

## Talmud - Mas. Arachin 2a

### CHAPTER I

MISHNAH. ALL [PERSONS] ARE FIT TO EVALUATE OR TO BE MADE THE SUBJECTS OF VALUATION,<sup>1</sup> ARE FIT TO VOW<sup>2</sup> [ANOTHER'S WORTH] OR HAVE THEIR WORTH VOWED: — PRIESTS, LEVITES AND [ORDINARY] ISRAELITES, WOMEN AND SLAVES. PERSONS OF UNKNOWN<sup>3</sup> SEX AND HERMAPHRODITES ARE FIT TO VOW [ANOTHER'S WORTH], OR TO HAVE THEIR WORTH VOWED, AND ARE FIT TO EVALUATE, BUT THEY ARE NOT FIT TO BE MADE THE SUBJECTS OF VALUATION, FOR THE SUBJECT OF VALUATION MAY BE ONLY A PERSON DEFINITELY EITHER MALE OR FEMALE.<sup>4</sup> A DEAF-MUTE, AN IMBECILE, OR A MINOR<sup>5</sup> ARE FIT TO HAVE THEIR WORTH VOWED OR BE MADE THE SUBJECT OF VALUATION, BUT THEY ARE NOT FIT TO MAKE EITHER A VOW [OF ANOTHER'S WORTH] OR TO EVALUATE, BECAUSE THEY HAVE NO MIND.

GEMARA. What does ALL [PERSONS] ARE FIT TO EVALUATE mean to include? — It is meant to include one close to manhood who must be examined.<sup>6</sup> What does [ALL<sup>7</sup> ARE] FIT TO BE MADE THE SUBJECTS OF VALUATION mean to include? — It is meant to include a person disfigured, or one afflicted with boils.<sup>8</sup> For one might have assumed that since Scripture says: A vow according to thy valuation,<sup>9</sup> that only such persons as are fit to be made the subjects of a vow [as regards their worth], are fit to be made subjects of a valuation, and that persons who are unfit to be made subjects of a vow [as regards their worth], are also unfit to be made subjects of a valuation, hence Scripture informs us: of persons.<sup>9</sup> i.e., no matter who they be. What does [ALL PERSONS] ARE FIT TO VOW mean to include? — [The phrase ALL] is needed only for [the clause] 'are fit to have their worth vowed' — What is to be included [in the phrase ALL] ARE FIT TO HAVE THEIR WORTH VOWED? Is it to include persons of unknown sex or hermaphrodites — but they are expressly stated [in our Mishnah]! Again is it to include a deaf-mute, an imbecile and a minor — they too are expressly stated! And if it is to include a person below the age of one month — that too is expressly mentioned!<sup>10</sup> And again if it is to include an idolater — he too is expressly mentioned!<sup>11</sup> — In reality it is meant to include a person below the age of one month; and the Mishnah states it [by implication] and later on expressly mentions it.<sup>12</sup>

What does 'All persons are obliged to lay on hands' mean to include?<sup>13</sup> — It is meant to include the heir, and this against the view of R. Judah.<sup>14</sup> What does 'All persons can effect a substitute'<sup>15</sup> mean to include? — That, too, means to include the heir, in contrast to the view of R. Judah. For it was taught: An heir must lay on hands, an heir can effect a substitute. R. Judah says: An heir does not lay on hands, and an heir cannot effect a substitute. What is the reason of R. Judah's view? — [Scripture says:] His offering,<sup>16</sup> i.e., but not his father's offering. And he infers the rule concerning the commencement of the dedication of the animal from the rule governing its end. Just as at the end of the dedication the heir does not lay on hands, thus also at the beginning<sup>17</sup> he cannot effect a substitute. And the Rabbis? — [Scripture says redundantly:] And if he shall at all change — that included the heir. And we infer the rule concerning the end of the dedication from the rule governing the commencement of the dedication. Just as at the beginning of the dedication the heir has power to effect a substitute, so at the end is he obliged to lay his hands on the animal's head.<sup>18</sup> But what do the Rabbis do with 'his offering'? [They interpret:] 'his offering', but not the offering of an idolater; 'his offering', but not the offering of his neighbour; 'his offering. i.e., to include all who have a share<sup>19</sup> in the ownership of a sacrifice in the duty to lay on hands. And R. Judah?<sup>20</sup> — He does not hold that all who have a share in the ownership share the obligation of laying hands thereon; or, indeed, if he should hold so

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(1) Lev. XXVII, 1f fixes the value of the person dedicated to the sanctuary, this value depending only on the age of the

person dedicated. Hence, if someone uses the formula: Erek peloni 'alay. i.e., the valuation of So-and-so be upon me (to pay to the sanctuary). he must make payment in accord with the valuation fixed in Lev. XXVII, independent of the person's physical or mental condition. Thus e.g., the valuation fixed there for a man of the age of between twenty and sixty, is fifty shekels.

(2) But if he said: Deme peloni 'alay, i.e., the equivalent of the market value of So-and-so be upon me (to pay to the sanctuary), he has made a vow and he must pay the amount which that person would fetch, if sold on the slave market. In this case the deciding factor would be not age, but physical and mental condition.

(3) Tumtum; lit., 'one hidden, stopped up'. i.e., a person whose genitalia are covered by a skin, hence one of unknown sex.

