up, they were indeed known?[8] — Granted that they were known to that gener — ation, they were not known to another generation. On the view that they went up, it is well: hence it is written: And I gathered them together to the river that runneth to Ahava; and there we encamped three days; and I viewed [i. e., scrutinized] the people, and the priests, and found there none of the sons of Levi.[9] But on the view that he brought them up — surely he was most careful with them![10] — Granted that he had been careful with the unfit,[11] yet he had not been careful with the fit.

PRIESTS, LEVITES, AND ISRAELITES. How do we know that they had come up? — Because it is written, so the priests, and the Levites, and some of the people, and the singers, and the porters, and the Nethinim, dwelt in their cities, and all Israel in their cities.[12]

HALALIM, PROSELYTES AND FREEDMEN. How do we know halalim? For it was taught: R. Jose said: A presumptive right [hazakah] is powerful, as it is said: And of the children of the priests: the children of Habaiah, the children of Hakkoz, the children of Barzillai, which took a wife of the daughters of Barzillai the Gileadite, and was called after their name. These sought their register among those that were reckoned by genealogy, but they were not found: therefore were they deemed polluted and put from the priesthood. And the Tirshatha[13] said unto them, that they should not eat of the most holy things, till there stood up a priest with Urim and with Thummim.[14] Now he[15] said to them, Behold, ye remain in your presumptive rights: whereof did ye eat in Exile? of the sacred food [eaten] in the country.[16] So now too [ye may partake] of the sacred food [consumed] in the country.[17]

But on the view that we promote from terumah to family purity,[18] those who ate terumah, they would come to promote them? — There it was different, because their presumptive status was weakened.[19] Then what is meant by 'Great is a presumptive right?'[20] — Because originally they ate Rabbinical terumah, and now they were to eat Biblical terumah.[21] Alternatively, after all they would now too eat only Rabbinical terumah,[22] not Biblical; for when do we promote front terumah to family purity? [Only when it is terumah] by Biblical law, but we do not promote [when it is terumah] by Rabbinical law. If so, why [state], 'Great is a presumptive right?' — Because formerly[23] there was no cause to forbid it on account of Biblical terumah,' but now,[24] though it might have been forbidden on account of Biblical terumah,[25] they [nevertheless] ate of Rabbinical, but not of Biblical [terumah]. But it is written: 'and the Tirshatha said unto them, that they should not eat of the most holy things': thus, only of the most holy things[26] might they not eat, but everything else they might eat? — This is what he said: [They were to eat] neither what is called kodesh [holy], nor what is called kodashim [holies]. 'Neither what is called kodesh', as it is written: There shall no stranger eat kodesh;[27] 'nor what is called kodashim,' as it is written: And if a priest's daughter be married unto a stranger, she shall not eat of the heave-offerings of the kodashim,[28] and a Master said [explaining this:] the priestly dues[29] of sacrifices

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(1) Ibid. 8; 'In thy gates' implies anywhere in Palestine, whence one had to 'go up' to the Temple.

(2) Jer. XXIII, 7f.

(3) He intentionally took those of inferior rank so that they should not remain in Babylon, where, owing to the absence of leaders, they might mingle with the rest of the nation. Therefore the Tanna states: WENT UP FROM BABYLON, intimating that in that itself he had a purpose, apart from the rebuilding of Palestine, viz., to purge the Jews in Babylon.

(4) For such purging could only be effected by compulsion.

(5) In order to become mixed up with the others.

(6) Dough is a mixture of flour and water. I.e., the Jews there have not such a pure descent as those in Palestine.

(7) Cf. n. 2. Halevi, Doroth, 1, 3, p. 104 conjectures that this was due to the incessant wars with the Greeks, when many

Jews and Jewesses were taken captive by the enemy, and the general weakening of Jewish observance during the Hellenizing period and later when the Sadducees ruled the country. The Jews in Babylon, however, were free from all this.

(8) In Palestine too, and restrained from intermarrying, so that Palestine remained just as pure as Babylon.

(9) Ezra VIII, 15. He had to scrutinize them, since those of inferior descent voluntarily joined them.

(10) He knew who they were; why scrutinize them?

(11) I.e., those of low descent.

(12) Ibid. II, 70.

(13) According to tradition it was Nehemiah.

(14) Ezra II, 61-63 [So to speak, 'never' since there was no Urim and Thummim in the second Temple. v. Sot. 48a'.]

(15) The Tirshatha.

(16) Gebul. country, is a technical term denoting any part of Palestine outside the Temple and Jerusalem. The reference is to terumah.

(17) But not sacrifices. This shews that 'they were deemed polluted' means that they were accounted halalim, who may not partake of sacrifices.

(18) If a priest is seen eating terumah in his town, where he is known, we assume that he is of pure descent, and permit another priest to marry his daughter.

(19) When it was seen that other priests ate sacrifices and they did not, it would be known that their genealogy was suspect (Rashi). Tosaf.: their status was weakened because they had failed to prove their pure descent.

(20) The phrase implies that it leads to some extraordinary concession. But since there was no reason to fear that continuance in their right would lead to error, R. Jose should simply have stated that a presumptive right in the past gives a claim for the future.

(21) Outside Palestine terumah is required by Rabbinical law only.

(22) Terumah on fruit and vegetables, which even in Palestine is only Rabbinical.

(23) Since outside Palestine there was none available.

(24) Lit., 'at the end'.

(25) On their return to Palestine. If they were permitted to eat Rabbinical, they might come to eat Biblical terumah.

(26) Which implies sacrifices of the higher sanctity; v. p. 264, n. 11.

(27) Lev. XXII, 10; E.V. 'of the holy things,' i.e., terumah, to which the whole passage refers.

(28) Ibid. 12; E.V. holy things.

(29) Lit., 'that which was separated', viz., the breast and shoulder.

Talmud - Mas. Kiddushin 70a

she shall not eat.

PROSELYTES AND FREEDMEN. How do we know it? — Said R. Hisda, Because Scripture saith, and all such as had separated themselves unto them from the filthiness of the heathen of the land.[1]

MAMZERIM. How do we know it? — Because it is written: And Sanballat the Horonite, and Tobiah the slave, the Ammonite, heard it:[2] and it is [also] written, [Moreover in those days the nobles of Judah sent many letters unto Tobiah . . .] For there were many in Judah sworn unto him, because he [Tobiah] was the son-in-law of Shechaniah the son of Arah; and his son Jehohanan had taken the daughter of Meshullam the son of Berchiah to wife.[3] Now he [the Tanna of our Mishnah] holds that if a heathen or a slave has intercourse with the daughter of an Israelite, the issue is mamzer.[4] That is well on the view that the issue is mamzer; but on the view that it is legitimate [kasher], what can be said? Moreover, how do you know that they had sons:[5] perhaps they did not have sons? Again, how do you know that they were [originally] here [in Babylon] and then migrated; perhaps they were there [in Palestine, from the beginning]? — But [it is learnt] from this: And these were they which went up from Tel-melah, Tel-harsha, Cherub, Addon, and Immer: but they could not shew their fathers' houses, nor their seed, whether they were of Israel.[6] Now 'Tel-melah'[7] refers

to those people whose deeds were like those of Sodom, which was turned into a salt heap: 'Tel-harsha,'[8] to those who cry out 'Father,'and their mothers silence them;[9] but they could not shew their fathers' houses, nor their seed [i.e., their mothers], whether they were of Israel — this refers to foundlings, gathered in from the streets. 'Cherub, Addon and Immer':[10] R. Abbahu said: The Lord said: 'I said that Israel should be as precious to me as the cherub, whereas they made themselves like the leopard.'[11] Others state, R. Abbahu said: The Lord said: 'Though they have made themselves like the leopard, yet they are as precious to me as a cherub.'

Rabbah b. Bar Hanah said: He who takes a wife who is not fitting for him,[12] the Writ stigmatizes him as though he had ploughed the whole world and sown it with salt, as it is said: And these were they which went up front Tel-melah, Tel-harsha.[13]

Rabbah son of R. Adda said in Rab's name: He who takes a wife for the sake of money will have unworthy children, as it is said: They have dealt treacherously against the Lord; for they have borne strange children. And should you think, their money is saved [to them], — therefore it is stated: Now shall the new moon devour them with their portions.[14] And should you say, his portion, but not hers:[15] therefore it is stated: 'their portions'. And should you say [only] after a long time — therefore it is said: 'the new moon'. What does this imply? — Said R. Nahman b. Isaac: A month comes and a month goes and their money is lost.

Rabbah son of R. Adda also said — others state, R. Salla said in R. Hamnunaðs name: He who marries a wife who is not fit for him, Elijah binds him and the Holy One, blessed be He, flagellates him. And a Tanna taught: Concerning all these[16] Elijah writes and the Holy One, blessed he He, attests: 'Woe to him who disqualifies his seed, blemishes his family and him who takes to wife one who is not fit for him, Elijah binds and the Holy One, blessed be He, flagellates.'[17] And he who [continually] declares [others] unfit is [himself] unfit and never speaks in praise [of people]. And Samuel said: With his own blemish he stigmatizes [others] as unfit.

A certain man from Nehardea entered a butcher's shop in Pumbeditha and demanded, 'Give me meat!' 'Wait until Rab Judah b. Ezekiel's attendant takes his,' was the reply: 'and then we will serve you.' 'Who is Judah b. Shewiskel,[18] he exclaimed: 'to take precedence over me and be served before me!' When they went and told Rab Judah, he pronounced the ban against him. Said they to him, 'He is wont to call people slaves,' whereupon he had him proclaimed a slave. Thereupon that man went and summoned him to a lawsuit before R. Nahman. When the writ of summons was brought, he [Rab Judah] went before R. Huna [and] asked him, 'Shall I go or not?'[19] 'Actually,' he replied: 'you need not go, being a great man; yet in honour of the Nasi's house,[20] arise and go.' On his arrival there he found him making a railing.[21] Said he to him, Do you not accept R. Huna b. Idi's dictum in Samuel's name, Once a man is appointed head of a community, he may not do [manual] labour in the presence of three?[22] — 'I am [merely] making a small portion of a gundritha,'[23] he replied. 'Is not ma'akeh,[24] as written in the Torah, or mehizah,[25] as used by the Rabbis, good enough?'[26] he retorted. Said he to him, 'Sit you down on a karpita [seat].' 'Is not safsal, as used by the Rabbis, or iztaba, as commonly used,[27] good enough?' he asked. 'Will you partake of ethronga [citron],' he proceeded, 'Thus did Samuel say,' was his reply: 'he who says 'ethronga', is a third [puffed up] with arrogance: either ethrog, as it is called by the Rabbis, or ethroga, as it is popularly called.' 'Will you drink anbaga [cup of wine]?' he asked him. 'Are you then dissatisfied with isharagus, as it is called by the Rabbis, or anpak, as it is popularly pronounced?' he reproved him. 'Let [my daughter] Donag come and serve drink,' he proposed. 'Thus said Samuel,' he replied: 'One must not make use of a woman.' '[But] she is only a child!' — 'Samuel distinctly said: One must make no use at all of a woman, whether adult or child.' 'Will you send a greeting to [my wife] Yaltha,' he suggested. 'Thus said Samuel,' he replied, [To listen to] a woman's voice is indecent.' 'It is possible through a messenger?' 'Thus said Samuel,' he retorted

(1) Ezra VI, 21.
(2) Neh. II, 10.
(3) Ibid. VI, 17f. Shechaniah was a Jew.
(4) And we have a case of such intercourse in the verses quoted.
(5) Viz., Tobiah and his own son, by these Jewesses.
(6) Ibid. VII, 61.
(7) Lit., 'saltheap'.
(8) Lit., 'heap of silence'.
(9) Because they do not know their fathers — there are called shethuki in the Mishnah.
(10) 'Addon immer', changing 'Immer' to 'Amar', means, 'The Lord (Adon) saith'.
(11) Which is not particular to copulate with its own mate. So Israel, thereby producing mamzerim. The allusion to the deeds of Sodom is similar.
(12) I.e., of an unfit stock.
(13) Deriving harsha fr. harash, to plough. Because 'they could not shew' etc., i.e., they were ashamed of their unseemly marriages and strove to conceal them, they turned the world into a ploughed heap sown with salt.
(14) Hos. V. 7. 'Strange' — i.e., from the ways of decency.
(15) Because she did nothing wrong.
(16) Priests, Levites, and Israelites who marry a wife that is of unfit stock.
(17) Wilna Gaon deletes this; according to which render, 'and takes to wife'.
(18) A wilful and contemptuous mispronunciation of Ezekiel, meaning, the glutton (fr. shewiski, roast meat, i.e., the eater of roast meat).
(19) His eminent position entitled him to refuse to recognise R. Nahman's jurisdiction over himself.
(20) R. Nahman was the son-in-law of the Resh Galutha, the official head of Babylonian Jewry. R. Huna refers to the latter as nasi, which strictly speaking was the corresponding title of the head of Palestinian Jewry; cf. Hul. 124a.
(21) To the roof of his house, in accordance with Deut. XXII, 8.
(22) To preserve the dignity of his position.
(23) Balustrade.
(24) The Heb. for the same.
(25) Lit., 'barrier', the Rabbinical term.
(26) Lit., 'is it hateful?' — why such high-flown language?
(27) Others reverse it.

Talmud - Mas. Kiddushin 70b

'One must not enquire after a woman's welfare.' 'Then by her husband!' 'Thus said Samuel,' said he, 'One must not enquire after a woman's welfare at all.' His wife sent [word] to him, 'Settle his case for him, lest he make you like any ignoramus!' 'What means your traveling hither?' he asked him. 'You sent me a writ of summons,' he replied. 'Seeing that I do not even know your way of speech,' he exclaimed: 'would I send you a writ of summons!' Thereupon he drew out the summons from his bosom and shewed [it] to him: 'Behold the man and behold the summons!' he said. 'Yet since you have come here.' he said: 'let us discuss the matter, that it may not be said that the Rabbis shew favour to each other.' Then he asked him, 'Why did you place that man under the ban?' 'Because he abused the Rabbis' messenger.' 'Then you should have punished him [by stripes], for Rab punished [with stripes] him who abused a messenger of the Rabbis.' — 'I dealt with him more severely.'[1] 'Why did you have it proclaimed that he is a slave?' He answered: 'Because he was wont to call [other] people slaves, and he who declares [others] unfit is [himself] unfit, and never speaks good [of anyone]; and Samuel said: With his own blemish he stigmatizes [others] as unfit.' 'But how did Samuel say this: only that one must suspect; yet did he say that he is to be [thus] proclaimed?' At this stage his opponent said to Rab Judah, 'You call me a slave, — I who am descended from the royal house of the Hasmoneans!' — 'Thus said Samuel,' he retorted: 'Whoever says: "I am descended from the house of the Hasmoneans is a slave.'[2] Said he[3] to him, 'Do you not agree with what was said by R. Abba in the name of R. Huna in Rab's name: Every scholar who proceeds to

give a ruling:[4] if he has stated it before the event, he is heeded; if not, he is not heeded?'[5] — 'But there is R. Mattenah who supports me,' he replied. Now, R. Mattenah had not seen Nehardea for thirteen years, but on that day he visited it. Said he[6] to him, 'Do you remember what Samuel said when he stood with one foot on the bank and one foot on the bridge?'[7] — 'Thus said Samuel', he replied: 'He who claims, "I am descended from the royal house of the Hasmoneans", is a slave, because there remained of them only one maiden who ascended a roof, lifted up her voice and cried out', "Whoever says I am descended from the house of the Hasmoneans is a slave"; then she fell from the roof and died.' So he[8] was proclaimed a slave. On that day many kethuboth were torn up in Nehardea.[9] When he [Rab Judah] issued, they came out after him to stone him.[10] [But] he threatened them, 'If you will be silent, be silent; if not, I will disclose against you what Samuel said: There are two families in Nehardea, one called The House of Jonah [dove] and the other, The House of 'Urbathi [raven-like]; and the sign thereof is, The unclean is unclean and the clean clean.'[11] Thereupon they threw away the stones out of their hands, which created a stoppage in the royal canal.[12]

[At that time] Rab Judah announced in Pumbeditha: Adda and Jonathan are slaves; Judah b. Papa is mamzer: Bati b. Tobiah in his arrogance refused to accept a deed of manumission. Raba proclaimed in Mahuza:[13] The members of Bela, Dena, Tela, Mela and Zega[14] — all these are unfit. Rab Judah said: The members of Guba are Gibeonites; Durnunitha[15] is a village of Nethinim.[16] R. Joseph said: This Be Kubi [in the Vicinity] of Pumbeditha consists entirely of slaves.[17]

Rab Judah said in Samuel's name: Pashur son of Immer[18] had four hundred slaves — others say, four thousand slaves — and all became mixed up in the priesthood, and every priest who displays impudence is [descended] from none but them. Said Abaye: And they all dwell in the Wall[19] of Nehardea.[20] Now he [Rab Judah] differs from R. Eleazar. For R. Eleazar said: If you see a priest with brazen forehead, have no suspicions of him,[21] for it is said: Thy people are as the quarrelsome among priests.[22]

R. Abin b. R. Adda said in Rab's name: Whoever takes a wife who is not fit for him,[23] when the Holy One, blessed be He, causes His divine Presence to rest [on Israel], He testifies concerning all the tribes [that they are His people],[24] but does not testify unto him, for it is said: The tribes of the Lord are a testimony unto Israel:[25] when is it 'a testimony unto Israel'? When the tribes are 'tribes of the Lord'.[26] R. Hama b. R. Hanina said: When the Holy One, blessed be He, causes His divine Presence to rest, it is only upon families of pure birth in Israel, for it is said: At that time, saith the Lord, will I be the God of all the families of Israel[27] — not unto all Israel, but unto 'all the families of Israel', is said[28] — and they shall be my people. Rabbah son of R. Huna said: This is the extra advantage which Israel possesses over proselytes.[29] For in respect to Israel it is written, and I will be their God, and they shall be my people;[30] whereas of proselytes it is written, for who is he that hath boldness to approach unto me? Saith the Lord. And ye shall be my people', and I will be your God.[31]

R. Helbo said: Proselytes are as injurious to Israel as a scab, for it is said: And the stranger shall join himself with them, and they shall cleave [we-nispehu] to the house of Jacob.[32] Here it is written: 'wenispehu'; whilst elsewhere it is written. [This is the law for all manner of plague of leprosy . . .] and for a rising, or for a scab [sappahath].[33]

R. Hama b. Hanina said: When the Holy One, blessed be He,

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(1) Tosaf. in Yeb. 52a suggests that the reason was because he had insulted the Rabbi himself.

(2) Because the dynasty was wiped out by Herod, who, in spite of ascending the throne, was always regarded by the Jew's as an Idumean slave. He, to exalt his children, called them Hasmoneans, v. B.B. 3b.

(3) Probably R. Nahman.

(4) In his teacher's name.

(5) I.e., when he gives a traditional ruling bearing on his own case, he is believed only if he had stated it before the same arose.
(6) Rab Judah.
(7) Or 'on the ferry-boat'.
(8) Rab Judah's litigant.
(9) Of women who belonged to that family, and accordingly bore the status of slaves, so that their marriage was invalid.
(10) For revealing their inferiority.
(11) The dove is a clean bird (i.e., fit for food); the raven is unclean. The House of Jonah is of pure descent; the other is not. Descendants of the two families were probably widespread in Nehardea, but their origin was forgotten: hence the threat.
(12) So many were there.
(13) On the Tigris, not far from Ktesifon; it is discussed at great length in Obermeyer, pp. 161-186.
(14) These are either places or family names. Probably they are contemptuous nicknames, which may mean, old rags, barrels, patches, stuffings and grape skins.
(15) The name of a place.
(16) From which it derives its name, 'dura' _ village, so Rashi, according to cur. ed. 'Nethinim villagers'.
(17) Who had intermingled with the populace, though they had never been formally manumitted.
(18) A priestly contemporary of Jeremiah who had him put in the stocks because of his dire prophecies of national disaster; (Jer. XX 1-6).
(19) Heb. Shura, the large circumvallation. v. next note.
(20) Var. lec.: in Sura and Nehardea.
(21) I.e., of an impure family descent.
(22) Hos. IV, 4.
(23) I.e., of an unfit stock.
(24) [Read preferably with MS.M. 'When the Holy One, blessed be He, testifies, He testifies concerning etc.,' omitting 'causes His divine Presence to rest.']
(25) Ps. CXXII. 4.
(26) Worthily married and born.
(27) Jer. XXXI, 1.
(28) The limitation must exclude those of questionable birth.
(29) Lit., 'which is between Israel and proselytes.'
(30) Ezek. XXXVII, 27; i.e., God calls them first, and they accept the call.
(31) Jer. XXX, 21f; i.e., they must first call upon God, Who willingly accepts them. There is no spirit of exclusiveness in this: God first appeared unto Israel; thereafter, He is ready to accept all who call upon Him.
(32) Isa. XIV, 1.
(33) Lev. XIV, 55. We-nispehu is thus connected with sappahath, and the former verse is translated: and they shall be as a scab to the house of Jacob. — Rashi states: because their lax observance of precepts sets a bad example to true born Jews. Tosaf. suggests the reverse: proselytes are more observant, and expose the laxity of other Jews! Cf. infra p. 387.

Talmud - Mas. Kiddushin 71a

purifies the tribes, He will first purify the tribe of Levi, for it is said: And he shall sit as a refiner and purifier of silver, and he shall purify the sons of Levi, and purge them as gold and silver; and they shall offer unto the Lord offerings in righteousness.[1] R. Joshua b. Levi said: Money purifies mamzerim,[2] for it is said. And he shall sit as a refiner and purifier of silver.[3] What is meant by, and they shall offer unto the Lord offerings in righteousness? — Said R. Isaac: The Holy One, blessed be He, shewed charity[4] to Israel, in that a family once mixed up[5] remains so.[6]

The [above] text [states]: Rab Judah said in Samuel's name: All countries are as dough in comparison with Palestine, and Palestine is as dough relative to Babylon. In the days of Rabbi[7] it was desired to render Babylon as dough vis a vis Palestine.[8] Said he to them, You are putting thorns between my eyes![9] If you wish, R. Hanina b. Hama will join [issue] with you. So R. Hanina b. Hama

joined [issue] with them and said to them, 'I have this tradition from R. Ishmael son of R. Jose who stated on his father's authority: All countries are as dough in comparison with Palestine, and Palestine is as dough relative to Babylon.'[10]

In the days of R. Phineas it was desired to declare Babylon as dough vis a vis Palestine.[11] Said he to his slaves, 'When I have made two statements in the Beth Hamidrash, take me up in my litter and flee.' When he entered he said to them, A fowl does not require slaughter by Biblical law. Whilst they were sitting and meditating thereon, he said to them, All countries are as dough in comparison with Palestine, and Palestine is as dough relative to Babylon. [Thereupon] they [his slaves] took him up in his litter and fled. They ran after, but could not overtake him. Then they sat and examined [their genealogies], until they came to danger;[12] so they refrained.[13]

R. Johanan said: By the Temple! It is in our power;[14] but what shall I do, seeing that the greatest men of our time are mixed up therein. [Thus] he holds with R. Isaac, who said: Once a family becomes mixed up, it remains so.[15] Abaye said: We have learnt likewise: There was a family, Beth ha-Zerifa, in Transjordania, which Ben Zion[16] forcibly expelled.[17] There was another, which Ben Zion forcibly admitted.[18] Such as these, Elijah will come to declare unclean or clean, to expel and admit.[19] [Hence, only] such as these, who are known; but once a family becomes mixed up, it remains so. It was taught: There was yet another, which the Sages declined to reveal, but the Sages confided it to their children and disciples once a septennate — others say, twice a septennate. Said R. Nahman b. Isaac: Reason supports the view that it was once a septennate. Even as it was taught: [If one vows,] 'Behold, I will be a nazir[20] if I do not reveal the families [which are impure],' he must be a nazir, and not reveal the families.[21]

Rabbah b. Bar Hanah said in R. Johanan's name: The [pronunciation of the Divine] Name of four letters the Sages confide to their disciples once a septennate — others state, twice a septennate. Said R. Nahman b. Isaac: Reason supports the view that it was once a septennate, for it is written, this is my name for ever [le'olam][22] which is written le'allem.[23] Raba thought to lecture upon it at the public sessions. Said a certain old man to him, It is written, le'allem [to be kept secret].

R. Abina opposed [two verses]: It is written: 'this is my mame'; but it is also written: 'and this is my memorial'?[24] — The Holy One, blessed be He, said: I am not called as I am written: I am written with yod he, but I am read, alef daleth.[25]

Our Rabbis taught: At first [God's] twelve-lettered Name[26] used to be entrusted to all people. When unruly men increased,[27] it was confided to the pious of the priesthood,[28] and these 'swallowed it'[29] during the chanting of their brother priests.[30] It was taught: R. Tarfon said: 'I once ascended the dais[31] after my mother's brother, and inclined my ear to the High Priest, and heard him swallowing the Name during the chanting of his brother priests.

Rab Judah said in Rab's name: The forty-two lettered Name[32] is entrusted only to him who is pious,[33] meek, middle-aged,[34] free from bad temper, sober,[35] and not insistent on his rights. And he who knows it, is heedful thereof,[36] and observes it in purity, is beloved above and popular below, feared by man,[37] and inherits two worlds, this world and the future world.[38]

Samuel said on the authority of an old man: Babylon stands in the presumption of being fit, until you know wherewith it became unfit;[39] other countries are presumed to be unfit, until you know wherewith they are fit.[40] As for Palestine, he who has the presumption of unfitness is unfit; he who has the presumption of fitness is fit. But this is self contradictory: you say, he who has the presumption of unfitness is unfit — hence, when undetermined,[41] he is fit; then you teach, he who has the presumption of fitness is fit hence, when undetermined, he is unfit? — Said R. Huna b. Tahlifa in Rab's name: There is no difficulty:

(1) Mal. III, 3.
(2) By means of their wealth they intermarry with Israel, and having thus mingled, they will not be separated in the future.
(3) I.e., those who married by means of their silver, He will purify by retaining them in Israel.
(4) Heb. zedakah: the same word denotes righteousness and charity, because charity is righteousness.
(5) With illegitimate elements.
(6) And no attempt is to be made to excise it.
(7) C. 135-220 C.E.
(8) To declare the families of Palestine of purer birth, so that if a Babylonian desired to marry into a Palestine family he would have to prove the purity of his own descent. — It was thought that by now the Palestinian families were pure, and so it was due to the honour of Palestine to make this change; Halevi, Doroth, 1, 3, p. 105.
(9) Rabbi was a descendant of Hillel, a Babylonian, and so this would cast a stigma upon his birth.
(10) I.e., a mere declaration cannot change an historical fact.
(11) Since he was a contemporary of Rabbi (R. Judah I), this is probably the same as referred to above.
(12) They discovered that some powerful families were of impure birth, and it would endanger their own lives to reveal it.
(13) Lit., 'separated themselves.'
(14) To reveal the families of impure birth in Palestine.
(15) V. p. 359, n. 10.
(16) A person of great importance and power. In 'Ed. VIII, 7 the reading is 'bene Zion,' the citizens of Jerusalem.
(17) I.e., he declared them unfit, so that other families would not intermarry with them.
(18) Lit, 'brought near.' He compelled their pure birth to be recognised.
(19) 'Ed. (Sonc. ed.) p. 50 notes 4-6.
(20) V. Glos.
(21) This shews how inadvisable and dangerous such action might be; hence once a septennate would have been enough.
(22) Ex. III, 15.
(23) Defectively without a waw, hence to be read le'allem, To be kept secret.
(24) Ibid. This implies that he gave him two names. One, His real Name, and the other, by which He was to be generally designated.
(25) The Tetragrammaton is yod he waw he; but it is read adonai _ alef dateth nun yod.
(26) V. n. 6 [This would suggest that they also hesitated to write or pronounce this latter name in full, but wrote or pronounced it merely Ad or Alef dateth. Lauterbach. J.Z. Proceedings of the Americas Academy for Jewish Research 1930-1931. p. 43.]
(27) And it was not fit that they should pronounce this.
(28) [To utter it at the priestly benediction, v. Sot. 38a.]
(29) I.e., pronounced it indistinctly.
(30) [I.e., while they were chanting the Tetragrammaton at the benediction.]
(31) Where the priests stood when they blessed the people.
(32) Maim. in 'Moreh' I, 62, conjectures that these multiliteral Names, of which no trace is found, were perhaps composed of several other divine names; also that not only the names were communicated, but their real meanings too. [On these names v. further Blau L. Das altjudische Zauberwesen pp. 137ff and Bacher. JE XI 264.]
(33) [צנוע denotes simply a modest man careful to carry out his religious obligations, a pious man, and not a member of a particular sect — an Essene. v. Buchler Types, pp. 59ff.]
(34) Lit., 'stands in the middle of his days'.
(35) Lit., 'he does not get angry, does not get drunk'.
(36) Not to use it lightly.
(37) Lit., 'his fear lies upon mankind.'
(38) In general the name of God was regarded more than a mere designation, but represented His nature or character and His relation to His people. It thus came to partake of His essence, His glory and power. This probably explains the mystic awe with which its pronunciation was surrounded, on the one hand, and the powers attributed to the right manipulation thereof on the other. Cf. Sanh. 91a: 'He who pronounces the Divine Name according to its letters loses his

portion in the world to come; also 65b and 67b on the human powers of creation by means of the Sefer Yezirah, which Rashi a.l. explains was effected by combinations of the Divine Name. [On this subject v. Marmorstein The Old Rabbinic Doctrine of God, I, p. 17.]

(39) I.e., a Babylonian Jew is presumed to be of pure descent and fit to marry into any Jewish family, unless we definitely know the contrary.

(40) As stated on 76a; the four preceding generations must be examined.

(41) I.e., there is no presumption at all about him.

Talmud - Mas. Kiddushin 71b

here it is to permit him to take a wife; there it is to take the wife from him.[1]

R. Joseph said: He whose speech is Babylonian is permitted to take a wife [of superior birth]. But nowadays that there are dissemblers, we fear [them].[2]

Ze'iri was evading R. Johanan, who was urging him, 'Marry my daughter.'[3] One day they were travelling on a road, when they came to a pool of water. Thereupon he placed R. Johanan on his shoulder and carried him across. Said he to him: 'Our learning is fit but our daughters are not? [On] what is your view [based]? Shall we say, because we learned, TEN GENEALOGICAL CLASSES WENT UP FROM BABYLON: PRIESTS, LEVITES [etc.]? Did then all the priests, Levites and Israelites go up? just as some of these were left, so were some of those [the unfit enumerated in the Mishnah] left [in Babylon].'[4] He [however] overlooked what R. Eleazar said: Ezra did not go up from Babylon until he made it like pure fine flour: then he went up.[5]

'Ulla visited Rab Judah in Pumbeditha. Seeing that R. Isaac, the son of Rab Judah, was grown up, yet unmarried,[6] he asked him, 'Why have you not taken a wife for your son?' 'Do I then know whence to take one?' he replied.[7] 'Do we know whence we are descended?' he retorted. 'Perhaps from those of whom it is written: They ravished the women in Zion, the maidens in the cities of Judah.[8] And should you answer: If a heathen or slave has intercourse with the daughter of an Israelite, the issue is fit, — then perhaps [we are descended] from those of whom it is written, that lie upon beds of ivory, and stretch themselves [seruhim] upon their couches.[9] Now, R. Jose son of R. Hanina said: This refers to people who pass water before their beds naked.[10] But R. Abbahu derided this: If so, see what is written: Therefore shall they now go captive the first that go captive[11] — because they pass water before their beds naked they shall go captive with the first that go captive! But, said R. Abbahu, this refers to people who eat and drink together, join their couches, exchange their wives and make their couches foul [masrihim] with semen that is not theirs.'[12] 'Then what shall I do?' he 'asked. 'Go after the peaceful,'[13] he replied.[14] As the Palestinians[15] make a test: When two quarrel, they see which becomes silent first and say: This one is of superior birth.

Rab said: Silence [peaceableness] in Babylon, is [the mark of][16] pure birth. But that is not so, for Rab visited the family of Shihla[17] and examined them; surely that means as to their genealogy? — No, by silence. He said thus to them:[18] Examine [them], whether they are silent [peaceable] or not. Rab Judah said in Rab's name: If you see two people continually quarreling, there is a blemish of unfitness in one of them, and they are [providentially] not allowed to cleave to each other.[19]

R. Papa the elder said on Rab's authority: Babylon is healthy; Mesene[20] is dead; Media is sick, and Elam is dying.[21] And what is the difference between sick and dying? — Most sick are [destined] for life; most dying are for death.[22]

How far does Babylon extend?[23] — Rab said: As far as the river 'Azak;[24] Samuel said: as far as the river Wani.[25] How far on the upper [reaches of] Tigris? Rab said: as far as Bagda[26] and Awana; Samuel said: as far as Moxoene.[27] Is then Moxoene itself not included? Surely R. Hiyya b. Abba

said in Samuel's name: Moxoene is as the land of Exile[28] in respect to genealogy? — But as far as and including Moxoene. How far on the lower reaches of the Tigris? — Said R. Samuel: As far as lower Apamea.[29] There were two Apameas, an upper and a lower; one was fit [in respect to marriage] and the other unfit, and one parasang lies between them; and they [their inhabitants] were particular with each other, and did not even lend fire to each other.[30] And the sign whereby [you may recognise] the unfit is the one that speaks [the] Mesene [dialect].

How far [does it extend] on the upper reaches of the Euphrates? — Rab said: To Fort Tulbakene.[31] Samuel said: To the bridge of Be-pherat;[31] R. Johanan said: As far as the ford of Gizama.[32] Abaye — others state, R. Joseph — cursed Rab's [definition].[33] Only Rab's, but not Samuel's![34] — But he cursed Rab's, and all the more so Samuel's. Alternatively, he cursed [only] Rab's, after all, and not Samuel's, and the bridge of Be-Pherat [originally] lay below;

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(1) I.e., to order him to divorce her. When one wishes to marry a woman of proved pure descent, he must prove his own fitness, if he lacks the established presumption. On the other hand, if he is married to such, he is not compelled to divorce her unless his own unfitness is established.

(2) This is not accepted as sufficient proof.

(3) Ze'iri being a Babylonian, whilst R. Johanan was only a Palestinian, he did not wish to marry his daughter, since the former are of purer birth.

(4) So that both are equal.

(5) V. p. 350, n. 2.

(6) On the importance of not leaving marriage too late cf. supra, 29b, 30a.

(7) I do not know who is of pure descent.

(8) Lam. V, 11.

(9) Amos VI, 4.

(10) Are bereft of the sense of modesty.

(11) Ibid. 7.

(12) The children of such are mamzerim.

(13) Lit., ‘silence’.

(14) Take someone from a peaceful family — those who are quarrelsome are probably unfit!

(15) Lit., ‘children of the West.’

(16) Lit., ‘that is’.

(17) The reading is doubtful; cur. odd.: vinegar dealers.

(18) To those who were with him.

(19) I.e., join in marriage.

(20) The island formed by the Euphrates, the Tigris and the Royal Canal.

(21) The Jews of Babylon are of pure descent; in Mesene they are all unfit (mamzerim); in the other two they are mixed.

(22) The majority of Media are pure; the majority of Elam are mamzerim.

(23) In respect of family purity.

(24) On the east of the Tigris.

(25) [Nahrewan, the grand canal east of the Tigris that flows parallel to it. Obermeyer. op. cit. p. 79. Both are given as eastern boundaries of Babylon.]

(26) [‘Aruch reads: Okbara and Awana. Both towns now on the western bank of the Tigris, but originally on its eastern bank, constituted the northern boundary of Babylon; loc. cit. p. 82.]

(27) A town west of the upper Tigris sources.

(28) Sc. Babylon. Rashi observes that Pumbeditha is so called in R.H. 23b.

(29) On the right bank of the Tigris; v. Obermeyer p. 86.

(30) To avoid intimacy which might lead to marriage.

(31) V. Obermeyer pp. 94-96; S. Funk, Die Juden in Bob. I, p. 13, n. 2, and infra, n. 8.

(32) Obermeyer p. 97 on the basis of other readings identifies this with Gidama, mentioned in Suk. 18a. Since R. Johanan's definition is not controverted, this must have been higher up than the other two, v. next note.

(33) Obermeyer p. 94 assumes that the Fort Tulbakene was lower than Pumbeditha, where both Abaye and R. Joseph

were heads of the academy. Hence, this excluded Pumbeditha, which aroused their vehement opposition.
(34) Samuel's definition shut out even more, the bridge of Be-Pherat (for which v. Obermeyer p. 97) lying lower than Fort Tulbakene.

Talmud - Mas. Kiddushin 72a

but now the Persians have set it higher.[1]

Abaye said to R. Joseph: How far does it extend on this [sc. the west] side of the Euphrates? Said he to him: What is your motive [in asking]: on account of Biram?[2] The most distinguished [families] of Pumbeditha took [wives] from Biram!

R. Papa said: Just as they differ over family purity, so they differ over divorce.[3] But R. Joseph said: They differ only in respect to genealogy, but as for divorce, all agree that it is as far as the second willow clump beyond the bridge.[4]

Rami b. Abba said: Habil Yamma[5] is the glory[6] of Babylon.[7] Shunya[8] and Gubya[9] are the glory of Habil Yamma. Rabina said: Zizura[10] too. It was taught likewise: Hanan b. Pinhas said: Habil Yamma is the glory of Babylon: Shunya and Gubya and Zizura are the glory of Habil Yamma. Said R. Papa: But nowadays Cutheans[11] have become mixed up with them. That [however] is not so: one [a Cuthean] sought a wife from them, but they did not give him.[12] What is Habil Yamma? — Said R. Papa: The Euphrates land near Borsif.[13]

A certain man said: 'I come from Shot-Mishot.'[14] R. Isaac Nappaha[15] stood up on his feet and declared: Shot-Mishot lies between the rivers.[16] And what if it is situated between the rivers? — Said Abaye in the name of R. Hama b. 'Ukba in the name of R. Jose son of R. Hanina: Between the rivers is as the Exile [sc. Babylon] in respect of genealogy. And where is that situated? — Said R. Johanan: From Ihi de Kira and upwards. But R. Johanan said: [The upper limit of Babylon is] as far as the ford of Gidama?[17] — Said Abaye: A strip issues [beyond that limit].[18]

R. Ika b. Abin said in the name of R. Hananel in Rab's name: Halwan and Nahawand are as the Exile in respect to genealogy.[19] Said Abaye to them [his disciples]: Disregard him: a yebamah has fallen to him there.[20] Is it then my [dictum]? he replied; it is R. Hananel's! So they went and enquired of R. Hananel, who said to them: Thus did Rab say: Halwan and Nahawand are as the Exile in respect to genealogy. Now, he differs from R. Abba b. Kahana, who said: What is meant by, [and the king of Assyria carried Israel away into Assyria,] and put them in Halah, and in Habor, on the river of Gozan, and in the cities of the Medes?[21] Halah is Hulwan; Habor is Adiabene;[22] the river of Gozan is Ginzak;[23] the cities of the Medes are Hamadan[24] and its environs; others state, Nahawand and its environs. What are its environs? — Said Samuel: Karag, Moschi,[25] Hidki and Rumki. Said R. Johanan: And all these are unfit.[26] Now, it was assumed that Moschi is identical with Moxoene [so the difficulty arises]: Surely R. Hiyya b. Abin said in Samuel's name, Moxoene is as the Exile in respect to genealogy? — Hence Moschi is distinct from Moxoene.

And three ribs were in his mouth between his teeth:[27] Said R. Johanan: This refers to Hulwan, Adiabene and Nesibin,[28] which it [Persia] sometimes swallowed and sometimes spat out.[29]

And behold another beast, a second, like to a bear:[30] R. Joseph recited: This refers to the Persians, who eat and drink like a bear, are fleshy like a bear, overgrown with hair like a bear, and have no rest like a bear. When R. Ammi saw a Persian riding he would say: 'There is a wandering bear!'

Rabbi said to Levi:[31] 'Shew me the persians.' — 'They are like the armies of the House of David,' he replied. 'Shew me the Guebers.'[32] — 'They are like the destroying angels.' 'Shew me the

Ishmaelites.' — 'They are like the demons of the privy.' 'Shew me the scholars of Babylon.' — 'They are like the Ministering Angels.'

When Rabbi was dying he said: 'There is [a town] Humania[33] in Babylon, which consists entirely of Ammonites; there is Misgaria[34] in Babylon, consisting entirely of mamzerim; there is Birka[35] in Babylon, which contains two brothers who interchange their wives; there is a Birtha di Satya[36] in Babylon: to-day they have turned away from the Almighty: a fishpond overflowed on the Sabbath, and they went and caught the fish on the Sabbath, whereat R. Ahi son of R. Josiah declared the ban against them, and they renounced Judaism.[37] There is a Fort Agama[38] in Babylon wherein dwells Adda b. Ahabah:

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(1) Above Fort Tulbakene; hence Abaye and R. Joseph were not opposed to this.

(2) Which lay on the west of the Euphrates, some miles N.W. of Pumbeditha.

(3) If one brings a divorce from any country except Palestine and Babylon, he must declare that it was written and attested in his presence. R. Papa maintains that the controversies on the boundaries of Babylon apply to this too.

(4) Or, to the second boat of the (floating) bridge (Jast.).

(5) Lit., 'district of the sea: the entire region of Babylon which is traversed by river and canals. Obermeyer, pp. 118f.

(6) Lit., 'the adornment in purple.'

(7) Rashi: its inhabitants are of the purest birth in Babylon. It may also mean in general that it is the finest and most fertile district, as it actually was.

(8) A canal district in the vicinity of Pumbeditha; Obermeyer, pp. 122ff.

(9) A region behind Babylonia as one travels eastwards from the Tigris; Obermeyer p. 127.

(10) A district not far from the Tigris, the waters of whose canal debouched into the Tigris between Bagdad and Madain, ibid p. 125.

(11) V. p. 207, n. 9. [According to Obermeyer (p. 120) the reference is to the Christians that emigrated during the third and fourth centuries from Syria and Mesopotamia into Babylon.]

(12) Hence the rumour arose. Others explain: he (R. Papa) sought a wife etc., and in his spleen declared them impure! This is not very plausible (Rashi).

(13) The region traversed by the right arm of the Euphrates, which flows before Borsif (Babel). Ibid. p. 315. V. Sanh. (Sonc. ed.) p. 748, n. 7.

(14) He wished to marry a Babylonian woman; Shot-Mishot, or Samosata, is one of the fords of the Euphrates.

(15) Or, the smith.

(16) Jast. observes: between the Euphrates and the Tigris. Obermeyer. pp. 100-1, thinks this altogether unlikely. 'Between the rivers' is the Talmudic idiom for a region of island formation, and here applies to the Euphrates region from Hit (Ihi de Kira) to Anah.

(17) Which is below Ihi de Kira.

(18) Which includes Shot-Mishot.

(19) Though these are in Media, Halwan lay on the great historic route from Babylon to Media, some forty-one parasangs from Bagdad. Nahawand was situated in the middle of Media, about fourteen parasangs from Hamadan in a southerly direction. Its Jewish community may have consisted then of Babylonian colonists, and hence the genealogical purity here ascribed to it. Obermeyer, pp. 106-8.

(20) And he asserts their pure birth because he wishes to marry her.

(21) II Kings XVIII, 11.

(22) A district of Assyria between the rivers Lycus and Caprus (fast.); v. also Obermeyer, p. 10.

(23) Rawlinson identifies this with Shiz, near the present-day town of Maragha, south-east of Urmiasee; ibid.

(24) Ektabana, capital of Media.

(25) So Obermeyer, p. 11. who treats this as two names. Jast. translates: the Fort of Moschi.

(26) I.e., of impure descent. Thus this identification disagrees with Rab.

(27) Dan. VII, 5.

(28) Or Nesibis, as it was generally called. A town in Mesopotamia, not included in the 'Exile' proper, which possessed an important Jewish community; ibid. p. 129.

(29) I.e., sometimes it ruled over them, sometimes not; v. ibid.

(30) Ibid.
(31) [Levi b. Sisi visited Babylonia, his original home, on his return to Palestine. Rabbi his teacher asked him for some information about the people of that country.]
(32) [The fanatical sect of Persian fireworshippers, v. Git. (Sonc. ed.) p. 63. n. 2.]
(33) On the right bank of the Tigris, below Shekanzib; Obermeyer, p. 192.
(34) Unidentified.
(35) Identified with Baratha by the river al-Melik: v. ibid. p. 73, n. 2.
(36) V. ibid. where it is identified with Baratha, which belongs to Greater Bagdad.
(37) [So Jast. Aliter: 'they were destroyed'.]
(38) Probably in the vicinity of Pumbeditha; ibid. p. 237, n. 3.