(4) Scripture refers (ibid.) to 'male' and 'female', but persons whose sex cannot be determined are excluded from the valuation.

(5) A boy under the age of thirteen, a girl under the age of twelve years.

(6) Mufla' from the root meaning, to make clear, to examine, hence 'one to be examined' as to the purpose for which he made the valuation. Above the age of thirteen such knowledge is taken for granted. Below the age of twelve it is assumed to be absent. During the period from twelve to thirteen the boy is to be subject to questioning. If the examination establishes his knowledge of the purpose of the dedication, his dedication is considered valid, and renders payment obligatory. Otherwise no significance is to be attached during that period to his utterance of the formula: Erek peloni 'alay.

(7) The first word of the Mishnah ALL is assumed to apply to the four cases enumerated. This word does not seem necessary, the Mishnah might have stated e.g., Priests, Levites and Israelites are fit etc. The additional ALL hence is assumed by the questioner to have implied the inclusion of persons whom, without this inclusion, one might have excluded. Hence the series of questions establishing the identity of the persons included in each case. This discussion leads to the consideration of other passages throughout the Mishnah, in which the word 'all' occurs, and to an explanation of who is included in each statement.

(8) Lev. XXVII, 2.

(9) A person disfigured, or afflicted with boils would fetch no price at all on the market place. In the expression A vow according to thy valuation, one might have inferred from this juxtaposition, that a certain fundamental agreement prevailed between cases of vow (of one's worth) and of valuation, and that therefore a person unfit to have his worth vowed (because a vow was redeemable by payment of the market value, which did not exist in the case of a disfigured person) would be unfit to be made the subject of a valuation. But this inference is cancelled by another Biblical phrase, which indicates that what is required is but 'persons', independent of their physical condition: When a man shall clearly utter a vow of persons (ibid.).

(10) V. infra 5a.

(11) Ibid. 5b.

(12) By the redundant ALL, which obviously includes some person or persons, which but for this all-inclusive term, would have been excluded. The particular reason why this case rather than any other of the four here dealt with is included here Rashi finds in the fact that it is the only one concerning which a controversy exists (infra 5a), whence the statement here by implication is of importance in teaching that even the Rabbis who hold that one who is less than a month cannot be subject to evaluation, nevertheless agree that he can have his worth vowed.

(13) The Gemara proceeds now to discuss all other cases in which a redundant 'all' is to convey some inclusion in the principle of other persons. The laying on of the hands on the head of the animal to be sacrificed conveyed the sense of ownership. It was a duty, hence a question arises in the case of several partners, or in the case of proxy.

(14) R. Judah denied this obligation to an heir. Lev. I, 3 reads: If his be a burnt-offering . . . he shall lay his hand upon the head. This, R. Judah argues, expressly limits the duty of laying the hand to the man who offered it, not to his heir, who is freed from his obligation.

(15) Lev. XXVII, 10: He shall not alter it, nor change it, a good for a bad, or a bad for a good; and If he shall at all change beast for beast, then both it and that for which it is changed shall be holy. The dispute concerns only the case of an heir in respect of an offering dedicated by his father but all agree that an exchange made by anyone besides the original owner of the sacrifice would have no effect at all, the first animal remaining sacred, the second not being affected by the unauthorized attempt at exchange.

(16) Lev. III ,2, 7 and 13 in connection with the laying on of hands in the case of peace-offerings. V. Rashi and Tosaf. a.l.

(17) First an animal is separated for the purpose of being offered on the altar. That is the commencement of its sanctification. At the end, just before the slaying of the animal, the owner lays his hand on its head. R. Judah infers from the regulations at the end, viz., the prohibition for anyone but the owner to lay hands on the head, the inefficacy of the change at the beginning, i.e., his intended exchange has no effect on the animal he wanted to substitute.

(18) The Sages infer from the redundant 'shall at all change' that even another may effect the substitute and argue from the beginning of the sanctification to the end, hence permit an heir to lay hands on the animal.

(19) The phrase 'his offering' occurs three times in Lev. III, viz., vv. 2, 7 and 13, and while two of these expressions have a limiting sense, one has an inclusive meaning, just as 'his' implies ownership, so must anyone who has a claim to ownership lay his hands on the animal's head. Therefore, every member of a group who offer the animal together must perform the laying on of hands.

(20) Since R. Judah would interpret 'his offering' in each case in an exclusive sense, how could he derive the obligation of the laying on of hands on the part of anyone who shares in it—for which an inclusive interpretation is necessary?

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he would infer [the exclusion of] idolater and neighbour from one passage,<sup>1</sup> so that two more would remain redundant, from one of which he would infer that 'his offering' means 'but not that of his father', and from the other that all who have a share in the ownership of a sacrifice are obliged to perform the laying on of hands. But what does R. Judah do with 'If he shall at all change'? — He needs that to include woman,<sup>2</sup> for it was taught: Since all this chapter is couched in masculine gender, what brings us eventually to include woman? The text stated: 'If he shall at all change'.<sup>3</sup> But [whence do] the Sages [infer this]? — From the [redundant] 'And if'. And R. Judah? — He does not interpret 'And if'.<sup>4</sup>