Talmud - Mas. Kiddushin 72b

to-day he sits in Abraham's lap;[1] to-day Rab Judah was born in Babylon.' (For a Master said: When R. Akiba died, Rabbi was born; when Rabbi died, Rab Judah was born; when Rab Judah died, Raba was born; when[2] Raba died, R. Ashi was born.[3] This teaches that a righteous man does not depart from the world until [another] righteous man like himself is created, as it is said, the sun riseth and the sun goeth down:[4] before Eli's sun was extinguished, the sun of Samuel of Ramoth rose, as it is said, and the lamp of God was not yet gone out, and Samuel was laid down [etc.].)[5]

The Lord hath commanded concerning Jacob, that they that are round about hint should be his adversaries.[6] Said Rab Judah: E.g., Humania [in its relation] to Pum-Nehara.[7]

And it came to pass, when I prophesied, that Pelatiah the son of Benaiah died. Then fell I down upon my face, and cried with a loud voice, and said: Ah Lord God![8] Rab and Samuel — one said: It was in his favour;[9] the other, that it was in his disfavour. He who said that it was in his favour [explains it] as follows: For the governor[10] of Mesene was Nebuchadnezzar's son-in-law. He sent [word] to him: 'Of all the captivity which you have brought for yourself, you have sent none to stand before us.' He wanted to send him of the Israelites, [but] Pelatiah son of Benaiah said to him, 'We, who are more worthy [of higher rank], let us stand before thee here; and let our slaves go thither.' Thus the prophet cried, 'That he who did good for Israel should die in middle age!' And he who maintained that it was in his disfavour — for it is written, [Moreover the spirit lifted me up,] and brought me unto the east gate of the Lord's house, which looketh eastward: and behold, at the door of the gate five and twenty men; and I saw in the midst of them Joazaniah the son of Azzur, and Pelatiah the son of Benaiah, princes of the people.[11] And it is said: And he brought me into the inner court of the Lord's house, and behold, at the door of the Temple of the Lord, between the porch and the altar, were about five and twenty men, with their backs toward the temple of the Lord, and their faces toward the east.[12] Now, from the implication of what is said: 'and their faces toward the east,' do I not know that their backs were toward the west?[13] Why then is it stated: 'with their backs toward the temple of the Lord'? This teaches that they uncovered themselves and committed a nuisance against the Most High. Therefore the prophet said: 'Shall he who did this evil in Israel die [peacefully] on his bed!'[14]

It may be proved that it was Samuel who interpreted it to his discredit. For R. Hiyya b. Abin said in Samuel's name: Moxoene is as the Exile in respect to genealogy. As for Mesene, no fear was entertained for it, either on account of slavery or bastardy,[15] but that the priests who dwelt there were not scrupulous about divorced women![16] — After all, I may tell you that it was Samuel who explained it in his favour; yet Samuel is consistent with his view: for he said: If one renounces ownership of his slave, he goes out free and does not require a deed of manumission, for it is said, but every man's slave that is bought for money:[17] a man's slave, but not a woman's slave?[18] Hence [it means this]: a slave whose master has authority over him is called a slave; a slave whose master has no authority over him is not called a slave.[19]

Rab Judah said in Samuel's name: This[20] is R. Meir's view. But the Sages maintain: All countries have the legal status of fitness. Amemar permitted R. Huna b. Nathan to take a wife from Hozae.[21] Said R. Ashi to him: [On] what [do you base] your ruling? Because Rab Judah said in Samuel's name: This is R. Meir's view. But the Sages maintain: All countries have the legal status of fitness? But the School of R. Kahana did not learn thus,[22] and the School of R. Papa did not learn thus, and the School of R. Zebid did not learn thus? Nevertheless he did not accept this [ruling] from him, because he had heard it [sc. his own view] from R. Zebid of Nehardea.

Our Rabbis taught: Mamzerim and Nethinim will become pure in the future: this is R. Jose's view. R. Meir said: They will not become pure. Said R. Jose to him: But was it not already stated: And I will sprinkle clean water upon you, and ye shall be clean?[23] R. Meir replied. When it is added, from all your filthiness and from all your idols,[23] [it implies] but not from bastardy. Said R. Jose to him: When it is [further] said, will I cleanse you,[23] you must say: From bastardy too.

As for R. Meir, it is well: hence it is written, and the bastard shall dwell in Ashdod.[24] But according to R. Jose, why 'and the bastard shall dwell in Ashdod'? — As R. Joseph translated it: The house of Israel shall dwell in security in their land, where [formerly] they were as strangers.[25]

Rab Judah said in Samuel's name: The halachah agrees with R. Jose. R. Joseph said: Had not Rab Judah ruled in Samuel's name that the halachah is as R. Jose, Elijah would have come and sent entire gangs away from us.[26] Our Rabbis taught: A proselyte may marry a mamzereth: this is R. Jose's view. R. Judah ruled: A proselyte may not marry a mamzereth. A proselyte, a freed slave, and a halal are permitted to [marry] a priest's daughter. What is R. Jose's reason? — 'Assembly' [kahal] is written five times:[27]

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(1) Some say that this is a euphemism for death, in which case R. Adda b. Ahabah, who is frequently mentioned in the Talmud, is not meant, for he lived long after Rabbi's death. Others explain it as referring to circumcision; then it does refer to him.

(2) Maim. reads: before.

(3) In all cases, on the same day.

(4) Ecc. I, 5.

(5) I Sam. III, 3. Metaphorically. Eli's sun was not yet extinguished. etc.,

(6) Lam. I, 17.

(7) As stated above, Humania was entirely a non-Jewish town, while Pum-Nehara had an all-Jewish population. The former was inimical to the latter.

(8) Ezek. XI, 13.

(9) That the prophet cried out.

(10) [Istandar, A high Persian military and administrative rank, v. Funk, Schwarz Festschrift p. 433.]

(11) Ezek. XI, 1.

(12) Ibid. VIII, 16.

(13) The hekal, the Temple proper, was to the west of the Temple court, where they stood.

(14) The mention of twenty-five in both places shews that the same group is referred to.

(15) It was not feared that slaves or mamzerim had intermarried with the Jews there. — This shews that Samuel did not agree that the slaves of the Israelites were sent thither.

(16) Disregarding the injunction of Lev. XXI, 7.

(17) Ex. XII, 44.

(18) Surely not!

(19) Hence, when their masters renounced ownership and sent them to Mesene, they ipso facto ceased to be slaves.

(20) Sc. the Mishnah on 69a, which implies that only Babylon enjoys the legal status of unquestioned family purity, as explained by R. Eleazar in the Gemara.

(21) [Khuzistan, province S. of Babylon which lay outside the boundaries of Babylon as defined by the Amoraim supra.]

(22) On the contrary, they taught in Samuel's name that all countries are presumed to be unfit; supra 71b.

(23) Ezek. XXXVI. 25.

(24) Zech. IX, 6. I.e., apart from other Jews, because they will remain impure and forbidden to marry.

(25) So he translates mamzer. Joshua counted Ashdod as part of the land of Israel (Josh. XIII, 1-3); but it was not conquered, and so they were as strangers there. Now they should possess it. [V. Targum Pseudo-Jonathan on the Prophets, a.l.; cf. also Geiger, Urschrift p. 52ff who proves from here that, ממזר is a compound word from מעם זר 'a strange people', and had originally an ethnical connotation, which was subsequently transferred to denote offspring from forbidden marriages.]

(26) Of mamzerim or their descendants. The lit., translation is: necks and necks (tied together) by chains. According to another reading: necks (tied) by chains and chains.

(27) V. Deut. XXIII, 3f and 9. 'Assembly' in v. 2 is not counted, because it does not deal with unfitness on account of birth.

Talmud - Mas. Kiddushin 73a

one refers to priests, one to Levites, one to Israelites; one to permit a mamzer [to intermarry] with a shethuki;[1] and one to permit a shethuki to [intermarry] with an Israelite.[2] As for the assembly of proselytes it is not designated 'assembly'.[3] But R. Judah argues: Priests and Levites are deduced from one 'assembly';[4] hence [one] is left in respect of an assembly of proselytes.[5] Alternatively, it indeed is so that they [sc. Priests and Levites] are two 'assemblies'; [but that] a mamzer [may intermarry] with a shethuki, and a shethuki with an Israelite, is deduced from one 'assembly': A mamzer shall not enter into the assembly of the Lord:[6] only a certain mamzer may not enter, but a doubtful mamzer may enter; [and again,] only into a certain assembly he may not enter, but he may enter into a doubtful assembly.[7] Another alternative: These too are two 'assemblies';[8] but R. Judah's opinion is [derived] from this: For the assembly, there shall be one statute for you, and for the ger [proselyte] that sojourneth with you.[9] But in R. Jose's view, 'one statute' breaks across the subject.[10]

'A proselyte, a freed slave and a halal are permitted to [marry] a priest's daughter.' This supports Rab. For Rab Judah said in Rab's name: Fit women [sc. daughters of priests] were not admonished against being married to the unfit.[11]

R. Zera lectured in Mahuza: A proselyte may marry a mamzereth. Thereupon everyone pelted him with stones.[12] Said Raba: Is there anyone who lectures thus in a place where proselytes abound! [Now] Raba lectured in Mahuza: A proselyte may marry a priest's daughter, [whereupon] they loaded him with silks. Then he lectured to them again: A proselyte is permitted [to intermarry] with a mamzereth. Said they to him: You have destroyed your first [teaching]. He replied: I have done what is best for you: if one [a proselyte] wishes, he can marry here [sc. a mamzereth]; if he wishes, he can marry there [sc. a priest's daughter]. Now, the law is: A proselyte is permitted to a priest's daughter and he is permitted to a mamzereth. He is permitted to a priest's daughter: fit women were not admonished against being married to the unfit.[13] And he is permitted to a mamzereth, in accordance with R. Jose.

NOW, THESE ARE THEY: SHETHUKI: HE WHO KNOWS [etc.] Raba said: By Biblical law a shethukiis considered fit. What is the reason? The majority are fit for her [sc. the mother],[14] while only a minority are unfit for her.[15] Now, if they went to her, then he who separates himself [from a mass] separates himself from out of the majority. What will you say: that she went to them? Then it is kabua',[16] and every case of kabua' is as half and half, whilst the Torah said: 'A mamzer shall not enter': only a certain mamzer may not enter, but a doubtful mamzer may enter; only into a certain assembly may he not enter, but he may enter into a doubtful assembly.[17] Then what is the reason that they [the Rabbis] ruled that a shethuki is unfit? — For fear lest he marry his paternal sister. If so, a shethuki should not marry a shethukith,[18] for fear lest he marry his paternal sister? — Do all such go [eternally] a-whoring?[19] Then let him not marry the daughter of a shethukith, lest he marry his

paternal sister? But [you must answer that] it is rare: then here too,[20] it is rare![21] — But [the reason is:] a higher standard was set up in respect to genealogy.

Raba also said: By Biblical law, a foundling is fit. What is the reason? A married woman ascribes [an illegitimate child] to her husband.[22] What [fear] is there?[23] [Because of] a minority of arusoth[24] and a minority whose husbands have gone overseas?[25] But since there are unmarried [women], and also [children thrown away] on account of poverty,[26] it is half and half, and the Torah said: 'A mamzer shall not enter into the assembly of the Lord': only a certain mamzer may not enter, but a doubtful mamzer may; only into a certain assembly may he not enter, but he may enter into a doubtful one. Why then did they [the Rabbis] rule that a foundling is unfit? Lest he marry his paternal sister.[27] If so, one foundling should not marry another, lest he marry his sister by his father or and his mother? — Do all these go throwing [their children away]![28] Let him not marry the daughter of a foundling, lest he marry his sister? But [you must answer that] it is rare: then here too[29] it is rare![30] — But [the reason is:] a higher standard was set up in respect to genealogy.

Rabbah son of R. Huna said: If he [the foundling] is found circumcised,

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(1) Though the former is certainly unfit, while the latter is doubtful.

(2) Though the former is of doubtful fitness while the latter is certainly fit. The last two are deduced by translating as in the text infra.

(3) Since there is no verse left to teach their inclusion, and hence the relevant prohibitions do not apply to them.

(4) Since both are of the tribe of Levi.

(5) That these too are included.

(6) Ibid. 3.

(7) V. n. 3.

(8) As R. Jose says: 'assembly' has to be stated twice for the marriage of a mamzer with a shethuki, and of a shethuki with an Israelite.

(9) Num. XV, 15. Now, 'for the assembly' is superfluous: hence it teaches that ger (proselyte) is included in the term wherever it is found.

(10) Shewing that 'ger' is not included in 'assembly'.

(11) I.e., to those who may not marry into the priesthood. Thus, whereas a priest may not marry the daughter of a halal, freedman or proselyte, the daughter of a priest may marry one of these. — This does not refer to the ordinary unfit, such as mamzerim or Nethinim.

(12) Mahuza contained many proselytes, whom this offended.

(13) V. n. 1.

(14) I.e., who might be the child's father.

(15) Since we know that the mother was unmarried, the only men whose issue is mamzer are mamzerim and consanguineous relations; for a heathen or slave does not produce mamzer. Thus only a minority are unfit in this respect.

(16) V. Glos.

(17) The following example illustrates the principles of 'separation' and kabua' (fixed). If there are ten butcher shops in a street, nine of which supply kasher meat (ritually fit), and one supplies trefa meat (not fit), and a piece of meat is found in that street, it is assumed to be kosher, following the majority. If, however, meat is bought in one of the shops, but it is not known of which, it is accounted as though there were an equal number of each, and on the usual principle in such cases, unfit. For in the first instance the meat was 'separated' from its appointed place, sc. the shop, whereas in the second it remained fixed (kabua') until purchased, when the doubt arose. Here too, all men are jointly looked upon as a mass stationed in one place. If one goes to the mother of this child, he 'separated himself from the majority, hence was probably eligible. But even if she goes to him, so that the minority count as much as the majority, it is still a matter of equal doubt, which in the case of mamzer is not forbidden.

(18) Fem. of shethuki.

(19) Are we to assume that every child of unknown parentage has the same father-surely not!

(20) With respect to a shethuki marrying an ordinary person.

(21) That he should chance upon his paternal sister, and therefore the possibility is disregarded. Hence the question

remains, why is a shethuki forbidden?
(22) And would not cast him away.
(23) That the foundling may be mamzer?
(24) Pl. of arusah.
(25) And the foundling may be theirs.
(26) Lit., 'hunger,' — the child may be legitimately born. — The child of an unmarried woman is not mamzer.
(27) But there is no fear of his maternal sister, for since we know his intended mother-in-law as a virtuous woman, we do not suspect her of adultery and that this may be her son (Rashi). Of course, the same might be urged of his intended father-in-law, but that it is easier for a man to conceal an illegitimate liaison than for a woman (Maharsha).
(28) Are we to assume all foundlings the children of the same mother or father!
(29) With respect to a foundling marrying an ordinary person.
(30) V. p. 374, n. 4.

Talmud - Mas. Kiddushin 73b

he is not [forbidden] on account of [the law of] a foundling.[1] If his limbs are set, he is not [forbidden] as a foundling. If he has been massaged with oil, fully powdered, has beads hung on him, wears a tablet [with an inscription] or an amulet,[2] he is not considered a foundling. If he is suspended on a palm tree, if a wild beast can reach him, he is [forbidden] as a foundling;[3] if not, he is not considered a foundling. [If exposed on] a sorb bush: near a town, he is considered a foundling;[4] if not, he is not a foundling. [If found in] a synagogue near a town where many congregate, it is not a foundling; otherwise, it is.[5]

Amemar said: [If found in] a pit of date stones,[6] he is considered a foundling; in the swift current of the river, he is not a foundling;[7] in shallow water,[8] he is a foundling: in the side passages off public thoroughfares, he is not a foundling; in a public thoroughfare, he is a foundling.[9] Said Raba: But in famine years he is not considered a foundling. This [dictum] of Raba, to what [does it refer]? Shall we say, to a public thoroughfare? because it is in famine years one [the mother] is to kill him! Again, if it refers to the side passages off a public thoroughfare, why particularly famine years? [It is so] even without famine years! — But Raba's [dictum] was stated in reference to what Rab Judah said in the name of R. Abba in the name of R. Judah b. Zabdi in Rab's name: As long as he [the exposed child] is in the street, his father and mother are believed concerning him;[10] but if he has been gathered in from the street, they are not believed concerning him. What is the reason? — Said Raba: Because he has already acquired the name of a foundling. Then Raba also said: But in famine years, even if he has been gathered in from the street: his father and mother are believed concerning him.

R. Hisda said: Three are believed there and then,[11] and these are they: a foundling, a midwife, and she who frees her companions [from the suspicion of uncleanness]. A foundling, as stated.[12] A midwife, as was taught: A midwife is believed when she states: 'This one issued first and this one issued second.'[13] When is that? [Only] if she did not go out [from the chamber of confinement] and return; but if she went out and then returned, she is not believed. R. Eliezer said: If she was known to have been at her post, she is believed; if not, she is not believed. Wherein do they differ? — They differ where she turned her face away.[14]

What is the reference to her who frees her companions? — For we learnt: If three women were sleeping in one bed, and blood was found under one of them, they are all unclean.[15] If one examined herself and was found to be unclean, she is unclean, while the others are clean. Said R. Hisda: [That means] that she examined herself forthwith.[16]

Our Rabbis taught: A midwife is believed when she affirms, 'This one is a priest, this one is a Levite, this one a Nathin, this one a mamzer.'[17] When is that? Only if no protest is raised: but if a

protest is raised, she is not believed. What kind of a protest? Shall we say, a protest by one person? Surely R. Johanan said: A protest is invalid if made by less than two? Hence it means a protest by two. Alternatively, I may say [that] after all that it was a protest by one. Yet when did R. Johanan say: A protest is invalid if made by less than two? Only where we have a presumption of fitness;[18] but if there is no presumption of fitness,[19] even one is believed.

A vendor[20] is believed when he says: 'To this one I sold [it] and to this one I did not sell.' When is that? Only if his ware is in his hand; but if his ware is no longer in his hand, he is not believed.

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(1) If he were not fit, his parents would not trouble to circumcise him.

(2) The last three are for identification.

(3) Were he legitimate, his parents would have taken greater care of him.

(4) Sorb bushes near a town were held to be haunted by demons.

(5) Synagogues far from town and when infrequented were likewise thought to be haunted.

(6) Where these are deposited as fodder.

(7) Parents would not trouble to place him in the middle of the river, where ships abound, if he were not fit.

(8) Formed by melting snow which affords no passage to ships.

(9) For it is dangerous to leave a child there.

(10) In their claim that he is their child.

(11) When the doubt first arises, but not afterwards.

(12) The parents' claim is admitted only while he is in the street, but not after.

(13) When twins are born.

(14) According to the first Tanna she is believed, but not in R. Eliezer's opinion, for by turning her back on the mother she left her post.

(15) In sleep they do not keep to the same spot all the time, and any one might have discharged the blood.

(16) שיעור וסת , v. Nid. 14b.

(17) If several women of different genealogical status are confined together.

(18) Which the protest seems to overthrow.

(19) As here, when the identity of the babes is in question.

(20) Lit., 'the owner of the ware'.

Talmud - Mas. Kiddushin 74a

Then let us see whose money he holds? — This arises only when he holds [money] from both, and states: 'one [paid me] with my consent, and the other against my will,' and it is not known[1] which was with his consent and which against his will.

A judge is believed when he says: 'I have ruled in favour of this one; I have ruled against that one.' When is that? Only if the litigants are [yet] standing before him; but if they are no longer standing before him, he is not believed. Then let us see who holds the judgment writ in favour?[2] — This arises only if their judgment writ was torn. Then let us rejudge them? — [It is a case of] the judges' discretion.[3]

R. Nahman said: Three are believed with respect to a first-born. These are they: The midwife, the father and the mother. The midwife, [only] immediately. The mother, the first seven days;[4] the father, for all time. As it was taught: He shall acknowledge [the firstborn]:[5] [i.e.,] he shall acknowledge him before others. Hence R. Judah said: A man is believed when he says: 'This son is my first — born. And just as he is believed when he says: 'This son is my firstborn,' so is he believed when he says: 'This is the son of a divorced woman', 'this is the son of a haluzah'.[6] But the Sages say: He is not believed.[7]

ABBA SAUL USED TO CALL THE SHETHUKI 'BEDUKI'. What is [implied by] BEDUKI?[8]

Shall we say that we examine his mother, and if she maintains, 'I cohabited with a fit person,' she is believed? Then with whom [does this agree]? with R. Gamaliel! But we learnt it once. For we learnt: If she [an unmarried woman] is pregnant and is asked: 'What is the nature of this child?' and she replies, 'He is from So-and-so, who is a priest': R. Gamaliel and R. Eliezer said: She is believed; R. Joshua said: We do not live by her words.[9] Now, Rab Judah said in Samuel's name: The halachah agrees with R. Gamaliel![10] — One is to declare her [the mother] fit; the other is to declare her daughter fit.[11] Now, that is well on the view that he who declares her [the mother] fit, declares the daughter unfit.[12] But on the view that he who declares her fit declares her daughter fit [too], what does Abba Saul come to teach us? — Abba Saul's [ruling] is more remarkable than R. Gamaliel's. For if from there,[13] I might argue, [It is only] there, where most [men] are fit for her;[14] but here, that most [men] are unfit for her,[15] I might say, [she is] not [believed].[16] Hence it is necessary. Said Raba: The halachah agrees with Abba Saul.