What does 'All persons are obliged<sup>5</sup> to observe [the laws concerning] the booth' mean to include? — That is meant to include a minor that no more needs his mother,<sup>6</sup> for we have learnt: A minor that no more needs his mother is obliged to observe the laws concerning the booth.<sup>7</sup> What does 'All are obliged to observe the law of the lulab'<sup>8</sup> mean to include? — That includes a minor who knows how to shake the lulab, for we learnt: A minor who knows how to shake<sup>9</sup> the lulab is obliged to observe [the laws of] the lulab.<sup>10</sup> What does 'All are obliged to observe the [law of] the fringes' include? — That includes the minor who knows how to wrap himself, for it was taught: A minor who knows how to wrap himself [into the tallith]<sup>11</sup> is obliged to observe the law of the fringes. What does 'All are obliged to observe the rules concerning the tefillin' include? — That includes a minor who knows how to take care of the tefillin, for it was taught: If a minor knows how to take care of the tefillin,<sup>12</sup> his father buys tefillin for him. What does 'All are obliged to appear' include?<sup>13</sup> — It is meant to include one who is half<sup>14</sup> slave and half freedman. According, however, to Rabina, who holds that one who is half slave and half freed is free from the obligation to appear, [the word 'All'] is meant to include one who was lame<sup>15</sup> on the first day of the festival and became normal again on the second day. That would be right according to the view that all the days of the festival may make up for each other. But according to the view that they all are but making up for the first day, what will 'All' come to include?<sup>16</sup> — It will include one blind in one of his eyes. This [answer] is not in accord with the following Tanna, for it was taught:<sup>17</sup> Johanan b. Dahabai said in the name of R. Judah: One blind in one eye is free from the obligation to appear, for it is said:<sup>18</sup> Yir'eh-yera'eh [he shall see — he shall appear] i.e., just as He is present to see [the comer], so shall He be seen, just as His sight is complete,<sup>19</sup> so shall the sight of him who appears be intact.<sup>19</sup> Or, if you like, say this: In truth it is meant to include one who is half slave and half freed man, and if the view of Rabina should appear as the difficulty, this is no difficulty either; the first view is in accord with the former Mishnah, the second with the later Mishnah. For we learnt:<sup>20</sup> One who is half slave and half freed man shall serve himself one day and his master the other — thus Beth Hillel. Said Beth Shammai to them: You took care of the interests of his master, but you have done nothing [thereby] on his behalf. For he is unable to marry either a female slave or free woman. Shall he do without marriage? But the world was created only for propagation of the species, as it is said: He created it not a waste. He formed it

to be inhabited.<sup>21</sup> Rather, for the sake of the social welfare we force his master to set him free, and the slave writes out a document of indebtedness covering the other half of his value. Beth Hillel retracted and taught as Beth Shammai.<sup>22</sup> What does 'All are obliged to sound the shofar'<sup>23</sup> mean to include? — That includes a minor who has reached the age of training, for we learnt: One does not prevent a minor from blowing the shofar on the festival.<sup>24</sup> 'All are obliged to read the scroll'.<sup>25</sup> 'All are fit to read the scroll'. What are these meant to include? —

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(1) The word 'his' could exclude both the fellow-Jew and the idolater, since the Scriptural 'his sacrifice' logically excludes both.

(2) That a woman can effect a substitute in her offering.

(3) Lit., 'if change he shall change' the emphasis is inclusive.

(4) He does not ascribe to that word the implications attributed to it by the Sages. About the limits of such interpretation and the basic suggestions implied in disputes thereon v. D. Hoffman, Leviticus I, 9f.

(5) The Gemara proceeds now to a systematic examination of all cases in which the word 'all' is used. Unless it can be proved that in each case that word includes something normally excluded, the argument, or rather the first question posed on 2a will be invalidated.

(6) A child which (Suk. 28b) on awakening no more calls out 'Mother!' but attends to his needs, dresses himself, etc.

(7) Suk. 28a.

(8) The palm-branch forming with citron, myrtle and willow, the cluster taken during the Feast of Tabernacles (v. Lev. XXIII, 40) is every day waved in every direction to symbolize the omnipresence of God.

(9) The lulab is waved in the four main directions: south, north, west and east, and there are some details as to the position of the components of the cluster, which are known to the worshipper, so that he may follow the cantor's lead.

(10) Suk. 42a.

(11) The prayer shawl at the four corners of which the fringes are attached, and into which one wraps oneself, 'in order to remember the commandments of the Lord'. The wrapping must be performed in a special manner, v. M.K. 24a.

(12) Commonly called phylacteries. The attachment, leather box and leather strap, each on left arm and forehead, containing the Shema' and other extracts from the Torah, originally worn all day, now only at the morning prayer.

(13) Ex. XXIII, 17: Three times in the year all thy males shall appear before the Lord God. The Scriptural text is all-inclusive, hence the Mishnaic 'All' must deal with a case which, but for its redundant 'all', one would have excluded from the obligation to appear.

(14) A full slave is free because 'before the Lord God' is interpreted to mean: only those who have but one Lord or Master, i.e., excluding the slave, who has a terrestrial master in addition to the Eternal Lord to serve. If owned by two masters, one of whom frees him, the slave becomes half freed, and stays half slave.

(15) The word regel in Hebrew may mean either 'foot' or 'festival' (on the three festivals the men 'footed' it to Jerusalem). Hence the inference that only those who could foot it normally are obliged to appear on these three festivals, which excludes a lame man.

(16) There are two views as to the statement of the Mishnah (Hag. 9a: One who has made no offering on the first day of the feast must make up, or has the opportunity to make up for it, throughout the other days of the festival), the first holding that each day has its own obligation; hence even if the worshipper was unfit on the first day of the festival, provided he is fit on the next, he is not exempt on the other days per se imposing the obligation, whilst the other considers only the first day imposing the obligation of an offering. Consequently, if he was disqualified on the first day, or free of that obligation, he would be exempt a complementary offering. The practical difference, in our case, would be this: One who on the first day of the festival had been lame, hence not obliged to offer the festal sacrifices, would be free according to the second view, but according to the first, would be obliged to make the offering on one of the subsequent days of the festival.

(17) Hag. 2a.

(18) The massoretic text y-r-'-h may be accentuated to read either yir'eh (he will see) or yera'eh (he will be seen). The first reading applied to the Lord, the second to the Israelite appearing before Him, would be thus interpreted: Just as the Lord sees him 'with two eyes' i.e., with undisturbed vision, so shall the worshipper be one appearing with 'both eyes intact, i.e., with undiminished sight. For an alternative rendering v. Hag., Sonc. ed., p. 3. n. 3.

(19) Lit., 'with two eyes'.

(20) Hag., Sonc. ed., p. 3. n. 6.

(21) Isa. XLV, 18.

(22) V. Hag. 2b.

(23) The trumpet blown on the New Year, v. Lev. XXIII, 24.

(24) R.H. 32b. The source quoted does not seem to fit the 'inference made, for the answer postulates evidence that a minor is obliged to sound the shofar, whereas the reference quoted refers to the fact that one does not prevent a minor from sounding the horn, which allows for the possibility of his being neither obliged nor forbidden to sound it. There is a lacuna in the text which Tosaf. s.v. **אין מעכבין** supplies, from R.H. 33a, where such obligation is definitely stated.

(25) I.e., the Scroll of Esther read on the feast of Purim.

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They are meant to include women, in accord with the view of R. Joshua b. Levi; for R. Joshua b. Levi said: Women are obliged to read the scroll because they, too, had a part in that miracle.<sup>1</sup> What does 'All are obliged to arrange zimmun'<sup>2</sup> mean to include? — It means to include women and slaves, for it was taught: Women are under the obligation of zimmun amongst themselves, and slaves are under the obligation of zimmun amongst themselves.<sup>3</sup> What does 'All may be joined to a zimmun' mean to include? — That includes a minor who knows to Whom one pronounces a blessing, for R. Nahman said: One may arrange a zimmun with a minor who knows to Whom one pronounces a blessing.<sup>4</sup> What does 'All defile by reason of their flux' include? — That includes a child one day old, for it was taught: [It could have said,] When a man [hath an issue out of his flesh].<sup>5</sup> Why does the text state 'any man'? That is to include a child one day old, [teaching] that he defiles by reason of his flux; this is the view of R. Judah. R. Ishmael the son of R. Johanan b. Beroka says: [This inference] is not necessary, for behold, Scripture reads: And of them that have an Issue, whether it be a male or a female,<sup>6</sup> i.e., once he is 'a male', however minor or major, once she is 'a female', whether minor or major.<sup>7</sup> If so, why does the Torah use [the redundant phrase] 'any man'? The Torah speaks in the language of man.<sup>8</sup> What does 'All are susceptible to be defiled by someone defiled through contact with a corpse'<sup>9</sup> include? — That includes a minor. For one might have assumed that since Scripture reads: But the man that shall be unclean, and shall not purify himself,<sup>10</sup> that means only [to] a man [does this law apply] but not to a minor, therefore it is said: And upon the souls [persons] that were there.<sup>11</sup> What then did 'man' come to exclude?<sup>12</sup> — It is meant to exclude a minor from the penalty of excision.<sup>13</sup> What does 'All contract uncleanness by leprosy' include?—That includes a minor. For one would have taught: [Scripture reads:] A leprous man,<sup>14</sup> that means only a man but not a minor, therefore we are taught [that a minor, too, is defiled when leprous]. But say perhaps: Thus, indeed?<sup>15</sup> — [The text reads:] When adam [a man] shall have in the skin of his flesh,<sup>16</sup> i.e., as long as it is [an adam].<sup>17</sup> Then why the word 'man'? — This is in accord with what was taught: '[A leprous] man', thence I derive only the law as referring to a man, whence am I to infer it for woman? When it says: And the leper,<sup>18</sup> that includes two. Why then does the text state, [A leprous] man'? That refers to [the matter referred to] later,<sup>19</sup> [viz.,] only a [leprous] man lets the hair of his head go loose and rends his clothes, but a [leprous] woman does not let the hair of her head go loose, nor does she rend her clothes. What does 'All may inspect the signs of leprosy', 'All are fit to inspect the signs of leprosy' include?<sup>20</sup> — That includes one who is not familiar with them and their names. But did not a Master say that one unfamiliar with them and their names may not inspect leprous signs?<sup>21</sup> Rabina said: This is no difficulty: One case speaks of one who understands them when they are explained, the other of one who, even when they are explained, does not understand them. What does 'All are fit to mix the ashes'<sup>22</sup> include? According to R. Judah it includes a minor; In accord with the Sages it includes a woman, for we are taught: All are fit to mix the ashes except a deaf-mute, an imbecile or a minor. R. Judah considers a minor fit, but a woman and a hermaphrodite unfit. What does 'All are fit to sprinkle'<sup>23</sup> include? — That includes an uncircumcised<sup>24</sup> person In accord with the view of R. Eleazar; for R. Eleazar said: If an uncircumcised person sprinkled, his sprinkling is valid.