MISHNAH. ALL WHO ARE FORBIDDEN TO ENTER INTO THE ASSEMBLY[17] MAY INTERMARRY WITH EACH OTHER; R. JUDAH FORBIDS IT. R. ELEAZAR SAID: CERTAIN [UNFITS] ARE PERMITTED [TO INTERMARRY] WITH CERTAIN [UNFITS].[18] CERTAIN [UNFITS] WITH DOUBTFUL [UNFITS], DOUBTFUL WITH CERTAIN, OR DOUBTFUL WITH DOUBTFUL, ARE FORBIDDEN. NOW, THESE ARE THE DOUBTFUL: SHETHUKI, FOUNDLINGS AND CUTHEANS.[19]

GEMARA. What is meant by 'ALL WHO ARE FORBIDDEN TO ENTER INTO THE ASSEMBLY'? Shall we say: Mamzerim and Nethinim, Shethuki and Foundlings? Surely that is taught in the first clause:[20] Mamzerim and Nethinim, Shethuki and Foundlings, are permitted to intermarry! Again, [when it states] 'R. JUDAH FORBIDS IT', to what does this refer? Shall we say, to certain with doubtful — but since the last clause states: R. ELEAZAR SAID: CERTAIN [UNFITS] ARE PERMITTED [TO INTERMARRY] WITH CERTAIN [UNFITS]; DOUBTFUL WITH CERTAIN, OR DOUBTFUL WITH DOUBTFUL, ARE FORBIDDEN, this proves that R. Judah does not hold thus. And should you answer: R. JUDAH FORBIDS IT refers to [the marriage of] a proselyte and a mamzereth, is it then taught, a proselyte with a mamzereth: ALL ARE FORBIDDEN TO ENTER INTO THE ASSEMBLY is taught![21] — Said Rab Judah,

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(1) [Var. lec. 'he does not know', i.e., the seller does not recollect the matter; v. Tosaf.]

(2) The court issued a written verdict to each litigant.

(3) Where the verdict cannot be determined by reference to any law, the judge must use his own discretion, v. Keth. 85b. In such a case we cannot be certain that a re-trial will give the same verdict.

(4) On the eighth day the child is circumcised, and from then the right of recognition rests with the father.

(5) Deut. XXI, 57.

(6) Where the father is a priest, and thus declares the son a halal.

(7) This refers only to the son of a divorced woman etc. (Rashi) [V. however B.B. (Sonc. ed.) p. 530. n. 8.]

(8) Lit., 'examined.'

(9) I.e., she is disbelieved.

(10) Then why repeat it?

(11) R. Gamaliel refers to the woman herself, who has a presumptive status of fitness. Yet if she bare a daughter, a doubt is entertained, and the daughter may not marry a priest since there is no such presumption in her favour. But Abba Saul rules that the daughter too is fit.

(12) V. Keth. 13b. Hence Abba Saul goes beyond R. Gamaliel.

(13) Sc. the Mishnah of R. Gamaliel.

(14) E.g., if she is unbetrothed.

(15) E.g., if she is an arusah, so that all except the arus are unfit, in that a child by them is mamzer.

(16) When she asserts that the child is by the arus.

(17) I.e., to marry a legitimately born Jew: the language is Biblical, Deut. XXIII, 2-4.

(18) E.g., a mamzer with a Nathin.

(19) V. Glos. In Talmudic times their status fluctuated and the Rabbis seem to have been undecided how to regard them. As this Mishnah shews, they were still regarded as Jews, though falling within the category of 'doubtful' in respect of genealogy. In later times they were declared non-Jews absolutely.
(20) The Mishnah on 69a.
(21) V. supra 72a. And this does not include a proselyte.

Talmud - Mas. Kiddushin 74b

This is its meaning: ALL WHO ARE FORBIDDEN TO ENTER INTO THE ASSEMBLY of priesthood — namely,[1] A female proselyte less than three years and one day, this disagreeing with R. Simeon b. Yohai[2] — MAY INTERMARRY WITH EACH OTHER.[3] Then let us relate it to one aged three years and a day, so agreeing even with R. Simeon b. Yohai? — If so, its refutation is at its side. [For we would then argue thus:] It is only because she is three years and a day; but if less than three years and one day, since she may enter into the assembly of priests, she is forbidden [to intermarry] with the others?[4] But what of [the case of her] who is less then three years and a day, according to R. Simeon b. Yohai, who, though she may enter into the assembly of priests, may yet intermarry with the others![5]

[But] is it a general principle that all who are forbidden to enter into the assembly of priesthood may intermarry with each other? But what of a widow, a divorced woman, a halalah and a zonah,[6] who are forbidden to enter into the assembly of priesthood,[7] and yet may not intermarry with these others? Furthermore, [the principle implies,] but one who is permitted [to marry into the priesthood] is forbidden [to intermarry with these]; but a proselyte is permitted to a priest's daughter, yet also permitted to a mamzereth![8] — But, said R. Nathan b. Hoshaia: This is what [the Mishnah] means: One whose daughter a priest may not marry — and who is that? a proselyte married to a proselyte, this agreeing with R. Eliezer b. Jacob[9] — may intermarry with these others.[10] Now, is it a general principle that one whose daughter a priest may not marry may intermarry with these? But what of [the case of] a halal who marries an Israelite's daughter, though a priest may not marry his daughter, yet he may not intermarry with these others?[10] — That is no difficulty: [our Tanna teaches] according to R. Dosethai b. Judah.[11] But what of a halal who marries a halalah, though a priest may not marry his daughter, yet he may intermarry with these others.[10] Furthermore, [the principle implies,] but one whose [daughter] is permitted [to marry a priest] is forbidden [to intermarry with these]; but what of a proselyte who marries an Israelite's daughter, though a priest may marry his daughter, yet he may intermarry with these others![12] — But, said R. Nahman in Rabbah b. Abbuha's name: Here they differ with respect to a mamzer from a sister and a mamzer from a married woman. The first Tanna holds that even a mamzer from a sister is mamzer; while R. Judah holds: from a married woman it is mamzer, but not from a sister.[13] Then what does he [the Tanna of our Mishnah] inform us? We have [already] learnt it: Who is mamzer? All who are subject to 'he shall not enter':[14] this is R. Akiba's view. Simeon the Temanite said: Whoever involves the penalty of kareth at the hands of Heaven;[15] and the halachah is as his ruling. R. Joshua said: Whoever involves the penalty of death by the Court![16] — But, said Raba, they differ in reference to an Ammonite and a Moabite convert, and this is its meaning: ALL WHO ARE FORBIDDEN TO ENTER INTO THE ASSEMBLY, — and who are they? an Ammonite and a Moabite proselyte — MAY INTERMARRY WITH EACH OTHER. If so, what is meant by R. JUDAH FORBIDS IT?[17] — This is its meaning: Though R. JUDAH FORBIDS a proselyte [to intermarry] with a mamzereth, that is only a proselyte who is eligible to enter into the assembly, but not Ammonite and Moabite proselytes, who are not eligible to enter into the assembly.

Our Rabbis taught: A male aged nine years and a day,[18] [whether he be] an Ammonite, Moabite, Egyptian or Edomite convert, or a Cuthean, Nathin, halal or mamzer, who has intercourse with the daughter of a priest, a Levite or an Israelite, he disqualifies her.[19] R. Jose said: He whose seed [i.e., issue] is unfit [for the priesthood] disqualifies,[20] but he whose issue is not unfit does not disqualify.

R. Simeon b. Gamaliel said:

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(1) Lit., ‘who is it?’

(2) ‘ASSEMBLY,’ according to this, refers to the priesthood, and this Tanna holds that even if a child less than three years and a day becomes a proselyte she is forbidden to a priest, thus disagreeing with R. Simeon b. Yohai, infra 78a.

(3) And R. Judah's statement can thus refer to the marriage of a proselyte and mamzereth.

(4) Sc. mamzer, etc.

(5) For since she may marry a mamzer, it follows that the assembly of proselytes is not designated ‘assembly’ (v. supra a); hence the same holds good if she becomes a proselyte before that age.

(6) Lev. XXI, 7: ‘harlot’. For the definition, v. Yeb. 61b.

(7) A widow may not marry a High Priest; the others are interdicted to all priests.

(8) As in n. 3.

(9) Infra 77a.

(10) Sc. mamzer, etc.

(11) Ibid. and supra 64a.

(12) Sc. mamzer, etc.

(13) The Mishnah does not refer to a proselyte at all, but to the question whether these two illegitimate children may intermarry. A sister is interdicted on pain of kareth, q.v. Glos; adultery with a married woman is punishable by death. The first Tanna treats the issue of both as mamzer, and he states, those who are forbidden to enter the assembly as mamzerim may intermarry. But R. Judah maintains that only the latter, forbidden on pain of death, is mamzer, but not the former; hence they may not intermarry.

(14) I.e., even the issue of a union interdicted by a mere negative precept.

(15) The child of such a union so forbidden.

(16) Thus this dispute is taught elsewhere (Yeb. 49a); why repeat it here?

(17) Surely these may marry a mamzer, since these do not come under the category of ‘assembly’.

(18) Before that he cannot engender.

(19) The first, to eat terumah; the other two, to marry a priest.

(20) The woman with whom be cohabits.

Talmud - Mas. Kiddushin 75a

One whose daughter you [i.e., a priest] may marry, you may marry his widow; but one whose daughter you may not marry, you may not marry his widow.

Wherein do the first Tanna and R. Jose differ? — Said R. Johanan: They differ in respect to a [converted] Egyptian of the second [generation],[1] and both learn it from none but a High Priest with a widow. The first Tanna holds, it is like a High Priest with a widow: just as a High Priest with a widow, since his intercourse is sinful, he disqualifies her;[2] so all whose intercourse is sinful disqualify. While R. Jose holds, It is like a High Priest with a widow: just as a High Priest with a widow, his issue is unfit,[3] [and] he disqualifies [the widow]; so all whose issue is unfit disqualify, thus excluding an Egyptian of the second generation, whose issue is not unfit, for the Writ saith, The children of the third generation that are born unto them shall enter into the assembly of the Lord.[4]

‘R. Simeon b. Gamaliel said: He whose daughter you, [i.e., a priest] may marry, you may marry his widow; but he whose daughter you may not marry, you may not marry his widow.’ Wherein do R. Jose and R. Simeon b. Gamaliel differ? — Said ‘Ulla: They differ in respect to an Ammonite and a Moabite proselyte;[5] and both learn it from none but a High Priest with a widow. For R. Jose maintains, It is like a High Priest with a widow: just as a High Priest with a widow, his issue is disqualified, and he disqualifies [the widow]; so all whose issue is disqualified, disqualify. While R. Simeon b. Gamaliel maintains, It is like a High Priest with a widow; just as a High Priest with a widow, all his issue is disqualified,[6] so everyone, all whose, issue, even the females, are disqualified [disqualifies his wife], thus excluding Ammonite and Moabite proselytes, whose females are eligible

to enter into the assembly; for a Master said: An Ammonite [. . . shall not enter, etc.], but not an Ammonitess; a Moabite [shall not enter, etc.],[7] but not a Moabitess.

R. Hisda said: All agree that the widow of a member of a suspected family[8] is unfit for the priesthood. [For] who is the most lenient of these Tannaim? R. Simeon b. Gamaliel. Yet he says: He whose daughter you may marry, you may marry his widow; but he whose daughter you may not marry, you may not marry his widow. What does this exclude? It excludes the widow of a suspected family, [teaching] that she is unfit for the priesthood.[9] This conflicts with the following Tannaim: For we learnt: R. Joshua and R. Judah b. Bathyra testified[10] concerning the widow of a member of a suspected family, that she is fit for the priesthood. What is the reason? Because it is a double doubt,[11] and a double doubt [inclines] to a lenient ruling.[12]

CERTAIN [UNFITS] ARE PERMITTED [TO INTERMARRY] WITH CERTAIN [UNFITS]. Rab Judah said in Rab's name: The halachah is as R. Eleazar. When I stated it before Samuel, he observed to me, Hillel taught: Ten genealogical classes went up from Babylon and all are permitted to intermarry;[13] yet you say that the halachah is as R. Eleazar! Now, both Rab and Samuel are self-contradictory. For it was stated: If an arusah becomes pregnant:[14] Rab maintained: The child is mamzer;[15] while Samuel ruled: The child is shethuki and forbidden to a mamzereth! — Reverse it: Rab maintained: The child is shethuki; and Samuel ruled: The child is mamzer. What is the need of two?[16] — It is necessary. For if it were stated in this case [of our Mishnah, I would say, only] here does Rab rule thus, because the majority are eligible to her;[17] but there, that the majority are unfit for her,[18] I might argue that he agrees with Samuel. Again, If it were stated in the latter case, [only] there does Rab rule thus, because he [the issue] may be imputed to the arus; but in this [the former], I would say that he agrees with Samuel. Hence both are necessary.

Alternatively, you need not reverse it after all, and what does Rab mean by mamzer? Not that he may marry a mamzereth, but that he is forbidden to a daughter of Israel.[19] Now, when Samuel rules: The child is shethuki [it means] that he is forbidden to a daughter of Israel? If so, that is Rab's view! — But what is meant by shethuki? That he is 'silenced' from the rights of priesthood.[20] Surely that is obvious? If he is 'silenced' from the rights of an Israelite,[21] need it [be said] from the rights of priesthood! — But what is meant by shethuki? He is 'silenced' from his father's estate.[22] Surely that is obvious; do we then know who his father is? — This arises only where he has taken possession.[23] Alternatively, what is meant by shethuki? Beduki [examined]. That is [to say] we examine his mother, and if she maintains, 'I cohabited with a fit person,' she is believed.[24] With whom does this agree? — With R. Gamaliel? But Samuel has already stated it once! For we learnt: If she [an unmarried woman] was pregnant, and was asked: 'What is the nature of this child?' And she replied: 'He is by So-and-so, who is a priest': R. Gamaliel and R. Eliezer said: She is believed; R. Joshua said: We do not live by her words.[25] And Rab Judah said in Samuel's name: The halachah agrees with R. Gamaliel? — It is necessary. For if [I were to deduce] from there, I would argue, 'There, most men are fit for her;[26] but here, most men are unfit for her,[27] I would say [she is] not [believed]. Hence both are necessary.

It was taught: And thus did R. Eleazar say: A Cuthean may not marry a Cuthean. What is the reason? — Said R. Joseph: He was treated as a proselyte after ten generations. For it was taught: A proselyte, until ten generations, may marry a mamzereth; thereafter he is forbidden [to marry] a mamzereth. Others state: [He is permitted] until the name of heathenism has completely fallen away from him. Said Abaye to him: How compare! There it is a proselyte of ancient [stock] and a recent mamzereth, so it will be said: He is an Israelite marrying a mamzereth,' whereas here they are both alike? — But when R. Dimi came,[28] he said: R. Eleazar agrees with R. Ishmael,

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(1) V. Deut. XXIII, 8f. The first Tanna holds that he disqualifies her; but R. Jose holds that he does not, since his issue, being of the third generation, is not unfit.

(2) As in n. 1.
(3) I.e, halal.
(4) Ibid.
(5) A male proselyte of these peoples may never intermarry with a Jew; a female, however, is permitted. R. Jose holds that his intercourse renders the woman unfit; R. Simeon b. Gamaliel, that it does not.
(6) Including females.
(7) Deut. XXIII, 4.
(8) עיסה , 'mixed dough'. I.e., a family in which a forbidden element is suspected to have entered; v. 'Ed. (Sonc. ed.) p. 48, n. 2 and Keth. 14a and b.
(9) For her husband might be a halal, in which case his daughter must not marry a priest; hence his widow too is forbidden.
(10) V. 'Ed. VIII, 3.
(11) Lit., 'the doubt of a doubt.' Thus, the unfitness even of her husband is only doubtful; and since her unfitness is through him, we regard it as a still weaker doubt, i.e., a double doubt.
(12) We always give a lenient ruling in such a case.
(13) Rashi: 'all' means the forbidden classes; Tosaf. explains: each category is permitted to marry within itself; on both views 'doubtful' may intermarry with 'doubtful,' thus disagreeing with R. Eleazar. — On 'Hillel taught' both Rashi and Tosaf. Ri observe: in the Baraitha based on this Mishnah of 'TEN GENEALOGICAL CLASSES'. Weiss. Dor. I, p. 175 (1924 ed.) conjectures that this might have been taught when Herod destroyed the ancient Book of genealogical records, of which this may be an extract. (The verb shanah employed here generally refers to a Mishnah, not a Baraitha.)
(14) And it is unknown whether by her arus or a stranger.
(15) Since the majority of men are forbidden to her, we regard it as certain that the child was born in adultery, and so it is a certain mamzer. Thus Rab treats a doubt as a certainty, which agrees with the first Tanna on 74a, that doubt and certainty may intermarry, and not with R. Eleazar.
(16) Why teach this conflict of Rab and Samuel twice?
(17) The Mishnah treats of a shethuki born of an unmarried woman; since most men are fit for her, it is unlikely that the issue is mamzer, and therefore must not intermarry with mamzer.
(18) Since she is an arusah.
(19) I.e., any Jewess. Thus this corresponds to Rab's ruling that the halachah is as R. Eleazar.
(20) If the arus is a priest, this child does not enjoy the privileges of priesthood, e.g., of eating terumah.
(21) He cannot marry a daughter of an Israelite.
(22) He does not inherit the estate of the arus.
(23) Claiming that the arus was his father. We might think that he retains it unless the contrary is proved. Hence Samuel teaches otherwise.
(24) Cf. supra 74a.
(25) I.e., she is disbelieved.
(26) Since she is unmarried.
(27) Since she is betrothed.
(28) V. p. 46, n. 6.

Talmud - Mas. Kiddushin 75b

and R. Ishmael agrees with R. Akiba. [Thus:] R. Eleazar agrees with R. Ishmael, who maintained: Cutheans are proselytes [through fear] of lions.[1] And R. Ishmael agrees with R. Akiba, who said: If a heathen or a slave has intercourse with the daughter of an Israelite, the issue is mamzer.[2] But does R. Ishmael hold with R. Akiba? Surely R. Johanan said on R. Ishmael's authority: How do we know that a heathen or a slave who has intercourse with the daughter of a priest, a Levite, or an Israelite, disqualifies her?[3] Because it is said: But if a priest's daughter be a widow, or divorced, [and have no child. . . she shall eat of her father's bread,]:[4] [this holds good only of] one who comes within the ambit of widowhood. and divorce; thus excluding a heathen or a slave, who does not come within the ambit of widowhood and divorce.[5] Now should you think that he holds with R. Akiba — if he [the issue] is mamzer, is it necessary [to deduce] that he [the heathen] disqualifies by his

intercourse![6] But R. Eleazar agrees with R. Ishmael who maintained that Cutheans are proselytes [through fear] of lions, and he also agrees with R. Akiba, who said: If a heathen or a slave has intercourse with a Jewess, the issue is mamzer.

Yet does R. Eleazar hold with R. Akiba? But R. Eleazar said: Though Beth Shammai and Beth Hillel differ with respect to co-wives,[7] they agree that mamzer is only from one who is forbidden on the score of consanguinity on pain of kareth![8] — But when Rabin came,[9] he said in the name of R. Hiyya in R. Johanan's name — others state, in the name of R. Abba b. Zabda in R. Hanina's name — others state, in the name of R. Jacob b. Idi in R. Joshua b. Levi's name: There are three opposing views in this matter: — [i] R. Ishmael holds: Cutheans are proselytes [through fear] of lions, and the priests who became mixed up in them were unfit priests, as it is said, and they made unto them from among themselves [mikezotham] priests of the high places,[10] whereon Rabbah b. Bar Hanah commented: from the most unworthy[11] of the people [sc. priests], and on that account they were disqualified. [ii] R. Akiba holds: Cutheans are true proselytes, and the priests who became mixed up in them were fit priests, as it is said: 'and they made unto them from among themselves priests of the high places,' which Rabbah b. Bar Hanah interpreted:[12] from the choicest[13] of the people. Yet why did they interdict them? — Because they subjected arusoth to yibum,[14]

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(1) Cf. II Kings, XVII, 25. Therefore they are to be regarded as heathens.

(2) Thus the Cuthean (male) may be the issue of a Cuthean and a Jewess, hence mamzer; while the female may be born of two Cutheans, hence a heathen. Now a mamzer is a Jew, though debarred from a legitimately-born Jewess, and may not marry a heathen.

(3) If she is a priest's daughter, from eating terumah: the other two, from marrying a priest. Or, if she had been formerly married to a priest, who had died and left her with a son, who would otherwise entitle her to eat terumah, she is now forbidden.

(4) I.e., terumah, Lev. XXII, 13.

(5) I.e., only when she cohabits with one whose death leaves her a widow, or who can divorce her, does she remain fit to eat terumah. But not when she cohabits with a heathen or slave, for since these cannot legally marry her, they cannot give her the status of widowhood or divorce. — Where a woman is disqualified from eating terumah, she is certainly ineligible to marry a priest.

(6) Surely not, since the former involves even a greater degree of unfitness.

(7) V. Yeb. 13a.

(8) And a heathen or slave is not thus forbidden.

(9) V. p. 46, n. 6.

(10) II Kings XVII, 32.

(11) Lit., 'thorns', Heb. kozim: i.e.,the unfit priests.

(12) On R. Akiba's view.

(13) Var. lec.: 'nobles', Heb. kezinim, which shews the connection with kezotham.

(14) V. Glos.

Talmud - Mas. Kiddushin 76a

but exempted married women.[1] What was their interpretation?[2] — The wife of the dead shall not marry without [ha-huzah] unto a stranger:[3] she who sat 'without' shall not marry a stranger; but she who did not sit 'without' may marry a stranger.[4] And R. Akiba follows his view, for he maintained, There is mamzer from those who are subject [only] to negative injunctions.[5] [iii] Some state, because they are not thoroughly versed in the [minute] details of precepts. Who is meant by 'some state?' — Said R. Idi b. Abin: It is R. Eliezer. For it was taught: The unleavened bread of a Cuthean is permitted,[6] and one fulfils his obligation therewith on Passover;[7] but R. Eliezer forbids it,[8] because they are not thoroughly versed in the [minute] details of precepts. R. Simeon b. Gamaliel said: Every precept which Cutheans have adopted, they observe it with minute care, [even] more than the Israelites. But here [in respect to marriage], wherein are they not well-versed? — Because they are

not well-versed in the law of betrothal and divorce.[9]

R. Nahman said in Rabbah b. Abbuha's name: A mamzer by a sister and a mamzer by a brother's wife became mixed up among them [the Cutheans].[10] What does he inform us? — That there is mamzer from those who are liable to kareth.[11] Then let one [only] be taught?[12] — The actual event happened thus. Raba said: A [heathen] slave and a bondmaid were mixed up in them. Now, on whose account is the interdict? On account of the bondmaid![13] Then let one [only] be taught! — The actual event happened thus.