What does 'All are fit to slaughter ritually' include? — The first includes a Samaritan, the second

a non-conforming Israelite.<sup>25</sup> What does 'All may compel to go up to the land of Israel' include?<sup>26</sup>

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- (1) v. Meg. 4a, Rashi and Tosaf. s.v. **איש** : Either they too were included, in Haman's decree of extinction, or their merit, too, brought about the miracle of the deliverance.
- (2) Ber. 45a: Three who ate together are under the obligation of zimmun, i.e. of saying grace together. Literally zimmun means appointing and may thus refer to the appointment to eat together, with the implied obligation to say grace together.
- (3) Ber. 45b.
- (4) Ber. 48a.
- (5) Lev. XV, 2.
- (6) Lev. XV, 33.
- (7) Nid. 32b.
- (8) The repetition of the word 'man' is redundant. 'Ish ish' means every man, any man.
- (9) The corpse itself is called: Abi Aboth ha-Tunah i.e., very first cause of defilement.
- (10) Num. XIX, 20.
- (11) Ibid. 18.
- (12) Since all persons can defile, why the exclusive 'man'?
- (13) This passage refers to an unclean person entering the Sanctuary, the penalty for which offence is excision (by the hand of God). The word 'man' in the passage indicates that whereas any 'soul' (even a minor) can defile, only a man, i.e., an adult, incurs the penalty of death when in his unclean state he enters the Sanctuary.
- (14) Lev. XIII, 44.
- (15) That the laws of leprosy do not apply to a minor, in accord with the exclusive meaning of 'man'?
- (16) Lev. XIII, 2.
- (17) 'Adam', a human being in the general sense of the term, includes minors. 'Ish' — 'man' should have been used if minors were to be excluded from the application of that law.
- (18) Lev. XIII, 45. The word 'and the leper' is superfluous. The preceding verse having referred to the leper, why then the repetition 'and the leper, etc'? Evidently another leper, too, is concerned, i.e., a female leper.
- (19) In v. 45: And the leper in whom the plague is, his clothes shall be rent, and the hair of his head shall go loose, v. M.K. 15a.
- (20) These are two distinct teachings, giving the same ruling in different phraseology, the latter being a Mishnah in Neg. III, 1.
- (21) Shebu. 6a.
- (22) To mix (lit., 'to sanctify') the ashes of the red heifer with fresh water, v. Yoma 43a.
- (23) A person levitically unclean with the water of purification. Num. XIX, 1f.
- (24) If two sons of one family have died because of the circumcision, the third is not to be circumcised, because of the hazakah (presumption) that a like fate might befall him. Such an uncircumcised person, being legally justified in failure to have the rite performed upon himself, does not fall into the category of the unfit.
- (25) There are two statements to this effect: Hui. 2a and 15b, hence the questions calls for two inclusions.
- (26) Keth. 110b.

### Talmud - Mas. Arachin 3b

That includes slaves.<sup>1</sup> But according to the one who teaches 'slaves' explicitly, what does it include? — That includes the case [when the husband moves] from a beautiful habitation [in the Diaspora] into a bad one [in the land of Israel]. What does 'All may compel to go up to Jerusalem' include?<sup>2</sup> It includes the case [of moving] from a beautiful habitation into a bad one.

'All are obliged to observe the laws concerning the booth even priests, Levites and Israelites'. But that<sup>3</sup> is self-evident, for if they are not obliged, who is obliged? — The statement is necessary for the priests, for I would have thought, since Scripture says: Ye shall dwell in booths,<sup>4</sup> and a Master said: 'Ye shall dwell' [means] 'in the same manner as you occupy your habitation', just as in the dwelling

husband and wife are living together, so shall husband and wife live together in the booth, and since the priests are prevented by the [Temple] service,<sup>5</sup> one would have assumed they are free from the obligation to dwell in the booth; we are therefore taught that though they are free at the time of the service, outside the time of the service they are definitely obliged [to observe the laws of the booth]; just as is the case with travellers; for a Master has said: those who travel by day are free from the obligation of the booth by day and are bound to it at night. ‘All are obliged to observe the law concerning the fringes, even priests, Levites and Israelites’. But that is self-evident? — It is necessary because of the priests, for I would have thought, since it is written: Thou shalt not wear a mingled stuff . . . thou shalt make thee twisted cords,<sup>6</sup> that only such persons as are bound by the prohibition of mingled stuff in their garments are obliged to make the twisted cords, as since to them [the wearing of mingled] stuff has been permitted,<sup>7</sup> one might have thought that they would not be obliged to make themselves fringes, therefore we are informed that although that prohibition does not apply at the time of their service, it does apply outside that time of service.<sup>8</sup>