MISHNAH. HE WHO MARRIES A PRIEST'S DAUGHTER[14] MUST INVESTIGATE HER DESCENT[15] UP TO FOUR MOTHERS, WHICH ARE EIGHT. [VIZ.,] HER MOTHER AND HER MOTHER'S MOTHER, HER MOTHER'S PATERNAL GRANDMOTHER[16] AND HER MOTHER, HER FATHER'S MOTHER AND THIS ONE'S MOTHER, HER FATHER'S PATERNAL GRANDMOTHER AND HER MOTHER.[17] [IN THE CASE OF] THE DAUGHTER OF A LEVITE OR AN ISRAELITE, ONE MORE IS ADDED.[18] WE MAKE NO INVESTIGATION FROM THE ALTAR AND UPWARDS, FROM THE DUKAN [DAIS] AND UPWARDS, NOR FROM THE SANHEDRIN AND UPWARDS.[19] AND ALL WHOSE PARENTS WERE ESTABLISHED TO HAVE BEEN AMONG THE PUBLIC OFFICERS[20] OR CHARITY OVERSEERS ARE PERMITTED TO MARRY INTO THE PRIESTHOOD, AND THEIR DESCENT IS NOT INVESTIGATED. R. JOSE SAID: ALSO WHOEVER WAS SIGNED AS A WITNESS IN THE OLD COURT[21] OF SEPPHORIS.[22] R. HANINA B. ANTIGONUS SAID: ALSO ONE WHO WAS RECORDED IN THE KING'S LIST OF OFFICERS.[23]

GEMARA. Why are the women investigated but not the men? — When women quarrel among themselves, they quarrel [only] about immorality,[24] so that if there is anything,[25] it is not generally known.[26] But when men quarrel among themselves, they quarrel over birth;[27] if there is anything, it is generally known.

Now, let her too investigate his [forbears]? — This supports Rab. For Rab Judah said in Rab's name: Fit women were not admonished not to marry the unfit.[28]

R. Adda b. Ahabah recited: Four mothers, which are twelve.[29] In a Baraitha it was taught:' Four mothers, which are sixteen.[30] Now, as for R. Adda b. Ahabah, it is well;

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(1) Altogether, even from halizah.

(2) That led them to this ruling.

(3) Deut. XXV, 5. On this translation, hahuzah is a locative adverb governed by 'marry'.

(4) Taking ha-huzah as an adjective qualifying wife: the dead man's wife who is without, shall not marry a stranger. A 'wife who is without' is an arusah, who may not live with her husband until nissu'in. [V. Samaritan version of the Bible, a.l. and Montgomery, The Samaritans, p. 185.]

(5) For actually we reject that interpretation, translating as the E.V., and so even a nesu'ah is interdicted by a negative injunction, and the issue is mamzer. Hence though R. Akiba holds that the Cutheans are true proselytes, yet they contain mamzerim, which precludes intermarriage with them. Hence the interdiction of marriage with them, as explained anon.

(6) To be eaten on Passover.

(7) One had to eat at least the size of an olive of unleavened bread of flour specially guarded and prepared for the fulfilment of the precept, 'on the fourteenth day of the month at even, ye shall eat unleavened bread' (Ex. XII, 18). This Tanna holds that Cutheans know and are particular about this.

(8) I.e., one does not fulfil his obligation therewith.

(9) Thus, a woman may have been validly betrothed, yet they thought it invalid and permitted her to marry another, the issue by whom is mamzer. Another Cuthean, however, may be quite legitimate; therefore R. Eleazar forbids Cutheans to marry each other.

(10) Therefore one Cuthean may not marry another.

(11) By specifying a mamzer from an incestuous union with a sister, his intention is to teach that the issue of such, though forbidden only on pain of kareth, is mamzer, in opposition to the view (Yeb. 49a) that only when the union involves death by the court is the issue mamzer (v. Rashi).
(12) E.g., that a mamzer by a sister was mixed up among them.
(13) For, as shewn on 75b, R. Eleazar holds that the issue of a slave and a Jewess is legitimate; hence he must have declared the prohibition because of the bondmaid, whose issue has the status of a slave (supra 66b), and is forbidden to a Jew or Jewess.
(14) Lit., 'a priestly woman'.
(15) Lit., 'after her.'
(16) Lit., 'and her father's mother'.
(17) Thus the four are: her mother, her mother's paternal grandmother, her father's mother, and her father's paternal grandmother. Further, the mother of each of these is added, which gives eight. All these are examined, to see that none are unfit for a pure marriage.
(18) I.e., one generation further removed on the maternal side in both lines: to her mother and her mother's mother we add her mother's maternal grandmother, and to her father's grandmother, we add one mother more.
(19) If a priest, one of her forbears, was known to have served at the altar, or a Levite to have sung on the dais in the Temple, which was part of the Temple service, or if one was a member of the Sanhedrin, it is unnecessary to trace her descent any further.
(20) I.e., judges in ordinary courts, apart from the Sanhedrin (v. Gemara).
(21) ערכי הישנה , v. next note.
(22) Rashi's text appears to omit 'witness' in which case it means whoever stood on the list of judges. On both versions, the reason is that they were particular that these should be only men of proved purity of descent. [The meaning of the phrase ערכי הישנה is doubtful. Schurer II. 1. p. 138 (Eng. ed.) renders it 'the ancient government', **, the reference being to the old government in Sepphoris, the members of which were all Israelites, in contradistinction to the later government set up by the Romans, in his view, in the days of Hadrian, which was of a mixed or heathen composition (Buchler JQR, XVI, p. 160 dates the change in the composition of the government to the days of Agrippa II). Render accordingly 'whoever was recognised as a member of the old government'. Another possible meaning is 'old archives' or 'old family registers'. v. Buchler Priester & Cultus, pp. 198ff.]
(23) Heb. isteratya; the Gemara discusses this.
(24) One accuses the other of immorality, but not of a blemished descent.
(25) Objectionable in their pedigree.
(26) Lit., 'it has no voice.'
(27) Each throwing up the other's blemished descent.
(28) V. supra p. 373, n. 1. — Hence it is unnecessary for her to investigate his ancestors.
(29) Adding one mother to each. V. p. 388, nn. 9 and 10.
(30) Adding one more mother and the grandmother to each.

Talmud - Mas. Kiddushin 76b

he may relate it [his teaching] to the daughter of a Levite or an Israelite.[1] But must we say that the Baraitha disagrees [with the Mishnah]? — No: What is meant by ONE MORE? one more pair.[2]

Rab Judah said in Rab's name: This [sc. the Mishnah] is R. Meir's view. But the Sages maintain: All families stand in the presumption of fitness.[3] But that is not so, for R. Hama b. Guria said in Rab's name: Our Mishnah refers to where it[4] is contested![5] — The one who recited the former [in Rab's name] did not recite the latter.[6] Others state, Rab Judah said in Rab's name: This is R. Meir's view. But the Sages maintain: All families stand in the presumption of fitness. R. Hama b. Guria said in Rab's name: If it is contested, he must investigate her descent.[7]

WE MAKE NO INVESTIGATION FROM THE ALTAR AND UPWARDs. What is the reason? — Had she[8] not been examined, he would not have been promoted [to that dignity].

NOR FROM THE DAIS AND UPWARDS. What is the reason? — Because a Master said: For there sat those who certified the genealogy of the priestly and the Levitical families.[9] NOR FROM THE SANHEDRIN AND UPWARDS. What is the reason? — For R. Joseph learnt: Just as the court must be pure in righteousness, so must it be pure from any [genealogical] blemish.[10] Said Meremar: What verse teaches this?[11] Thou art all fair, my love; and there is no blemish in thee.[12] Perhaps a literal blemish [is meant]? — Said R. Aha b. Jacob: Scripture saith, that they may stand there with thee:[13] 'with thee' [implies,] like unto thee.[14] Yet perhaps that was on account of the Shechinah?[15] But[16] said R. Nahman: Scripture saith, so shall it be easier for thyself, and they shall bear the burden with thee:[17] 'with thee' [implies,] like unto thee.

ALL WHOSE PARENTS WERE NOT ESTABLISHED TO HAVE BEEN AMONG THE PUBLIC OFFICERS. Are we to say that [judges] were not appointed of [genealogically] unfit persons? But the following contradicts it: All are fit to adjudicate in civil matters, but not all are eligible to judge capital cases. Now, we pondered thereon: What does 'all' include? And Rab Judah said: It includes mamzer. — Said Abaye: In Jerusalem.[18] And so did R. Simeon b. Zera recite in Kiddushin of the School of Levi:[19] In Jerusalem.

OR CHARITY OVERSEERS, ARE PERMITTED TO MARRY [INTO THE PRIESTHOOD]. What is the reason? — Since they quarrel with people, for a Master said: Pledges are taken for charity, even on Sabbath eve,[20] if there were [a blemish in his family], it would be known.

R. Adda b. Ahabah's host was a proselyte, and he and R. Bibi were at variance, each claiming, I must carry on the administration of the town. So they went before R. Joseph. Said he to them, We learn it: One from among thy brethren shalt thou set king over thee:[21] all appointments[22] which thou makest must be only from the midst of thy brethren. Said R. Adda b. Ahabah to him: Even if his mother is a Jewess? — If his mother is a Jewess, he replied, we apply to[23] him, 'from the midst of thy brethren'. Therefore let R. Bibi, who is a great man, give his attention to Heavenly matters,[24] and do you, Sir, pay attention to affairs of the town.[25] Said Abaye: Therefore, when one provides a scholar with residence in his boarding house, let him provide it for one like R. Adda b. Ahabah, who is able[26] to argue[27] in his favour.

R. Zera took trouble over them [sc. proselytes]; Rabbah b. Abbuhah took trouble over them. In the west [Palestine] not even an Inspector of Measures[28] was appointed of them. In Nehardea, not even an irrigation superintendent was appointed of them.

R. JOSE SAID: EVEN ONE WHO WAS etc. What is the reason? They [first] investigated, and then allowed them to attest.

R. HANINA B. ANTIGONUS etc. Rab Judah said in Samuel's name: [This refers to the officers] in the armies of the House of David. Said R. Joseph: What verse teaches this?[29] And they who were reckoned by genealogy for service in war.[30] And what is the reason?[31] — Said Rab Judah in Rab's name: In order that their own merit and the merit of their fathers might aid them. But there was Zelek the Ammonite;[32] surely that means that he was descended from Ammon? — No: that he dwelt in Ammon. But there was Uriah the Hittite;[33] surely that means that he was descended from Heth? — No: that he dwelt among the Hittites. But there was Ittai the Gittite.[34] And should you answer, here too it means that he dwelt in Gath, — but R. Nahman said: Ittai the Gittite came and destroyed it.[35] Moreover, Rab Judah said in Rab's name, David had four hundred children, all the offsprings of 'beautiful women,'[36] all with hair trimmed in front[37] and locks growing long;[38] and all sat in golden chariots and went at the head of armies, and they were the strong men[39] of the House of David! — They merely went to terrorise [the opposing armies].[40]

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(1) As stated in the Mishnah.

(2) A mother and grandmother, which gives sixteen.
(3) Without investigation.
(4) The bride's pedigree.
(5) Two witnesses testify that it is rumoured that her descent is blemished, in which even the Rabbis would agree that investigation is required; why then does Rab ascribe the Mishnah only to R. Meir?
(6) If the Mishnah is assumed to reflect R. Meir's view, it means even if her purity is uncontested; if it is assumed to mean only where it is contested, it agrees even with the Rabbis.
(7) Even in the view of the Rabbis.
(8) The mother of the priest who served at the altar.
(9) And priests or Levites of impure descent were not permitted to sing in the Temple service or pronounce the priestly blessing. — Rashi states that this took place in the Hall of Hewn Stones, and the examiners were the Sanhedrin. Weiss, Dor p. 175, n. 2. inclines to the view that a special priestly court was set up for this purpose (Cf. 'the priestly court' mentioned in Keth. 12a), which sat in a place behind the veil. Wilna Gaon takes an intermediate position: this special court made the investigations, but the actual verdict was pronounced by the Sanhedrin.
(10) This refers to the larger or smaller Sanhedrin (v. Sanh. 2a), but not to an ordinary court.
(11) Lit., 'what is its verse?'
(12) Cant. IV, 7.
(13) Num. XI, 16: this refers to the seventy elders, who, together with Moses, were traditionally regarded as the first great Sanhedrin of seventy one.
(14) Of pure descent.
(15) The Divine Presence. For these were endowed with the power of prophecy (v. 25); yet subsequent Sanhedrins may not require unstained birth?
(16) So the reading in Sanh. 36b, and as required here.
(17) Ex. XVIII, 22. This likewise refers to the setting up of courts, and no mention is made of prophecy.
(18) Our Mishnah refers to Jerusalem, where only men of unsullied birth were permitted to be judges.
(19) I.e., in Levi's Baraitha on the Tractate Kiddushin. Z. Frankel, Darke ha'Mishnah, p. 313, and Weiss, Dor, II. 191-2 maintain that this was in opposition to Rabbi's Mishnah; Halevi, Doroth, II. 119-121 proves that it was not opposed but explanatory of and complementary to Rabbi's compilation.
(20) Charity was compulsory, and if one failed to pay his quota a pledge was forcibly taken from him; this naturally led to quarrels with the overseer.
(21) Deut. XVII, 55.
(22) Lit., 'settings.'
(23) Lit., 'read of.'
(24) Rashi: the charity collections and distribution, synagogue administration.
(25) E.g., taxation etc.
(26) Lit., 'knows'.
(27) Lit., 'turn (things) about.'
(28) Kori fr. kor, a measure.
(29) Lit., 'what is its verse?'
(30) I Chron. VII, 40.
(31) Why insist on pure birth?
(32) II Sam. XXIII, 37.
(33) II Sam. XXIII, 39.
(34) Ibid. XV, 19.
(35) Sc. Milcom, the idol of the Ammonites, and the whole point of R. Nahman's dictum is that he did this as a heathen. V. 'A. Z. 44a.
(36) Captured in war; v. Deut. XXI, 10-14.
(37) In Roman fashion, with a fringe on the forehead and curls hanging down on the temples.
(38) [Belurith (etym. obscure) a heathen fashion of growing locks from the crown of the head, hanging down in plaits at the back, v. Krauss, T.A. I 645.]
(39) Lit., men of fists.'
(40) But did not actually fight.

Talmud - Mas. Kiddushin 77a

MISHNAH. THE DAUGHTER OF A MALE HALAL IS UNFIT FOR THE PRIESTHOOD FOR ALL TIME.[1] IF AN ISRAELITE MARRIES A HALALAH, HIS DAUGHTER IS FIT FOR THE PRIESTHOOD. IF A HALAL MARRIES THE DAUGHTER OF AN ISRAELITE, HIS DAUGHTER IS UNFIT FOR THE PRIESTHOOD.[2] R. JUDAH SAID: THE DAUGHTER OF A MALE PROSELYTE IS AS THE DAUGHTER OF A MALE HALAL. R. ELIEZER B. JACOB SAID: IF AN ISRAELITE MARRIES A FEMALE PROSELYTE, HIS DAUGHTER IS FIT FOR THE PRIESTHOOD, AND IF A [MALE] PROSELYTE MARRIES THE DAUGHTER OF AN ISRAELITE, HIS DAUGHTER IS FIT FOR THE PRIESTHOOD. BUT IF A MALE PROSELYTE MARRIES A FEMALE PROSELYTE, HIS DAUGHTER IS UNFIT FOR THE PRIESTHOOD. [THE SAME LAW APPLIES TO] A PROSELYTE AS TO FREED SLAVES, EVEN UNTO TEN GENERATIONS, [HIS DAUGHTER IS UNFIT] UNLESS HIS MOTHER IS OF ISRAELITE STOCK.[3] R. JOSE SAID: ALSO IF A MALE PROSELYTE MARRIES A FEMALE PROSELYTE, HIS DAUGHTER IS FIT FOR THE PRIESTHOOD.

GEMARA. Why [state], FOR ALL TIME? — I might think, It is analogous to an Egyptian and an Edomite: just as there, after three generations [the interdict is lifted], so here too after three generations [the daughter is fit for the priesthood]. Therefore we are informed [otherwise].

IF AN ISRAELITE MARRIES A HALAL. How do we know it? — Said R. Johanan on the authority of R. Ishmael:[4] Here it is stated, and he shall not profane his seed among his people;[5] and there it is stated, he shall not defile himself, being a chief man among his people:[6] just as there, males but not females,[7] so here too, males but not females.[8] If so, let a High Priest's daughter [from a widow] be permitted [to marry a priest]? — Is it then written: '[and he shall not profane] his son'? 'His seed' is written, viz., he shall not profane his seed among his people.[9] Then let the daughter of his son be permitted? — It is written, he shall not profane his seed: [hence] his seed is assimilated to himself: just as his own daughter is unfit, so is his son's daughter unfit — Then let his daughter's daughter [too] be interdicted?[10] — If so, what is effected by the gezerah shawah?

IF A HALAL MARRIES THE DAUGHTER OF AN ISRAELITE, HIS DAUGHTER IS UNFIT. But that is stated in the first clause: THE DAUGHTER OF A MALE HALAL IS UNFIT FOR THE PRIESTHOOD FOR ALL TIME? — Because the former clause teaches: IF AN ISRAELITE MARRIES A HALALAH, the latter clause also states: IF A HALAL MARRIES THE DAUGHTER OF AN ISRAELITE.[11] Our Mishnah does not agree with R. Dosethai b. Judah. For it was taught: R. Dosethai b. Judah said: Just as the sons of Israel are a mikweh of purification for [female] halaloth, so are the daughters of Israel a mikweh of purification for [male] halalim.[12] What is R. Dosethai b. R. Judah's reason? — Scripture saith, 'he shall not profane his seed among his people': he profanes [his seed] among one people, but not among two peoples.[13]

Our Rabbis taught 'He shall not profane his seed:' I know [it] only [of] his seed; how do I know it of herself?[14] — Say, a minori: if his seed, that committed no sin, is profaned, she, who commits sin, how much the more so that she is profaned! Let him himself refute it: he commits sin, yet he is not profaned![15] As for himself, that is because he is not profaned in all other cases;[16] will you say [the same] of her, seeing that she is profaned in all other cases?[17] And should you desire to object, [then one can answer,] Scripture saith, 'he shall not profane his seed,' [which means,] This one shall not become profaned, who was [originally] fit and is [now] profaned.[18] What is meant by, 'and should you desire to object?' — [This:] and should you say, one can refute [it thus]: as for his seed, that is because he is conceived[19] in sin; [therefore] Scripture saith, 'he shall not profane his seed:' this one shall not become profaned, who was [originally] fit and is [now] profaned.

Our Rabbis taught: What is a halalah? One who was born of unfit persons. What is meant by unfit

persons? Shall we say, unfit for him?[20] But what of him who takes back his divorced wife,[21] though she is unfit for him, yet her children are fit, as it is written, she is an abomination:[22] 'she is an abomination but her children are no abomination! — Said Rab Judah This is its meaning: What is a halalah? — One who was born of a priestly disqualification.[23] Only one who was born [of such a forbidden union], but not one who was not born [thus]? But what of a widow, a divorced woman or a zonah,[24] who were not born [thus], and yet [each] is a halalah.[25] — Said Rabbah, This is its meaning: Who is the halalah mentioned, that never enjoyed a period of eligibility? She who was born of a priestly disqualification. What is the meaning of 'mentioned?' — Said R. Isaac b. Abin: This is its meaning: Who is the halalah primarily [disqualified] by the words of the Torah, and who needs no Rabbinical definition?[26] One who was born of a priestly disqualification.

Our Rabbis taught [If a High Priest has intercourse with] a widow, a widow, a widow,[27] he incurs only one penalty.[28] [If a priest has intercourse with] a divorced woman, a divorced woman, a divorced woman, he incurs only one penalty. [If he has intercourse with] a widow, a divorced and profane woman, and a harlot [zonah],[29] if they [these disqualifications] are in this order,[30] he [the High Priest] is liable [for each intercourse]. But if she [first] committed harlotry,[31] was then profaned,[32] subsequently divorced, and finally widowed, he incurs only one penalty. The Master said: '[If a High Priest has intercourse with] a widow, a widow, a widow, he incurs only one penalty.' How is this widow meant? Shall we say that he has intercourse with Reuben's widow, with Simeon's widow, and with Levi's widow, why does he incur only one penalty?

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(1) I.e., the daughter of a halal, or of the son or grandson of a halal, and of his male descendants for all generations, cannot marry a priest.

(2) This is implicit in the first statement.

(3) Lit., 'from Israel.'

(4) So the text as amended; cur. ed. Simeon.

(5) Lev. XXI, 15.

(6) Ibid. 4.

(7) Only males are forbidden to defile themselves through the dead.

(8) I.e., only the males are disqualified by a forbidden priestly marriage, but not the females; hence the daughters of the former are unfit for the priesthood, but not of the latter.

(9) Hence the gezerah shawah merely shews that the female offsprings of his female descendants are permitted, but not his own daughters.

(10) By the same reasoning.

(11) For the sake of parallelism.

(12) That their issue is eligible for the priesthood, v. supra p. 321. n. 3.

(13) I.e., only when he and his wife are of 'one people,' i.e., both halalim (profaned) is his seed halel too: but if his wife is of a different people, i.e., not a halalah, his seed is not halal either.

(14) That she is forbidden to a priest, after his death.

(15) [A priest who marries a woman forbidden to him is not disqualified from the priesthood, v. Bek. 45b and Git. 36b.]

(16) Even if he cohabits with a bondmaid or a harlot, he is not degraded from the priesthood.

(17) If a woman cohabits with a Cuthean, halal, etc., she is disqualified from the priesthood; supra 74b.

(18) Rashi: 'he shall not profane' is primarily applicable to the profaning of a person who was hitherto fit, viz., his wife. But, his seed is born profaned; hence, though the seed is mentioned in the verse too, the verb nevertheless relates to his wife.

(19) Lit., 'formed'.

(20) I.e., even if an Israelite marries a woman interdicted to him particularly (excluding a mamzereth, who is forbidden to all), the issue is halal.

(21) After she married another.

(22) Deut. XXIV, 4.

(23) I.e., of a person disqualified to marry a priest.

(24) V. Glos.

(25) When she marries a priest, or in the case of a widow, when she marries a High Priest.
(26) Lit., 'by the words of the soferim': v. p. 79, n. 7. — I.e., when Scripture says: They shall not take a woman that is profaned (halalah). (Lev. XXI, 7), it presupposes a recognised definition of halalah, even before the Rabbis extended its scope by their exegesis.
(27) To be explained anon.
(28) Viz., flagellation, the penalty for transgressing a negative injunction.
(29) The verse is quoted direct from Lev. XXI, 14, and the translation is accordingly that of the E.V.
(30) Thus: a widow remarried and was divorced; then she married a priest, whereby she was profaned; after this, e.g., she committed incest, thus becoming a zonah.
(31) Becoming a zonah.
(32) By marrying a priest.