‘All are obliged to observe the commandment of the tefillin, even priests, Levites and Israelites’. But that is self-evident? — It is necessary because of the priests. For I might have assumed that since it says: And thou shalt bind them for a sign upon thy hands, and they shall be for frontlets between thine eyes,<sup>9</sup> that only those to whom [the obligation to bind] upon the hand applies are bound to [bind upon] the head; but as to the priests [the obligation of the sign] upon the hand does not apply to them, as it is written: [And his linen garment, his linen breeches] shall he put upon his flesh,<sup>10</sup> [which means] that nothing may intervene between them and his flesh,<sup>11</sup> one might say [the obligation of the sign upon] the head similarly does not apply to them, therefore we are informed that they are not indispensable one to another, as we learnt: The tefillin of the arm is not indispensable to the tefillin of the head, neither is the tefillin of the head indispensable to the tefillin of the arm.<sup>12</sup> But why shall it be different with the tefillin of the hand?<sup>13</sup> [Evidently] because Scripture says: [And his linen garments] ... shall he put upon his flesh? But in connection with [the sign upon] the head it is similarly written: And thou shalt set the mitre upon his head?<sup>14</sup> — It was taught: ‘Between the plate and the mitre his hair was visible’, at the place where he put his tefillin.<sup>15</sup>

‘All are obliged to perform the commandment touching the horn, even priests, Levites and Israelites’. But that is self-evident? — For the sake of the priests is it necessary, for I might have assumed since it is written: It is a day of blowing the horn unto you,<sup>16</sup> that only those who are obliged to sound the horn one day [a year] are obliged to do so on that day; the priests, however, since they are obliged to sound the horn throughout the year, as it is written: Ye shall blow with the trumpets over your burnt-offerings,<sup>17</sup> one might have assumed to be free from that obligation. But these things are not similar. Here it is a case of the horn, there one of trumpets? — Still, the information is necessary, for I might have assumed, since we learnt<sup>18</sup> that the Jubilee year is like the New Year with regard to the sounding of the horn and the benedictions, that therefore only he to whom the laws of the Jubilee year apply is obliged to perform the laws touching the New Year, but he to whom the laws of the Jubilee year do not apply, need not perform the laws touching the New Year, and since priests are not affected by the laws governing the Jubilee year, as we learnt:<sup>19</sup> priests and Levites may sell at any time

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(1) A circumcised Canaanite slave, whom his master must not sell outside the Holy Land, if the slave desires to be imported to Palestine. The master must either take him to the Holy Land or emancipate him outside thereof. Tosaf. s.v. לֵאָתוּי .

(2) I.e., the husband can compel the wife to go up to the land of Israel even under such conditions.

(3) Here starts a new type of question, really a sub-question of the first. In the first the problem was to discover the case to be included because of the inclusive ‘all’; in the following cases the redundant ‘priests, Levites and Israelites’ is to be accounted for. The law was given to Israel. Israel is divided into the three groups, Priests, Levites and (common, not levitical) Israelites. Why then the repetition? The answer in each case will have to show that for some particular reason one of the three classes might have been excluded, but for the repeated clause, which expressly includes them.

(4) Lev. XXIII, 42.

(5) Priests must be levitically pure when performing the service, whilst the act of conjugality would render them levitically impure.

(6) Deut. XXII, 11 and 12 are read together, and according to the principle that the proximity of passages in Deut. justified legalistic inference (Ber. 10a), they are assumed here to be interdependent.

(7) The girdle of the priests was of mingled stuff, linen and wool, v. Yeb. 4b in explanation of Ex. XXXIX, 29.

(8) With the corollary that when not engaged in the service divine, they are subject to the rule of the twisted cords.

(9) Deut. VI, 8.

(10) Lev. VI, 3.

(11) Hence not the tefillin either since such binding would intervene between the priestly garment and the flesh.

(12) Men. 38a. The Mishnah means that the performance of the obligation of the sign upon head and arm respectively is not interdependent, i.e., failure to bind the sign upon the head does not render the binding upon the hand invalid, or superfluous. Although part of the same sign-symbolism, they represent two independent, individual acts.

(13) That priests are exempt from binding it on.

(14) Ex. XXIX, 6, so that the tefillin on the head would act as interposition between the head and the mitre.

(15) Hence the argument of the last note could not be made here, whilst the tefillin of the arm does interfere with the regulation that nothing shall intervene between the linen garment and the priest's flesh, the tefillin being placed upon the biceps of the left arm, tradition provides for a free space between plate (Ex. XXVIII, 36) and mitre, where the tefillin of the head had its legitimate place.

(16) Num. XXIX, 1.

(17) Ibid. X, 10.

(18) R.H. 26b. On the Day of Atonement of the Jubilee year the set of prayers obligatory on the average New Year are also mandatory, viz., Malkhiyoth, Zikhronoth and Shofroth.

(19) Infra 33b.

## **Talmud - Mas. Arachin 4a**

and redeem at any time, one might say that they are not affected by the laws governing the New Year either, therefore we are informed that although they are unaffected by the law of release of landed property, the law concerning the release of debts and the emancipation of slaves binds them at any rate.<sup>1</sup>

‘All are obliged to read the scroll, even priests, Levites and Israelites’. is that not self-evident? — No, it is necessary [to state that] concerning the interruption of their [Temple] service, in accord with Rab Judah in the name of Rab; for Rab Judah in the name of Rab said: Both the priests in their [Temple] service, the Levites on their platform, the Israelites at their posts<sup>2</sup> interrupt their work and come to listen to the reading of the scroll.