Talmud - Mas. Kiddushin 77b

Behold, they are separate persons and separate names! Again, if he has intercourse three times with the same widow, what are the circumstances? If he was not warned, it is obvious that he incurs only one penalty.[1] But if he was warned for each, why does he incur only one penalty? Did we not learn: If a nazir[2] drinks wine all day, he incurs only one penalty; if he is admonished, 'Do not drink,' 'do not drink,'[3] and he drinks, he is liable for each! — This arises only if he has intercourse with Reuben's widow, who was Simeon's widow who had been Levi's widow: I might think, Behold, they are separate names! We are therefore told that we require separate persons,[4] which is absent.

[If he has intercourse with] a widow, a divorced and profane woman, and a harlot. What is this Tanna's opinion? If he holds, one prohibition can fall on another,[5] then it is the reverse too.[6] Whilst if he holds, one prohibition cannot fall on another, it is not so even in this order![7] — Said Raba: This Tanna does not hold that one prohibition can fall upon another, but he does accept [the validity of] a prohibition of wider scope.[8] [Thus:] a widow is interdicted to a High Priest, but permitted to an ordinary priest; when she becomes divorced, since a prohibition is added in respect of an ordinary priest, it is added in respect of a High Priest; yet she is still permitted to partake of terumah. When she becomes profane, since a prohibition of eating terumah is added, a prohibition is added in respect of a High Priest. But what wider prohibition is there on account of zonah?[9] — Said R. Hama son of R. Kattina: Because the designation of harlotry [zenuth] disqualifies in the case of an Israelite.[10]

A Tanna recited before R. Shesheth: Whoever is included in [a virgin of his own people] shall he take [to wife],[11] is included in '[a widow, etc.,] he shall not take'; but whoever is not included in, 'shall he take,' is not included in, 'he shall not take':[12] this excludes a High Priest who marries his sister, a widow.[13] Said he to him: He who told you this, on whose authority is it? R. Simeon's, who maintains that one prohibition cannot fall upon another. For it was taught if one eats nebelah[14] on the Day of Atonement, he is exempt.[15] For if according to the Rabbis, — surely they maintain that one prohibition falls upon another. [He replied:] You may even say [that it agrees with] the Rabbis: When do the Rabbis maintain that one prohibition can fall upon another? Only a stringent prohibition upon a lighter one,[16] but a light prohibition cannot fall upon a more stringent one.[17]

Others state: This agrees with the Rabbis, who maintain, One prohibition can fall upon another; but when do they rule thus? Only that a more stringent prohibition [can fall] upon a lighter one; but a light one cannot fall upon a more stringent one. For if it is R. Simeon: seeing that a stringent prohibition cannot fall upon a light one, need a light prohibition upon a more stringent be stated? — I might think that a prohibition in connection with priesthood is different;[18] hence we are informed [that it is not so].[19]

R. Papa said to Abaye: When an Israelite has intercourse with his sister, he [certainly] renders her a zonah,' [but] does he render her a halalah [too] or not?[20] Do We says [it follows] a minori: if one

becomes a halalah by those who are forbidden to her by [only] negative injunctions, how much more so by those who are forbidden on pain of kareth. Or perhaps, a halalah results from a priestly interdict only? — He answered: A halalah results from a priestly interdict only.

Rab said: How do we know this ruling[21] stated by the Rabbis [that] a halalah is only from a priestly interdict? Because it was taught: Let a divorced woman not be stated in reference to a High Priest, and it could be inferred a minori from an ordinary priest; for I would argue, If she is forbidden to an ordinary priest, can there be a question of[22] a High Priest? Why then is it stated? [To teach,] Just as a divorced woman is distinct from zonah and halalah in respect of an ordinary priest,[23] so is she distinct in reference to a High Priest. [But] that is obvious: is it [the sanctity of a High Priest] in any way diminished?[24] But [it is rather to teach] just as a divorced woman is distinct from zonah and a halalah in respect of an ordinary priest,[23] so is a widow distinct from a divorced woman, a halalah and a zonah in respect of a High Priest.[25] Why is halalah stated?[26] [To shew that] halalah results from a priestly interdict only.[27] Why is zonah stated?[26] — Zonah is stated here;[28] and it is also stated there:[29] just as here, his seed is profaned,[30] so there too, his seed is profaned.

Said R. Ashi: Therefore if a priest has intercourse with his sister,

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(1) A penalty was not imposed unless the transgression was preceded by a warning as to implications of the offence. 'Not warned' means not warned for each intercourse separately.

(2) V. Glos.

(3) Before each time he drinks.

(4) For separate punishments.

(5) A thing, being forbidden on one score, can also be forbidden on another, so that two prohibitions are violated. Thus here, though she is forbidden as a divorced woman, the interdict of a harlot is also operative, if she becomes one after her divorce.

(6) Even if this order is not followed; v. 396 n. 9.

(7) No separate penalty is incurred for each.

(8) איסור מוסיף . I.e., which applies to more people. Then it can fall upon another prohibition even in respect of the person to whom the first also applies. For a fuller discussion of the various types of prohibitions, v. Shebu. (Sonc. ed.) p. 127. n. 1.

(9) What is now prohibited which was not before?

(10) If the wife of an Israelite commits adultery, he may not live with her. Thus, though in the case under discussion the prohibition of a zonah adds nothing, an extra penalty is incurred because harlotry in general is a wider prohibition.

(11) Lev. XXI, 14.

(12) I.e., the High Priest transgresses the latter only on account of a woman who would be permitted to him if she were a virgin.

(13) He is not liable because she is a widow, but because she is a sister.

(14) V. Glos.

(15) From kareth, the penalty for eating on the Day of Atonement. For nebelah is already forbidden by a negative injunction, and so the interdict of the Day of Atonement remains inoperative.

(16) E.g., the prohibition of eating on the Day of Atonement is more stringent than that of eating nebelah.

(17) The interdict against one's sister is graver than that of widow to a High Priest.

(18) Because Scripture imposed many additional injunctions upon priests from which others are free.

(19) Consequently the author may be R. Simeon, after all.

(20) So that the priest who has intercourse with her is flagellated separately on each score.

(21) Lit., 'thing'.

(22) Lit., 'is it necessary for?'

(23) If a divorced woman is also a zonah, the priest is doubly punished.

(24) Surely it is not less than that of an ordinary priest!

(25) If a widow is also one or all of these, he is punished on each score.

(26) In reference to a High Priest, seeing that she is prohibited to the ordinary priest.

(27) Because 'halalah' is superfluous. Rashi observes: this may be deduced from the Scriptural order, which places 'halalah' after 'divorced woman' and 'widow' who are forbidden to priests only, but not after zonah, a type of prohibition forbidden also to an Israelite, v. supra p. 398, n. 2, which shews that halalah results from an interdict confined to priests.
(28) Viz., in respect of a High Priest.
(29) In respect of an ordinary priest.
(30) As it is written, he shall not profane his seed.

Talmud - Mas. Kiddushin 78a

he renders her zonah, not halalah. But if he again has intercourse with her, he renders her halalah.[1]

Rab Judah said: If a High Priest [has intercourse] with a widow, he is flagellated twice, once on account of, he shall not take,[2] and again on account of, he shall not profane.[3] Then let him be flagellated on account of, 'he shall not profane his seed'? — This means, if he does not consummate the intercourse.[4] Raba raised an objection: [If a High Priest has intercourse with] a widow and divorced woman,[5] he is flagellated on account of two injunctions.[6] Surely that means, two injunctions and no more? — No: two injunctions for the one, and two for the other.[7] If so, consider the second clause: [For] a divorced woman and haluzah[8] he is liable only on account of one? — This is its meaning: he is liable only on account of one [designation], yet after all, for two injunctions. Now, is a haluzah [forbidden only] by Rabbinical law?[9] Surely it was taught: [They shall not take a woman that is a harlot. . . and a woman] that is divorced.[10] I know it only of a divorced woman: how do I know it of a haluzah? Because it is said: 'and a woman'.[11] — It is Rabbinical, and the verse is a mere support.[12]

Abaye said: When he[13] betroths,[14] he is flagellated; [and] when he cohabits, he is flagellated. When he betroths he is flagellated on account of, 'he shall not take';[15] when he cohabits he is flagellated on account of, 'he shall not profane'.[16] Raba said: if he cohabits, he is flagellated;[17] if he does not cohabit, he is not flagellated [at all], because it is written, he shall not take . . . and he shall not profane: why must he not take? In order that he shall not profane.[18] And Abaye admits in the case of one who remarries his divorced wife,[19] that if he betroths but does not cohabit, he is not flagellated: the Divine Law saith, [he may not] take her again to be his wife,[20] which is absent here. And Raba admits in respect to a High Priest with a widow, that if he cohabits without betrothing, he is flagellated: the Divine Law saith, 'and he shall not profane his seed among his people', whereas he has profaned [it]. And both admit in the case of one who takes back his divorced wife, that if he cohabits without betrothal, he is not flagellated: The Torah forbade it by way of marriage.[21]

R. JUDAH SAID: THE DAUGHTER OF A MALE PROSELYTE IS LIKE THE DAUGHTER OF A HALAL. It was taught: R. Judah said: The daughter of a male proselyte is like the daughter of a male halal. And logic proves[22] it. If a halal, who [though he] comes from a fit origin,[23] [yet] his daughter is unfit;[24] then a proselyte, who comes from an unfit origin, his daughter is surely unfit! As for a halal, [it may be argued,] that is because his own formation is in sin![25] Then let [the union of] a High Priest with a widow prove it, for his formation was not in sin, yet his daughter is unfit.[26] As for a High Priest and a widow, that is because his cohabitation was in sin! Then let a halal prove it.[27] And so the argument revolves: the distinguishing feature of one is not that of the other; the feature common to both is that they are not as the majority of the community; so also do I adduce the proselyte, who is not as the majority of the community, and his daughter is unfit! [No:] what is the feature common to both? That they have an element[28] of sin![29] — Do not say, let [the union of] a High Priest with a widow prove it, but say: let a [converted] Egyptian of the first generation prove it.[30] As for a [converted] Egyptian of the first generation, that is because he is ineligible to enter into the assembly [at all]! Then let a halal prove it. And so the argument revolves, the distinguishing feature of one not being that of the other. The feature common to both is that they are not as the

majority of the congregation and their daughter is unfit. So do I also adduce a proselyte, who is not as the majority of the community, and his daughter is unfit! [No:] As for the feature common to both, it is that they disqualify[31] by their intercourse. And R. Judah?[32] — A proselyte too disqualifies by his intercourse, and he deduces it by analogy from this very argument.[33]

R. ELIEZER B. JACOB SAID: A PROSELYTE [etc.]. It was taught: R. Simeon b. Yohai said: A female proselyte less than three years and a day is eligible to the priesthood, as it is said: But all the women children . . . keep alive for yourselves;[34] now, was not Phinehas among them?[35] But the Rabbis [interpret]: 'keep them alive for yourselves' as bondmen and bondwomen.

Now, all deduce from the same verse: Neither shall they take for their wives a widow, nor her that is put away [i.e., divorced] but they shall take virgins of the seed of the house of Israel.[36] R. Judah holds: all the seed must be from Israel.[37] R. Eliezer b. Jacob holds: 'of the seed' [implies] even part of the seed.[38] R. Jose holds: whoever was conceived[39] in Israel.[40] R. Simeon b. Yohai holds: [It means] one whose virginity matured[41] in Israel.[42]

R. Nahman said to Raba:

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(1) [Since as a result of the first intercourse she becomes forbidden to him also as zonah of the type which is interdicted only to priests.]

(2) Lev. XXI, 14.

(3) As explained on p. 395, n. 7, this refers primarily to the interdicted woman; hence he is punished for profaning her in violation of the negative injunction.

(4) So that there is no issue.

(5) The same woman being both.

(6) Lit., 'designations' (of negative precepts). Although one woman, she is forbidden by two separate injunctions, and he is punished for each.

(7) He is punished twice, as stated above, on account of her widowhood, and twice because she is divorced.

(8) Who is the same person.

(9) Since you say that he is flagellated only on account of one, viz., a divorced woman.

(10) Ibid. 7.

(11) 'And a woman' is superfluous, and its purpose is to include a haluzah. This shews that the interdict of her is Scriptural.

(12) But not the actual source of the law.

(13) A High Priest or an ordinary priest.

(14) An interdicted woman.

(15) 'To take' implies formal betrothal.

(16) V. p. 400, n. 5.

(17) Twice, as Abaye.

(18) Hence the first is dependent upon the second.

(19) After she married another. This does not refer particularly to a priest.

(20) Deut. XXIV, 4; i.e., 'not take' (sc. betrothal) is transgressed only when the marriage is consummated and she becomes his wife.

(21) Lit., 'taking'. [MS.M. adds: And both agree in the case of him who takes his haluzah (v. Glos.) that if he betroths and has no intercourse, he is not flagellated, for the Torah has prohibited it by way of, 'building up of a house', referring to Deut. XXV, 9.]

(22) Lit., 'gives'.

(23) I.e., his father is a Jew.

(24) For the priesthood.

(25) Being the issue of a forbidden union.

(26) As supra, 77a.

(27) When he marries and cohabits with the daughter of a Levite or an Israelite, there is no sin, and yet the halal's

daughter is unfit.
(28) Lit., ‘side’.
(29) The union of a High Priest and a widow, and the birth of a halal, are all attended by sin. But that is not true of a proselyte.
(30) There is no element of sin, yet his daughter is unfit, for only the third generation may marry with Jews.
(31) A Jewess from the priesthood; supra 74b.
(32) How does he answer this?
(33) If the daughter of a halal who comes from a fit origin is unfit, how much more should the daughter of a proselyte who is of an unfit origin be unfit?
(34) Num. XXXI, 18; it refers to the war captives.
(35) And though he was a priest, these children were permitted in marriage.
(36) Ezek. XLIV, 22. The reference is to priests.
(37) Which excludes the daughter of a proselyte.
(38) Even if one side only is of Jewish birth, the daughter is fit.
(39) Lit., ‘sown’.
(40) Therefore even if both father and mother are converts, the daughter is fit, since she was conceived in Israel.
(41) Lit., was sown’.
(42) I.e., who becomes converted before three years and a day. At that day her virginity is mature, in that if destroyed it does not return.

Talmud - Mas. Kiddushin 78b

This verse, the first part refers to a High Priest and the second to an ordinary priest?[1] — Yes, he replied. And is a verse thus written? — Even so, he replied, for it is written, and the lamp of God was not yet gone out, and Samuel was laid down [to sleep] in the Temple of the Lord.[2] But sitting was [permitted] in the Temple only to the Kings of the Davidic dynasty?[3] Hence [it must mean:] and the lamp of God was not yet gone out in the Temple of the Lord, and Samuel was laid down in his place.[4]

And a widow that is the widow of a priest they shall take.[5] Only of a priest, but not of an Israelite? — This is the meaning of ‘of a priest they shall take:’ those of the other priests[6] may take. It was taught likewise: . . . of a priest they shall take’: [i.e.,] those of the other priests may take. R. Judah interpreted: of those who can give [their daughters] in marriage to the priesthood they may take.[7] R. Judah is in harmony with his view, for he said: THE DAUGHTER OF A MALE PROSELYTE IS AS THE DAUGHTER OF A MALE HALAL: when you may marry his daughter, you may marry his widow; and when you may not marry his daughter, you may not marry his widow.[8] R. JOSE SAID: ALSO IF A MALE PROSELYTE MARRIES A FEMALE PROSELYTE. R. Hamnuna said on ‘Ulla's authority: The halachah is as R. Jose. And Rabbah b. Bar Hanah said likewise: The halachah is as R. Jose; but since the day that the Temple was destroyed, the priests have insisted on[9] a superior status, in accordance with R. Eliezer b. Jacob.[10] R. Nahman said: Huna told me: If he [a priest] comes to take counsel, we give him a ruling in accordance with R. Eliezer b. Jacob; but if he marries,[11] we do not compel him to divorce her,[12] in accordance with R. Jose.

MISHNAH. IF A MAN DECLAREs, ‘THIS SON OF MINE IS A MAMZER,’ HE IS DISBELIEVED. AND EVEN IF BOTH [THE HUSBAND AND WIFE] ADMIT THAT THE CHILD WITHIN HER IS MAMZER,[13] THEY ARE DISBELIEVED. R. JUDAH SAID: THEY ARE BELIEVED.

GEMARA. Why [state], EVEN IF BOTH [etc.]?[14] — He leads to a climax.[15] It goes without saying that he [the father], who cannot be certain thereof[16] [is disbelieved]; but even she [the mother], who is certain, is [also] disbelieved. And it goes without saying that they are disbelieved where he [the child] enjoys the presumption of fitness; but even [in the case of] an embryo, who does

not enjoy the presumption of fitness, they are [still] disbelieved.

R. JUDAH SAID: THEY ARE BELIEVED. As it was taught: He shall acknowledge [the firstborn]:[17] [i.e.,] he shall acknowledge him before others. Hence R. Judah said: A man is believed when he says: 'This son is my first born.' And just as he is believed when he says: 'This son is my firstborn,' so is he also believed when he says, 'This is the son of a divorced woman'; 'this is the son of a haluzah.' But the Sages say: He is not believed.[18]

R. Nahman b. Isaac asked Raba: As for R. Judah, it is well: for that reason it is written: 'he shall acknowledge'. But on the view of the Rabbis, what is the purpose of, 'he shall acknowledge'? — Where acknowledgment is necessary.[19] In respect of what [is he believed]? to give him a double portion?[20] That is obvious, and what is the need of a verse; for if he desired to make him a gift, could he not do so? — This refers to property which he [the father] inherits [only] subsequently.[21] But according to R. Meir, who maintained: One can transmit property that is non-existent, what is the purpose of 'he shall acknowledge'? — Where he inherits it while he was dying.[22]

MISHNAH. IF A MAN AUTHORIZES HIS AGENT TO GIVE HIS DAUGHTER IN BETROTHAL,[23] AND THEN HE HIMSELF GOES AND GIVES HER IN BETROTHAL TO ANOTHER, IF THE [BETROTHAL] BY HIM WAS FIRST, HIS BETROTHAL IS VALID; IF THE AGENT'S WAS FIRST, THE LATTER'S BETROTHAL IS VALID. BUT IF IT IS UNKNOWN,

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(1) For the first half prohibits marriage to a widow, while the second half 'and a widow that is a widow of a priest they shall take' permits it.

(2) I Sam. III, 3.

(3) And the same applies. of course, to lying.

(4) The sense of the verse is to be divided though the text itself does not indicate this.

(5) Ezek. XLIV, 22.

(6) I.e., but not a High Priest, of whom the first half of the verse speaks. Thus of (n) is understood as a partitive preposition.

(7) I.e., they may take the widow of a man whose daughter was fit for the priesthood, thus excluding the widow of a proselyte.

(8) V. supra 75a.

(9) Lit., 'practised'.

(10) Perhaps because the fall of the Temple robbed them of their higher dignity in respect to the sacrificial service, they found it necessary to safeguard it in other ways.

(11) The daughter of proselytes.

(12) Lit., 'we do not withdraw her from his hand.'

(13) That it was conceived in adultery.

(14) This appears to add nothing to the first clause.

(15) Lit., 'he states: "it is unnecessary (to teach this)'.

(16) The child's paternity.

(17) Deut. XXI, 17.

(18) V. supra 74a.

(19) E.g., if the son was overseas and his status unknown.

(20) Deut. XXI, 17,

(21) Lit., 'which falls to him afterwards', i.e., after declaring that this is his firstborn. — Now, when he declares thus, he cannot gift this legacy, which, as far as he is concerned, is non-existent; and yet he is believed in respect of a double portion for the son recognised by him as his firstborn.

(22) Though he could not make a gift just then, his previous recognition is valid. Tosaf. observes that a dying man's gift is valid, but that he is physically unable to make one. For fuller notes v. B.B. (Sonc. ed.) pp. 530ff

(23) I.e., accept kiddushin on her behalf.

BOTH MUST GIVE HER A DIVORCE;[1] BUT IF THEY WISH, ONE GIVES A DIVORCE, AND THE OTHER MARRIES HER. LIKEWISE, IF A WOMAN AUTHORIZES HER AGENT TO GIVE HER IN BETROTHAL, AND SHE GOES AND BETROTHS HERSELF [TO ANOTHER]: IF HER OWN PRECEDED, HER BETROTHAL IS VALID; IF HER AGENT'S PRECEDED, HIS BETROTHAL IS VALID. AND IF THEY DO NOT KNOW, BOTH MUST GIVE HER A DIVORCE; BUT IF THEY WISH, ONE GIVES A DIVORCE AND THE OTHER MARRIES HER. GEMARA. And [both] are necessary. For if we were told [this] of him [the father], that is because a man is well-informed in matters of genealogy;[2] but as for a woman, who is not well-informed in matters of genealogy, I would say that her kiddushin is invalid.[3] And if we were told this of her, that is because a woman carefully investigates and [then] marries; but as for him [her father], I might argue that he does not care.[4] Thus they are necessary.

It was stated: If her father gives her in betrothal on the road, and she betroths herself in the town [to another], and she is now a bogereth,[5] Rab said: Behold, she stands[6] a bogereth before us![7] Samuel said: We regard[8] the kiddushin by both.[9] When [did the betrothals take place]? Shall we say, within the six [months],[10] — can Rab say in this case, 'Behold, she stands a bogereth before us' — surely she has only now become a bogereth![11] But if after six months, — can Samuel say in this case, 'We regard the kiddushin by both' — surely Samuel said: Between the states of na'arah and bogereth there is only six months! This arises only if the betrothal took place on the day that completed the six [months]: Rab said: 'Behold she stands a boger'eth before us' — since she is now a bogereth, [we assume] she was a bogereth in the morning too. But Samuel maintains, she may have brought the 'evidences' [of bogereth][12] only just now.

Now, according to Samuel, wherein does it differ from mikweh?[13] For we learnt: If a mikweh is measured and found to be deficient:[14] all acts of purification which have heretofore been effected through it, whether in private or in public ground, are unclean![15] — There it is different, because we can argue, Let the unclean person [or thing] stand in his presumptive status,[16] and say that he did not perform tebillah.[17] On the contrary, let the mikweh stand in its presumptive status,[18] and say that it was not deficient?[19] — But it is deficient before you! Then here too, she stands a bogereth before you! — She has [only] just now matured. Then there too, [let us say, only] just now has it become deficient? — There, there are two unfavourable conditions;[20] here, there is [only] one.[21]

Again, according to Samuel, wherein does it differ from 'barrel'? For it was taught: If one was wont to examine a barrel [of wine][22] in order continually to separate [terumah for other barrels] in reliance thereon,[23] and then it was found to be acid:[24] for full three days it is certain; there after it is doubtful.[25] Now, we opposed 'barrel' to 'mikweh': why is the latter certain and the former doubt — ful?[26] And R. Hanina of Sura answered: Who is the authority of [the Baraitha about the] 'barrel'? R. Simeon, who also in the case of the mikweh makes it doubtful. For it was taught: All acts of purification which have been heretofore effected through it, whether in private or in public ground, are unclean. R. Simeon ruled: In public ground, they are clean; in private ground, they are in suspense.[27] But in the view of the Rabbis it is retrospectively tebel![28] — There it is different, because one can say: 'Let the tebel stand in its presumptive status and say that it was not made fit.' On the contrary, let the wine stand in its presumptive status and say that it had not turned acid? — But lo! it is acid before you. Then here too, she stands a bogereth before you? — She has [only] just now become a bogereth. Then here too [let us say,] 'It has [only] just now turned acid'? — There, there are two unfavourable conditions;[29] but here there is only one.[30]

Shall we say: It is a dispute of Tannaim?

(1) If she desires to marry a third.
(2) Therefore when he gives her in betrothal, he is sure of his son-in-law's lineage and cancels his agent's authority.
(3) For when she accepts betrothal for herself she may feel uncertain of the man's birth, and therefore tacitly implies that if her agent betroths her to one of purer descent her own act shall be null.
(4) He is not so anxious for a pure match. Hence he did not cancel his agent's authority, but gave her in betrothal himself provisionally, in case his agent would not succeed in securing her betrothal.
(5) She is found on the same day to be a bogereth, over whom her father has no authority.
(6) Lit., 'is'.
(7) Hence the kiddushin by her is certainly invalid.
(8) Lit., 'fear'.
(9) V. p. 47, n. 10.
(10) That generally elapse between the state of a na'arah and that of a bogereth.
(11) But she must have been a na'arah when the betrothals took place.
(12) V. Nid. 47a.
(13) V. Glos.
(14) In water; a mikweh, to be ritually fit, must contain not less than forty se'ahs.
(15) If a doubt of uncleanness arises in private ground, the object in doubt is declared unclean; in public ground, it is clean, v. Sot. 28b. Here, wherever it is, the objects are unclean. This proves that we do not regard it as a matter of doubt, but assume that since the mikweh is deficient now, it was so before too. Then, by analogy, why not assume that since the woman is a bogereth now, she was one from the beginning of the day?
(16) Of uncleanness.
(17) Being in doubt, we have recourse to the status quo.
(18) Which is that it contains the full quantity.
(19) When immersion was performed.
(20) The person's presumptive uncleanness and the present deficiency of the mikweh.
(21) Viz., her present maturity. But on this day, which completes the six months between the na'arah and the bogereth states, she has no presumptive status for either, since it is the day of change.
(22) Every now and then, to see whether it had turned acid.
(23) By declaring, 'Let a certain quantity of wine in this barrel be terumah for another.'
(24) This Tanna regards wine and acid as two different commodities, and one cannot be terumah for the other.
(25) The meaning is disputed in B.B. 96a, two views being stated, (i) For the first three days after the last examination before the present one it was certainly wine, and any separation made then is valid. Afterwards it is doubtful; hence on the one hand, another separation must be made; on the other, what was already separated is forbidden to a lay Israelite, as it may still have been wine, (ii) For three days before this present examination it was certainly acid, and any separation made then is invalid. But before that it is doubtful, as explained in (i); for fuller notes v. B.B. (Sonc. ed.) p. 399.
(26) The mikweh is held to have been certainly deficient (v. p. 407, n. 1) hitherto, but we recognise a period of doubt for the barrel, as explained in the preceding note.
(27) I.e., doubtful.
(28) V. Glos. sc. the wine for which terumah was separated from this barrel hitherto. This contradicts Samuel, as before.
(29) (i) The presumptive status of the tebel; and (ii) its present acidity.
(30) V. p. 407, n. 7.

Talmud - Mas. Kiddushin 79b

[For it was taught:] Who can collect from whom? He can collect from them without proof, but they cannot collect from him without proof: this is R. Jacob's view. R. Nathan said: If he is well, he must produce proof that he was sick; and if he is sick, they must produce proof that he was well.[1] Shall we say that Rab rules in accordance with R. Nathan;[2] while Samuel agrees with R. Jacob?[3] — Rab can tell you: I agree[4] even with R. Jacob. R. Jacob rules thus only there, since one can say: 'Let the money stand in its presumptive owner — ship'; but here, can we say: 'Let the body stand in its presumptive state'?[5] And Samuel can say: I agree even with R. Nathan: R. Nathan rules thus only

there, since people in general are presumed to be well; [hence] he who withdraws himself from the generality must bring proof. But here, does she then withdraw herself from a previous presumptive status?[6]

Shall we say that it is a dispute of these Tannaim: [For it was taught:] If her father gives her in betrothal on the road, while she betroths herself in the town, and she is a bogereth:[7] one [Baraitha] taught: Behold, she stands a bogereth before us; and another taught: We fear [the validity of] the kiddushin of both. Surely one agrees with Rab, and the other with Samuel? — No. Both agree with Samuel: here she repudiates him [her father];[8] there she does not.[9] Then let us say, since the Baraithas do not differ, the amoraim too do not differ?[10] — Now, is that reasonable; surely R. Joseph son of R. Menasia of Dabil[11] gave a practical ruling in accordance with Rab, whereupon Samuel was offended and exclaimed: 'For everyone [wisdom] is meted out in a small measure, but for this scholar it was meted out in a large measure!'[12] Now, should you think that they do not differ, why was he offended? — Perhaps he gave his ruling where she repudiated him [her father].

Mar Zutra said to R. Ashi: Thus did Amemar say: The law is as Samuel; but R. Ashi said: The law agrees with Rab. And [the final ruling is:] The law is as Rab.

MISHNAH. IF A MAN EMIGRATED OVERSEAS TOGETHER WITH HIS WIFE, AND THEN HE, HIS WIFE, AND HIS CHILDREN RETURNED,[13] AND HE DECLARED, 'BEHOLD, THIS IS THE WOMAN WHO EMIGRATED WITH ME OVERSEAS, AND THESE ARE HER CHILDREN', HE NEED NOT BRING PROOF IN RESPECT OF THE WOMAN OR OF THE CHILDREN.[14] [IF HE DECLARES.] SHE DIED [ABROAD] AND THESE ARE HER CHILDREN,' HE MUST BRING PROOF OF THE CHILDREN, BUT NOT OF THE WOMAN.[15] [IF HE SAID,] 'I MARRIED A WOMAN OVERSEAS, AND BEHOLD, THIS IS SHE, AND THESE ARE HER CHILDREN: HE MUST BRING PROOF OF THE WOMAN,[16] BUT NOT OF THE CHILDREN.[17] [IF HE SAID,] 'SHE DIED, AND THESE ARE HER CHILDREN: HE MUST BRING PROOF OF THE WOMAN AND OF THE CHILDREN.

GEMARA. Rabbah son of R. Huna said: And in all cases it means that they cling to her.[18]

Our Rabbis taught: [If a man declares,] 'I married a woman overseas, he must bring proof about the woman, but not about the children; he must bring proof about the adults, but not about the minors.[19] Now, when is this said? In the case of one wife. But in the case of two wives,[20] he must bring proof about the woman and about the children whether adults or minors.[21]

Resh Lakish said:

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(1) If a man dangerously ill writes off all his property, without leaving anything for himself, it is an implied condition that the gift shall be valid only if he dies; should he recover, the deed is null, though no stipulation was made. If a man in good health indites such a conveyance, it is valid. The dispute here refers to a case where a man, now well, pleads that the deed was written when he was sick, while the beneficiaries deny it; v. B.B. 153b.

(2) That the present state is also assumed to be the former state, unless the contrary is proved.

(3) That the present does not prove the past.

(4) Lit., 'say'.

(5) The body has none, since it is liable to natural change.

(6) Surely not, since it is natural for her to change on that day.

(7) As on p. 407, n. 7.

(8) Maintaining that she was a bogereth when he accepted kiddushin on her behalf; then only her own betrothal is valid.

(9) Then the kiddushin of both is regarded.

(10) Rab referring to the former case, Samuel to the latter.

(11) There is a Dabil in Armenia, with which this may be identical. On Jews in Armenia v. Obermeyer, p. 296. n. 4.

(12) He is so sure of his superior knowledge that he disregards betrothal by her father, though it may have been valid.
(13) He was childless when he emigrated.
(14) That the former is of pure birth, since her pedigree was already investigated when he married her, as supra 76a, or that the latter are her children (Rashi). Tosaf.: He need not prove that the children are both his and hers.
(15) Rashi: he must prove that the children are of that woman, but not that she was of good birth.
(16) That she is of good birth.
(17) That they are from this woman.
(18) The children are minors, who cling to this woman. Then her motherhood does not require proof.
(19) Who cling to her.
(20) He affirms that he married two wives, of whom one died, while these are the children of the survivor.
(21) The clinging of the young children does not prove her parentage, since she may be their foster-mother.

Talmud - Mas. Kiddushin 80a

This was taught only in respect of Sanctities of the border,[1] but not in respect of genealogy.[2] But R. Johanan maintained: Even in respect of genealogy. Now, R. Johanan is in accord with his view [elsewhere]. For R. Hiyya b. Abba said in R. Johanan's name: We flagellate on the strength of presumption, we stone and burn on the strength of presumption, but we do not burn terumah on the strength of presumption. We flagellate on the strength of presumption, as Rab Judah. For Rab Judah said: If a woman was presumed a niddah by her neighbours, her husband is flagellated on her account as a niddah.[3] We stone and burn on the strength of presumption, as Rabbah son of R. Huna. For Rabbah son of R. Huna said: If a man, woman, boy and girl lived[4] in a house [together],[5] they are stoned and burnt on each other's account.[6] R. Simeon b. Pazzi said in R. Joshua b. Levi's name on Bar Kappara's authority: It once happened that a woman came to Jerusalem carrying an infant on her back; she brought him up and he had intercourse with her, whereupon they were brought before Beth din and stoned. Not because he was definitely her son, but because he clung to her.

But we do not burn terumah on the strength of presumption. For R. Simeon b. Lakish said: We burn [terumah] on the strength of presumption; whereas R. Johanan maintained, we do not. Now, they are in accord with their opinions. For we learnt: If a child is found at the side of a dough, and there is dough in his hand, R. Meir declares it clean; the Sages declare it unclean, because it is a child's nature to dabble.[7] Now, we pondered thereon: What is R. Meir's reason? [And the answer was:] He holds, most children dabble, yet there is a minority who do not, while the dough stands in the presumption of cleanness:[8] hence combine the minority with the presumption, and the majority is weakened. But the Rabbis [argue]: the minority is as non-existent:[9] [now, where there are] a majority and a presumption [opposed to each other], the majority is stronger.[10] Said Resh Lakish on R. Oshaia's authority: That is the presumption[11] on the strength of which terumah is burnt:[12] R. Johanan maintained: This is not the presumption on the strength of which terumah is burnt.[13]

Then on account of which presumption is terumah burnt, in R. Johanan's opinion?[14] — As it was taught: If there is a dough in a house wherein reptiles and frogs breed,[15] and pieces are found in the dough:[16] if they are mostly reptiles, it is unclean; if mostly frogs, it is clean.[17]

It was taught in accordance with R. Johanan: Two things lack the intelligence to be questioned, yet the Sages accounted them as though they possess it:[18] a child, and another. A child, as stated.[19] And another: what is it? — If there is dough in a house which contains fowls and unclean fluid, and holes are found

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(1) 'Border' (gebul) is the technical term for Palestine outside Jerusalem. 'Sanctities of the border' are terumah, i.e., sacred food which may be consumed outside the Temple and Jerusalem. — If the man is a priest, we rely upon the fact that the children cling to this woman, who is known to be of good birth, and they may eat terumah.
(2) His daughters may not marry into the priesthood unless he proves that they are of this woman.

(3) V. Glos. If he cohabits with her, though there are no actual witnesses of her menstruation.
(4) Lit., 'were brought up'.
(5) As husband and wife, son and daughter.
(6) If the son cohabits with his mother, they are stoned; if the daughter with her father, they are burnt. Now, there is no actual proof of their relationship, save the general presumption.
(7) Rashi: the child certainly took the piece from the dough, and since it is his nature to dabble among refuse and unclean things. he is probably unclean (which is regarded as a certainty) and so defiles the dough. Tosaf.: the child is certainly unclean (because women, even when menstruants, fondle children; Tosaf. Toh. III) and the only question is whether he took the dough himself or it was given him. The Rabbis declare the large dough unclean, because it is a child's nature to dabble with food, and so he probably took it himself.
(8) As long as we do not know that it was defiled.
(9) I.e., it is completely disregarded.
(10) The majority argument favours the uncleanness of the dough. whereas its presumptive status is that it is clean.
(11) Sc. that it is a child's nature to dabble.
(12) If the dough is terumah it is burnt.
(13) And when the Sages declare it unclean they mean it must be kept in suspense without burning it. Thus we have here stated the opinions of R. Johanan and Resh Lakish mentioned supra.
(14) The words 'This is not the presumption etc.' implies that there is a presumption on account of which terumah is burnt.
(15) Dead reptiles are unclean and defile food; frogs are clean, cf. Lev. XI, 29ff.
(16) Evidently caused by these.
(17) And because of the presumption which is based on a majority of a definite number before us, i.e., the greater number of reptiles, this dough, if terumah is burnt, whereas in the case of the child we have no majority immediately available to go by. v. Hul. 11a.
(18) As stated, on p. 407. n. I, when a doubt of uncleanness arises in private ground, the object in doubt is unclean. That is only if that which causes the defilement has the intelligence to be questioned about it; if not, the object is clean, v. Sot. 28b.
(19) Legally a child lacks understanding; yet since the dough is declared unclean, the child is evidently considered to possess intelligence.

Talmud - Mas. Kiddushin 80b

all over the dough,[1] the matter is in suspense: it may neither be eaten [as clean] nor burnt [as unclean].[2]

R. Joshua b. Levi said: We learnt this only of white [i.e., colourless] liquid; but as for red liquid, had it [the fowl] picked at the dough,[3] it would certainly be known. Yet perhaps the dough absorbed it? — Said R. Johanan: Beribbi[4] heard this thing, but not its explanation [which is this]: We learned this only of clear fluid in which a child's reflection may be seen but not of turbid fluid.[5]

MISHNAH. A MAN MAY NOT BE ALONE WITH TWO WOMEN, BUT ONE WOMAN MAY BE ALONE WITH TWO MEN. R. SIMEON SAID: EVEN ONE MAN MAY BE ALONE WITH TWO WOMEN, IF HIS WIFE IS WITH HIM,[6] AND HE MAY SLEEP WITH THEM IN AN INN, BECAUSE HIS WIFE WATCHES HIM. A MAN MAY BE ALONE WITH HIS MOTHER AND HIS DAUGHTER, AND HE MAY SLEEP WITH THEM IN IMMEDIATE BODILY CONTACT;[7] BUT WHEN THEY GROW UP, SHE MUST SLEEP IN HER GARMENT AND HE IN HIS.

GEMARA. What is the reason? — Tanna debe Eliyahu[8] [states]: Because women are temperamentally light-headed.[9]

How do we know it?[10] Said R. Johanan on the authority of R. Ishmael, Where do we find an

allusion to yihud[11] in the Torah? — For it is written: If thy brother, the son of thy mother, entice thee [etc.]:[12] does then only a mother's son entice, and not a father's son? But it is to tell you: a son may be alone with his mother, but not with any other woman interdicted in the Torah. To what does the plain meaning of the verse refer?[13] — Said Abaye, It [Scripture] proceeds to a climax.[14] Thus: It goes without saying [that one should disregard] his father's son, for he may hate him[15] and give him evil counsel. But as for his mother's son, who does not hate him,[16] I might say, let him obey him. Therefore we are told [that it is not so].

Our Mishnah does not agree with Abba Saul. For it was taught: Within the first thirty days [of a child's birth] it may be carried out [for burial] in one's bosom,[17] and buried by one woman and two men,[18] but not by one man and two women. Abba Saul said: Even by one man and two women! — You may even say [that it agrees with] Abba Saul: in the time of grief one's passions are subdued.[19] But the Rabbis hold with R. Isaac, who said: Wherefore doth a living man mourn, a man that is in his sins?[20] even in a man's grief, his lusts prevail against him.[21] And Abba Saul?[22] — That is written with reference to one who complains of His [God's] measures, and this is its meaning: Why should he complain of His dispensation; has he then prevailed over his sin?[23] The life which I gave him is sufficient for him.[24] And the Rabbis?[25] — Even as the story of a certain woman: It once happened that she took him out.[26] BUT ONE WOMAN. Rab Judah said in Rab's name: We learnt this only of respectable persons; but as for profligates, [she may not be alone] even with ten. It once happened that ten men carried her [a married woman] out on a bier.[27] R. Joseph said: The proof is that ten people assemble and steal a joist, yet are not ashamed of each other.

Shall we say that the following supports him: Two scholars were sent with him,[28] lest he has intercourse with her on the way.[29] Thus, Only scholars, but not men in general?[30] — Scholars are different, because they know

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(1) Made by the fowls' beaks.

(2) If it is terumah. This suspense is because the fowls may have drunk the fluid, and then picked at the dough with the liquid still dripping on their beaks. Since this and the case of the child are bracketed together, it follows that there too the matter is in suspense, which agrees with R. Johanan.

(3) With a dripping beak.

(4) V. p. 101, n. 8. Here referring to R. Joshua b. Levi.

(5) Both refer to coloured liquid. If clear, it soaks in easily, and the dough is therefore unclean. Turbid liquid, however, must leave some traces; hence it is clean.

(6) [Var. lec.: 'Even one man may be alone with two women; and if his wife is with him he may sleep with them in an inn etc.']

(7) I.e., a young boy with his mother and a young girl with her father.

(8) This is the name of a Midrash, consisting of two parts, called Seder Eliyahu Rabbah (large) and Seder Eliyahu Zuta (small) respectively.

(9) And even two may yield to temptation.

(10) The interdict against being alone with women.

(11) I.e., the prohibition of being alone with a woman.

(12) Deut. XIII, 6.

(13) R. Johanan's exegesis is obviously not intended to be the plain rendering of the text and does not really dispose of the difficulty.

(14) Lit., 'it says, it is unnecessary (to state the one).'

(15) Because be reduces his patrimony.

(16) Neither affects the other's heritage.

(17) I.e., without a special form of coffin.

(18) Not more than three are necessary in all.

(19) Lit., 'broken'.

(20) Lam. III, 39.

(21) Translating the verse: Of what avail is grief (to subdue lust)? As long as man lives, he must strive to conquer his desire for sin.
(22) How does he translate the verse?
(23) Lit., 'above'.
(24) Even if he suffers. — This is similar to the E.V.
(25) Assuming this interpretation to be correct — and it is certainly nearer to the text — what is their reason?
(26) Rashi: a woman carried out a live child, pretending that he was dead, so that she might satisfy her lust unsuspected. R. Han. explains it otherwise.
(27) As dead: but she was alive, and committed adultery with all.
(28) Lit., were given over to him.'
(29) This refers to a woman charged with adultery, who was tried by the water of bitterness (Num. V, 11-31). Until pronounced innocent she was interdicted to her husband too, and when he took her to Jerusalem for the ordeal two scholars accompanied him.
(30) Which proves that we fear adultery with them.

Talmud - Mas. Kiddushin 81a

to warn him.[1]

Rab Judah said in Rab's name: We learnt this[2] only in town; but on a road, three are necessary, lest one has a call of nature, and so the other is left alone with a forbidden woman. Shall we say that the following supports him: Two scholars were sent with him, lest he has intercourse with her on the way. Two, and he [the husband] himself — that is three? — There it is in order that they may be witnesses against him.[3]

Rab and Rab Judah were walking on a road, and a woman was walking in front of them. Said Rab to Rab Judah, 'Lift your feet before Gehenna.'[4] 'But you yourself said that in the case of respectable people it is well,' he protested. 'Who says that respectable people mean such as you and I?' he retorted. 'Then such as who?' — E.g., R. Hanina b. Pappi and his companions.'[5]

Rab said: We flagellate on account of privacy, but do not interdict on account of same.[6] R. Ashi said: This was said only of privacy with an unmarried woman, but not with a married woman, lest a stigma be cast upon her children.[7] Mar Zutra punished and proclaimed.[8] R. Nahman of Parahetia[9] said to R. Ashi: You too should punish and proclaim! — Some may hear of the one but not of the other.

Rab said: We flagellate on account of an evil rumour,[10] because it is said. Nay [al], my sons; for it is no good report that I hear.[11] Mar Zutra laid a cord about his shoulders[12] and recited to him, 'Nay, my sons'.

Rabbah said: If her husband is in town we have no fear on account of privacy. R. Joseph said: If the door opens to the street, we have no fear on account of privacy. R. Bibi visited R. Joseph. Having dined,[13] he said to them [the servants], 'Remove the ladder from under Bibi.'[14] But Rabbah said: If her husband is in town, we have no fear on account of privacy? — R. Bibi was different, because she was his best friend,[15] and intimate with him.

R. Kahana said: If there are men without [i.e., in the outer chamber] and women within, we have no fear of privacy.[16] If there are men in the inner chamber and women in the outer, we have fear of privacy.[17] In a Baraitha the reverse was taught.[18] Said Abaye: Now that R. Kahana ruled thus, while the Baraitha taught the reverse, let us[19] act stringently. Abaye made a partition of jugs;[20] Raba made a partition of canes.