‘All are obliged to arrange a zimmun even priests, Levites and Israelites’. Is not that self-evident? — No, it is necessary for the case in which the priests were eating consecrated foods. I might have thought since the Divine Law said: And they shall eat those things wherewith atonement hath been made,<sup>3</sup> that this is an atonement, therefore we are informed: The Divine Law has said: Thou shalt eat and be satisfied,<sup>4</sup> and this applies to them as well.

‘All may be joined for a zimmun, even priests, Levites and Israelites’. Is that not self-evident? — No, it is necessary for the case where the priests eat of terumah<sup>5</sup> or of consecrated foods, whilst the non-priest eats of profane foods. I might have assumed that since the commoner, even though he desired to eat with the priest [of the latter's food], he could not do so, therefore he could not be joined to him [for the zimmun] either, so we are informed that granted that the non-priest may not eat together with the priest, the priest could surely eat together with the non-priest.<sup>6</sup> ALL MAY EVALUATE, EVEN PRIESTS, LEVITES AND ISRAELITES. But that is self-evident? — Rabbah said: This is necessary in view of the opinion of Ben Bukri, for we learnt:<sup>7</sup> R. Judah said: Ben Bukri



testified at Jabneh that any priest who paid the shekel<sup>8</sup> does not thereby commit a sin. R. Johanan b. Zakkai said to him: Not so! But a priest who does not pay the shekel commits a sin. The priests, however, Used to explain the following verse to their advantage: And every meal-offering of the priest shall be wholly made to smoke; it shall not be eaten.<sup>9</sup> Now, [they argued] since the ‘Omer and the two loaves and the shewbread are ours, how could they be eaten? — But according to Ben Bukri, since they are not de jure obliged to bring it [pay the shekel], if one brings it he should be considered a sinner, for he brings profane things to the Temple Court?<sup>10</sup> — [The assumption is that] they bring the shekel and hand it over to the community.<sup>10</sup> Now I might have assumed that since Scripture reads: And all thy valuations shall be according to the shekel of the Sanctuary,<sup>11</sup> that only he to whom the obligation of the shekel applies is subject to the laws of valuation, but as to priests, since the obligation of the shekel does not apply to them, are not subject to the laws of valuation; therefore we are informed [that they are]. Said Abaye to him: But the words, ‘And all thy valuations’ serve to teach that ‘all thy valuations’ must each amount to no less than one sela’? Rather, said Abaye, [the inclusion of priests] is necessary [for this reason]: I might have assumed that since Scripture reads: And their redemption money — from a month old shalt thou redeem them — shall be according to thy valuation,<sup>12</sup> that only he to whom the law of redeeming [the first-born] applies, is subject to the laws of valuation, but as to priests, since they are not included in the law concerning redemption, therefore they are not subject to the law of valuations; therefore we are informed [that they are]. Said Raba to him: If so, since with regard to the ram of guilt-offering Scripture reads: And he shall bring his forfeit unto the Lord, a ram without blemish out of the flock, according to thy valuation,<sup>13</sup> let us also argue that only he to whom the law of valuation applies is liable to bring a ram of guilt-offerings but one of doubtful sex, or a hermaphrodite, who is not subject to the law of valuation, is free from the obligation to offer up a ram of guilt-offering? Rather, said Raba, or as some say, R. Ashi: [The inclusion of priests] is necessary, for I might have said, since Scripture reads: Then he shall be set before the priest, etc.,<sup>14</sup> that [only an Israelite is set] before the priest, but not a priest before a fellow priest; therefore we are informed [that priests, too, are included in the law of valuation].

What does ALL ARE FIT TO BE MADE THE SUBJECT OF VALUATION include? — That includes one disfigured or afflicted with boils. Whence do we derive that? — For our Rabbis have taught: ‘According to thy valuation’, that includes a general valuation.<sup>15</sup> Another interpretation: ‘According to thy valuation’, i.e., one pays only for the valuation of a whole person, but not for the valuation of his limbs. One might have assumed that they exclude [the valuation of] any thing on which life [the soul] depends, therefore the text states: ‘Persons’.<sup>16</sup> ‘Persons’ [souls], but not a dead person. Thence I would exclude the dead, but not the dying, therefore the text states: Then he shall be set [before the priest], and the priest shall value him,<sup>17</sup> [which means] only one who can be set [before the priest] can be evaluated but one who cannot be set before the priest cannot be evaluated either. Another interpretation: ‘Persons’ — thence I could infer only the case of one evaluating person; whence do I know the case of one evaluating a hundred persons? The text therefore states: ‘Persons’. Another interpretation: ‘Persons’

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(1) The Jubilee year affects more than the sale of land, viz., also the manumission of slaves; the priests do not enjoy any privileged position, hence they are also included in Jubilee legislation, whence their obligation to blow the horn on New Year's day.

(2) V. Meg. 3b.

(3) Ex. XXIX, 33.

(4) Deut. VIII, 10. According to Sh. Mek.: ‘I would have thought that since it is written: Thou shalt eat and be satisfied, and bless, i.e., only when you eat for the purpose of appeasing your hunger is it obligatory for you to pronounce the blessing, but since priests (also) eat to obtain forgiveness, they would be free from that obligation, therefore we are informed etc.’.

(5) V. Glos.

(6) It need not be mutually possible to join in the meal, hence as long as priest and non-priest are able to partake of one meal together, the zimmun is obligatory, for even the priest is permitted to eat non-consecrated food.

(7) Shek I, 4.