Abin[21] said: The sorest spot of the year[22] is the festival.[23] Certain [redeemed] captive women came to Nehardea. They were taken to the house of R. Amram the pious, and the ladder was removed from under them.[24] As one passed by,[25] a light fell on the sky lights;[26] [thereupon] R. Amram seized the ladder, which ten men could not raise, and he alone set it up and proceeded to ascend. When he had gone half way up the ladder, he stayed his feet and cried out, 'A fire at R. Amram's!' The Rabbis came and reproved him, 'We have shamed you!'[27] Said he to them: 'Better that you shame Amram in this world than that you be ashamed of him in the next.' He then adjured it [the Tempter] to go forth from him, and it issued from him in the shape of a fiery column. Said he to it: 'See, you are fire and I am flesh, yet I am stronger[28] than you.'[29]

R. Meir used to scoff at transgressors.[30] One day Satan appeared to him in the guise of a woman on the opposite bank of the river. As there was no ferry, he seized the rope[31] and proceeded across. When he had reached half way along the rope, he [Satan] let him go[32] saying: 'Had they not proclaimed in Heaven, "Take heed of R. Meir and his learning," I would have valued your life[33] at two ma'ahs.'[34]

R. Akiba used to scoff at transgressors. One day Satan appeared to him as a woman on the top of a palm tree. Grasping the tree, he went climbing up: but when he reached half-way up the tree he [Satan] let him go, saying: 'Had they not proclaimed in Heaven, "Take heed of R. Akiba and his learning," I would have valued your life at two ma'ahs.'

Pelimo used to say every day, 'An arrow in Satan's eyes!'[35] One day — it was the eve of the Day of Atonement — he disguised himself as a poor man and went and called out at his door; so bread was taken out to him. 'On such a day,' he pleaded, 'when everyone is within, shall I be without?' Thereupon he was taken in and bread was offered him. 'On a day like this,' he urged, 'when everyone sits at table,[36] shall I sit alone!' He was led and sat down at the table. As he sat, his body was covered with suppurating sores, and he was behaving repulsively.[37] 'Sit properly,' he rebuked him.

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(1) But not because we fear adultery with others; v. Sot. 7a.

(2) That a woman may be alone with two men.

(3) If he cohabits, in which case she does not submit to the ordeal, v. loc. cit.

(4) Speed on ahead of her, lest we be tempted.

(5) V. supra 39b bottom.

(6) Rashi: one is flagellated for being alone with an unmarried woman, but she is not forbidden to her husband on that account. Tosaf.: an unmarried woman is not interdicted to a priest as a zonah (q.v. Glos.) for being alone with a man.

(7) Who may be suspected of bastardy.

(8) He punished privacy with a married woman, yet had it proclaimed that she had not committed adultery.

(9) [Not identified. MS.M.: Parazika, (Farausag) near Bagdad.]

(10) If one is rumoured to be doing wrong, he is flagellated.

(11) I Sam. II, 24. Al (אַל) introduces a negative injunction, and Rab translates: there is a negative injunction, my sons, in respect of a report that is not good.

(12) [I.e., inflicted punishment on the one who was subject to an evil report. The punishment for the offence mentioned here has no basis in the Bible, but belongs to the category of makkath marduth 'a beating for rebellion' instituted by the Rabbis for the enforcement of discipline, and which was not hedged about by the regulations which governed the infliction of the 'forty stripes' prescribed in the Bible]

(13) [Lit., ,'wrapt the bread', with allusion to the custom of placing salt or vegetables between slices of bread.]

(14) They were in an upper chamber, and then R. Joseph and his wife descended, leaving R. Bibi above. Before R. Joseph left the house he gave this order, so that R. Bibi should not go down and be alone with his wife.

(15) The ancient equivalent of 'best man' — here 'best woman — at marriage, v. B.B. 144b.

(16) The men can have no plausible excuse for going to the women, since their natural way leads to the street.

(17) The men's path lies through the women's chamber, and as stated before, one man may not be alone with a number of

women.

(18) When men are in the outer chamber, we fear that one may pass into the inner chamber without the others noticing it. But if men are in the inner chamber, we are not afraid that a woman from the outer chamber will enter, because in any case one woman may be alone with two men; nor do we fear that a man may enter the women's chamber, since others will follow him, as that is their natural exit.

(19) This is the reading in the Asheri; cur. edd. 'I shall'.

(20) Where men and women assembled together, e.g.. for a sermon or at a wedding (Rashi).

(21) The Aruch reads: Abaye.

(22) When immorality is most to be feared.

(23) Because various people congregate then.

(24) They were lodged in an upper chamber; cf. story of R. Bibi and R. Joseph supra.

(25) The skylight which divided the upper from the lower storey.

(26) Which revealed her beauty to R. 'Amram below.

(27) You have made us put you to shame by revealing your burning passion.

(28) Lit., 'better'.

(29) On Satan as an independent being v. p. 142, n. 5.

(30) He maintained that they could easily subdue their evil desires if they wished.

(31) Rashi: a rope stretched from bank to bank over a plank bridge.

(32) By resuming his normal shape he freed him from temptation.

(33) Lit., 'blood'.

(34) A small coin, v. supra 12a. — i.e., I would have destroyed you as a worthless thing.

(35) Cf. supra 30a top.

(36) Lit., 'at the tray'.

(37) Wriggling, or perhaps scratching himself.

Talmud - Mas. Kiddushin 81b

Said he, 'Give me a glass [of liquor],' and one was given him. He coughed and spat his phlegm into it. They scolded him, [whereupon] he swooned and died.[1] Then they [the household] heard people crying out, 'Pelimo has killed a man, Pelimo has killed a man!'[2] Fleeing, he hid in a privy; he [Satan] followed him, and he [Pelimo] fell before him. Seeing how he was suffering, he disclosed his identity and said to him, why have you [always] spoken thus?[3] Then how am I to speak?[4] You should say: 'The Merciful rebuke Satan.'[5]

Every time R. Hiyya b. Abba fell upon his face[6] he used to say, 'The Merciful save us from the Tempter.' One day his wife heard him. 'Let us see,' she reflected, 'it is so many years that he has held aloof from me: why then should he pray thus?'[7] One day, while he was studying in his garden, she adorned herself and repeatedly walked up and down before him. 'Who are you?' he demanded. 'I am Harutha,[8] and have returned to-day,' she replied. He desired her. Said she to him, 'Bring me that pomegranate from the uppermost bough.' He jumped up, went, and brought it to her. When he re-entered his house, his wife was firing the oven, whereupon he ascended and sat in it. 'What means this?' she demanded. He told her what had befallen. 'It was I,' she assured him; but he paid no heed to her until she gave him proof.[9] 'Nevertheless,' said he, 'my intention was evil.'[10]

That righteous man [R. Hiyya b. Ashi] fasted all his life, until he died thereof. Even as it was taught: Her husband hath made then, void, and the Lord shall forgive her:[11] of whom does the Writ speak?[12] Of a woman who made a nazirite vow and her husband heard of it and annulled it; but though she was unaware that her husband had annulled it , she drank wine and defiled herself through the dead.[13] When R. Akiba came to this verse, he wept. If of him who intended to eat swine's flesh but chanced upon sheep's flesh, yet the Torah decreed that he requires atonement; how much more so of him who intended to eat swine's flesh and actually ate swine's flesh![14] Similarly, you read: Though he knew it not, yet he is guilty, and shall bear his iniquity.[15] When R. Akiba came

to this verse, he wept. If of him who intended to eat shuman[16] but chanced upon heleb,[17] yet the Torah said: 'though he knew it not, yet he is guilty, and shall bear his iniquity': how much more so of him who intended to eat heleb and actually ate heleb! Issi b. Judah said: 'Though he knew it not, yet he is guilty, and shall bear his iniquity' — for this thing[18] all grief-stricken must grieve.

A MAN MAY BE ALONE WITH HIS MOTHER. Rab Judah said in R. Assi's name: A man may be alone with his sister, and dwell with his mother and daughter [alone]. When he stated it in Samuel's presence, he said: One may not be alone with any person interdicted in the Torah, [and] even with an animal. We learnt: A MAN MAY BE ALONE WITH HIS MOTHER AND His DAUGHTER, AND HE MAY SLEEP WITH THEM IN IMMEDIATE BODILY CONTACT, — this refutes Samuel? — Samuel can answer you: And on your view, [how explain] what was taught: '[As regards] a sister, a mother-in-law, and all other forbidden relations of the Torah, one may be alone with them only when there are witnesses', thus, only in the presence of witnesses, but not otherwise? But [you must say] it is [a controversy of] Tannaim. For it was taught: R. Meir said: Guard me from my daughter; R. Tarfon said: Guard me from my daughter-in-law. But a certain disciple scoffed at him. Said R. Abbahu on the authority of R. Hanina b. Gamaliel, 'It did not take long[19] before that disciple offended through his mother-in-law.'

'Even with an animal.' Abaye cleared them from the whole field.[20] R. Shesheth had them put on the other side of the bridge. R. Hanan of Nehardea visited R. Kahana at Pum Nehara.[21] Seeing him sitting and studying while an animal stood before him, he said to him, 'Do you not agree, "even with an animal"?' 'I was thoughtless,' he replied.[22]

Raba said: A man may be alone with two yebamoth;[23] two co-wives, a woman and her mother-in-law, a woman and her mother-in-law's daughter, a woman and her husband's daughter,[24] and with a woman and a child who knows the meaning of intercourse but will not yield herself thereto.[25]

WHEN THEY GROW UP, SHE MUST SLEEP IN HER GARMENT, etc. What is the age?[26] Said R. Ada son of R. 'Azza in R. Assi's name: For a girl, nine years and a day; for a boy, twelve years and a day. Others state: for a girl, twelve years and a day; for a boy, thirteen years and a day.[27] And in both cases they must be, 'breasts fashioned and thine hair was grown.'[28] Rafram b. Papa said in R. Hisda's name: This was taught only of one [a girl] who is not shy of standing nude before him [her father]; but if she is shy of standing nude before him, it is forbidden [for them to sleep in bodily contact]. What is the reason? Temptation stirs[29] her.[30]

R. Aha b. Abba[31] visited R. Hisda, his son-in-law, and took his granddaughter and sat her on his lap. Said he to him, 'Do you not know that she is betrothed?' 'Then you have violated Rab's [dictum].' For Raba Judah said in Rab's name-others state, R. Eleazar [said] — One may not betroth his daughter while she is a minor, [but must wait] until she grows up and says: 'I want So-and-so.' 'But you too have transgressed Samuel's [ruling], for Samuel said: One must not handle[32] a woman. 'I agree with Samuel's other [dictum],' he retorted. For Samuel said,

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(1) Feigned death.

(2) It was a ventriloquial trick of Satan.

(3) Cursing me.

(4) To drive you from me?

(5) Cf. Zech. III, 2: The Lord rebuke thee, o Satan.

(6) In Talmudic times after the 'Eighteen Benedictions' each person prayed privately for whatever he desired; these prayers are called 'supplications' (tahanunim), and one fell on his face when saying them. V. Elbogen, Der Judische Gottesdienst, pp. 73 ff.

(7) Surely he can restrain his passions.

(8) A well known prostitute of that town.
(9) The pomegranate.
(10) Lit., ‘for a forbidden thing’.
(11) Num. XXX, 13. This refers to the annulment of vows.
(12) How can forgiveness be necessary for breaking a vow when it has ceased to be binding?
(13) Both of which a nazir may not do.
(14) Lit., ‘it came up in his hand to eat, etc.’
(15) Lev. V, 17.
(16) Permitted fat.
(17) Forbidden fat.
(18) That one bears iniquity for sinning unintentionally.
(19) Lit., ‘there were not a few days’.
(20) When he had to pass through it, or when he was studying there.
(21) V. p. 51, n. 1.
(22) Tosaf. observes that these are cases of superstringency, but actually Jews are not suspected of pederasty or bestiality, v. infra.
(23) PI. of yebamah, q. v. Glos.
(24) All these are held to dislike each other, and so each will be afraid.
(25) The child is old enough to talk about it, but not old enough to experience desire.
(26) When they must not sleep in bodily contact?
(27) At these ages they attain their religious majority too.
(28) Ezek. XVI, 7 — desire is not awakened before then.
(29) Lit., ‘clothes’.
(30) Her shyness proves that she is sex conscious.
(31) Var. lec.: Hanan b. Raba.
(32) Lit., ‘make use of.

Talmud - Mas. Kiddushin 82a

All [is to be done] for the sake of Heaven.[1]

MISHNAH. AN UNMARRIED MAN MUST NOT BE AN ELEMENTARY TEACHER,[2] NOR MAY A WOMAN BE AN ELEMENTARY TEACHER. R. ELEAZAR SAID: ONE ALSO WHO HAS NO WIFE MUST NOT BE AN ELEMENTARY TEACHER.[3] R. JUDAH SAID: AN UNMARRIED MAN MUST NOT TEND CATTLE, NOR MAY TWO UNMARRIED MEN SLEEP TOGETHER UNDER THE SAME COVER,[4] BUT THE SAGES PERMIT IT.

GEMARA. What is the reason? Shall we say, on account of the children?[5] surely it was taught: Said they to R. Judah, Israel are not suspected of either pederasty or bestiality? — But an unmarried man [is forbidden] on account of the children's mothers, and a woman on account of their fathers.[6]

R. ELEAZAR SAID: ONE ALSO WHO HAS NO WIFE. The scholars propounded: [Does it mean,] one who has no wife at all,[7] or whose wife does not live with him? — Come and hear: Also one who has a wife but she does not live with him may not be an elementary teacher.

R. JUDAH SAID: AN UNMARRIED MAN MUST NOT TEND etc. It was taught: They said to R. Judah: Israel is suspected of neither pederasty nor bestiality.

MISHNAH. ONE WHOSE BUSINESS IS WITH WOMEN MUST NOT BE ALONE WITH WOMEN;[8] AND ONE SHOULD NOT TEACH HIS SON A WOMAN'S TRADE.[9] R. MEIR SAID: ONE SHOULD ALWAYS TEACH HIS SON A CLEAN AND EASY CRAFT, AND PRAY TO HIM TO WHOM [ALL] WEALTH AND PROPERTY BELONG. FOR NO CRAFT DOES NOT

CONTAIN [THE POTENTIALITIES OF] POVERTY AND WEALTH, FOR NEITHER POVERTY NOR WEALTH IS DUE TO THE CRAFT, BUT ALL DEPENDS ON ONES MERIT. R. SIMEON B. ELEAZAR SAID: HAVE YOU EVER SEEN A WILD BEAST OR A BIRD WITH A CRAFT? YET THEY ARE SUSTAINED WITHOUT ANXIETY. NOW, THEY WERE CREATED ONLY TO SERVE ME, WHILE I WAS CREATED TO SERVE MY MASTER: SURELY THEN I SHOULD MAKE A LIVING WITHOUT ANXIETY! BUT BECAUSE I HAVE ACTED EVILLY AND DESTROYED MY LIVELIHOOD.[10] ABBA GURION OF ZADIAN[11] SAID ON THE AUTHORITY OF ABBA GURIA: ONE SHOULD NOT TEACH HIS SON [TO BE] AN ASS-DRIVER, CAMEL-DRIVER, WAGGONER,[12] SAILOR, SHEPHERD, OR SHOPKEEPER, BECAUSE THEIR PROFESSION IS THE PROFESSION OF ROBBERS.[13] R. JUDAH SAID IN HIS NAME:[14] MOST ASS-DRIVERS ARE WICKED,[15] WHILE MOST CAMEL-DRIVERS ARE WORTHY MEN;[16] AND MOST SAILORS ARE PIOUS.[17] THE BEST OF DOCTORS ARE DESTINED FOR GEHENNA,[18] AND THE WORTHIEST OF BUTCHERS IS AMALEK'S PARTNER.[19]

R. NEHORAI SAID: I ABANDON EVERY TRADE IN THE WORLD AND TEACH MY SON TORAH ONLY, FOR MAN ENJOYS THE REWARD THEREOF IN THIS WORLD WHILE THE PRINCIPAL REMAINS TO HIM FOR THE WORLD TO COME. BUT ALL OTHER PROFESSIONS ARE NOT SO; FOR WHEN A MAN COMES TO SICKNESS OR OLD AGE OR SUFFERING AND CANNOT ENGAGE IN HIS CRAFT, HE MUST DIE OF STARVATION, WHEREAS THE TORAH IS NOT SO, FOR IT GUARDS HIM FROM ALL EVIL IN HIS YOUTH AND GIVES HIM A FUTURE AND HOPE IN HIS OLD AGE. OF HIS YOUTH WHAT IS SAID? BUT THEY THAT WAIT UPON THE LORD SHALL RENEW THEIR STRENGTH;[20] OF HIS OLD AGE WHAT IS SAID? THEY SHALL STILL BRING FORTH FRUIT IN OLD AGE.[21] AND THUS IT IS SAID OF OUR FATHER ABRAHAM, AND ABRAHAM WAS OLD . . . AND THE LORD BLESSED ABRAHAM WITH EVERYTHING.[22] WE FIND THAT OUR FATHER ABRAHAM OBSERVED THE WHOLE TORAH BEFORE IT WAS GIVEN, FOR IT IS SAID, BECAUSE THAT ABRAHAM OBEYED MY VOICE, AND KEPT MY CHARGE, MY COMMANDMENTS, MY STATUTES, AND MY LAWS.[23]

GEMARA. Our Rabbis taught: He whose business is with women has a bad character. E.g., goldsmiths,[24] carders,[25] [handmill] cleaners,[26] pedlars, wool-dressers, barbers,[27] launderers, bloodletters,[28] bath attendants and tanners. Of these neither a king nor a High Priest may be appointed. What is the reason? Not because they are unfit, but because their profession is mean.

Our Rabbis taught: Ten things were said of a blood-letter. He walks on his side,[29] has a conceited spirit, and leans back[30] when sitting, has a grudging eye and an evil eye;[31] he eats much and excretes little;[32] and he is suspected of adultery, robbery[33] and bloodshed.[34]

Bar Kappara taught: One should always teach his son a clean and easy craft. What is it? — Said Rab Judah:

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(1) To show my affection for my daughter's little girl.

(2) [The text is difficult. Rashi takes it as an elliptical phrase ‘An unmarried man shall not train himself to be a teacher of children; Krauss, T.A. p. 217, suggests: An unmarried man shall not teach as assistant to the Bible teacher; v. also Low, L. Gesammelte Schriften III. p. 17, n. 1.]

(3) This is discussed in the Gemara.

(4) Lit., ‘cloak’.

(5) Whom they teach — is it feared that they will commit pederasty with them?

(6) The children were brought to school by their parents.

(7) I.e., a widower.

(8) Even many, because he is intimate with them.

(9) I.e., a trade in women's requirements.
(10) Much of man's troubles are of his own making. — 'I have acted evilly' states this general truth, and is not to be confused with the doctrine of Original Sin, which is foreign to Judaism.
(11) [Identified with Bethsaida in Galilee, v. Klein, MGWJ. 1915, p. 167.]
(12) [In the separate editions of the Mishnah: a barber.]
(13) They lend themselves to fraud. — Drivers, because when sent on long journeys they hire themselves to others in time that is not their own; shepherds, because they lead their flocks into others' fields; shopkeepers, because it is easy to supply adulterated goods. — This probably reflects the actual state of the times.
(14) Abba Guria's.
(15) As explained in the previous note.
(16) Their way lies through the desert, the awe of which leads to humility and a Godfearing spirit.
(17) The dangers of the sea turn their thoughts to God.
(18) Rashi: being unafraid of sickness they are haughty before the Almighty. Again, their treatment is sometimes fatal; while on the other hand, by refusing treatment to the poor they may indirectly cause their death; or it is probable that it is not directed against healing as such, but against the 'advanced' views held by physicians in those days, (v. Jewish Chronicle, 1-3-35.)
(19) When they have animals of doubtful fitness for food they grudge their loss and sell them as fit.
(20) Isa. XL, 31.
(21) Ps. XCII, 15.
(22) Gen. XXIV, 1.
(23) Ibid. XXVI, 5.
(24) Who make trinkets for women.
(25) Who comb wool for women's garments.
(26) Used by housewives.
(27) Women take their children to them.
(28) Lit., 'a scraper', one who makes incisions in the skin to draw off blood.
(29) I.e., haughtily, putting on 'side'.
(30) Lit., 'suspends himself.
(31) He is miserly, and casts an evil eye upon people, so that they should need his services.
(32) [Because he joins his patients at the meals which follow the operation, and which must be the best food.]
(33) [His women patients rob their husbands in order to pay him for his services.]
(34) [By drawing off too much blood.]

Talmud - Mas. Kiddushin 82b

Quilting.[1]

It was taught: Rabbi said: No craft can disappear from the world — happy is he who sees his parents in a superior craft, and woe to him who sees his parents in a mean craft. The world cannot exist without a perfume-maker and without a tanner-happy is he whose craft is that of a perfume-maker, and woe to him who is a tanner by trade. The world cannot exist without males and without females-happy is he whose children are males, and woe to him whose children are females.[2]

R. Meir said: One should always teach his son a clean and easy craft, and earnestly pray to Him to Whom [all] wealth and property belong, for neither poverty nor wealth comes from one's calling, but from[3] Him to whom wealth and property belong, as it is said: The silver is mine, and the gold is mine, saith the Lord of hosts.[4]

R. SIMEON B. ELEAZAR SAID, HAVE YOU EVER SEEN [etc.]. It was taught: R. Simeon b. Eleazar said: In my whole lifetime I have not seen a deer engaged in gathering fruits, a lion carrying burdens, or a fox as a shopkeeper, yet they are sustained without trouble, though they were created only to serve me, whereas I was created to serve my Maker. Now, if these, who were created only to

serve me are sustained without trouble, how much more so should I be sustained without trouble, I who was created to serve my Maker! But it is because I have acted evilly and destroyed my livelihood, as it is said, your iniquities have turned away these things.[5]

R. NEHORAI SAID: I ABANDON EVERY TRADE etc. It was taught: R. Nehorai said: I abandon all trades in the world and teach my son only Torah, for every trade in the world stands a man in stead only in his youth, but in his old age he is exposed to hunger. But the Torah is not so: it stands by him in his youth and gives him a future and hope in his old age. Of the time of his youth what Is said? But they that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles.[6] Of his old age what is said? They shall still bring forth fruit in old age; they shall be full of sap and green.[7]

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(1) Stitching in furrows; cf. supra 17a on needlework being easy.

(2) Probably not prejudice against the female sex, but because daughters were a greater anxiety — a dowry had to be found for them, and they easily got into mischief; cf. Sanh. 100b, the quotation from the Book of Ben Sira.

(3) Lit., 'to'.

(4) Hag. II, 8.

(5) Jer. V, 25.

(6) Isa. XL, 31.

(7) Ps. XCII, 15.