(8) The sin, as explained infra, would lie in his bringing profane money into the sanctuary. The command of Ex. XXX, 13: This they shall give, every one that passeth among them that are numbered, half a shekel after the shekel of the sanctuary, yields several inferences. 'Among then that are numbered' excludes the tribe of Levi who were not numbered among the rest of the tribes. Hence the priest offering his shekel might be assumed to offend by introducing non-consecrated, i.e., profane, hence forbidden, money into the sanctuary. Nevertheless, Ben Bukri maintains he does not offend, because he may surrender it to the non-priestly community, which is obliged to offer the shekel, thus converting his own shekel into consecrated money. R. Johanan b. Zakkai, however, points out that there are indications in the text justifying a different interpretation. — Every one that passeth' may refer to the whole people, including the Levites, who passed through the Red Sea.

(9) Lev. VI, 16. They argued: Since this verse prohibits the enjoyment of anything offered up by priests, our shekel, the proceeds of which should be completely used for 'smoking' would render the 'omer and the shewbread, the costs of which were defrayed from the shekel payments, prohibited for any human use; whereas they are eaten by the priests in the sanctuary. Consequently, for any priest to pay the shekel would be sinful. But this argument is faulty for it is only the priest's own flour-offering which must be wholly burnt, in all other cases the majority of the givers, i.e., the non-priestly community, determine the character of the offering, which need therefore not be consumed wholly on the altar.

(10) V. n. 1.

(11) Lev. XXVII, 25.

(12) Num. XVIII, 16.

(13) Lev. V, 25. This inference would be absurd; none would suggest that the hermaphrodite be freed from this law.

(14) Lev. XXVII, 8.

(15) The normal form of the valuation is: The valuation of So-and-so or the valuation of myself be upon me, i.e., I undertake to pay. A general valuation is: I undertake to pay a valuation, without referring to any person thus to be valued.

(16) Lev. XXVII, 2: persons, souls. Without a leg, for example, one would still be a person, but not without the head. Hence the valuation, say, of a man's head or heart, is taken to be equal to the valuation of his whole person, whereas the valuation of a non-vital part of his body has no significance.

(17) Ibid. 8.

## **Talmud - Mas. Arachin 4b**

, thence I could infer only the case of a man evaluating either man or woman. But whence do we know the case of a woman evaluating a man, or of a woman evaluating a woman? The text therefore states: 'Persons'. Another interpretation: 'Persons' — that means to include one disfigured or afflicted with boils. For I might have assumed: 'A vow . . . according to thy valuation' [meaning] whatsoever can have its worth vowed is subject to valuation, but whatsoever cannot have its worth vowed is not subject to valuation,<sup>1</sup> therefore Scripture states: 'Persons'. 'Then thy valuation shall be' — that includes the person of 'doubtful sex and the hermaphrodite among those who can have their worth vowed. For I might have assumed: Since [Scripture reads]: 'A vow according to thy valuation' that only such things as are subject to valuation can have their worth vowed; but whatsoever is not subject to valuation cannot have its worth vowed, therefore the text states: Then shall thy valuation be for the male,<sup>2</sup> [viz.,] only for the male but not for one of doubtful sex, or an hermaphrodite. One might have assumed that they may not be subject to the valuation of a man, but that they are subject to the valuation of a woman, therefore [the text reads]: Then thy valuation shall be for the male . . . and if it be a female — that means only one definitely male or female [is subject to valuation], but not one of doubtful sex or a hermaphrodite.

The Master taught: 'According to thy valuation': that includes a general valuation. What is a general valuation? — For it was taught: If someone says, I assume the obligation of a general valuation,<sup>3</sup> then he gives according to the minimum amount possible in valuations. What is the minimum due in valuations? Three shekels. But say, perhaps, fifty shekels?<sup>4</sup> — If you take hold of the larger [amount], you may lose your hold, but if you take hold of the lower, you will keep it!<sup>5</sup>

Then say, perhaps, one shekel? As it is written: And all thy valuations shall be according to the shekel of the sanctuary?<sup>6</sup> — That passage refers to the regard to one's means.<sup>7</sup> What then is the purpose of the Scriptural passage?<sup>8</sup> — R. Nahman, in the name of Rabbah b. Abbuha said: To tell us that in this case he is not adjudged according to his means.<sup>9</sup> What is the reason? — Because it is as if he had made an express statement [of the minimum]. Others say: R. Nahman in the name of Rabbah b. Abbuha said, He is adjudged according to his means. But that is self-evident? — I might have assumed that [a general valuation] is considered like an express statement, therefore we are informed [that it is regarded like a poor man's vow]. 'Another interpretation: "According to thy valuation", i.e., he pays only in case of the dedication of a whole person, but not for the valuation of his limbs'. But you have used this text to infer the rule concerning a general valuation? — Read: [Since instead of] 'valuation', it says, 'according to thy valuation'.<sup>10</sup>

'One might have assumed that this excludes anything on which life [the soul] depends, therefore the text states: "Persons" [souls] viz., souls but not the dead person'. But you have used that word for another purpose. Read: [Since instead of] 'person' [it says] persons'.<sup>11</sup>

'Thence I would exclude the dead but not the dying, therefore the text states: "He shall be set [before the priest] and [the priest] shall value him"'. But, if so, you might exclude the dead also through inference from: 'He shall be set . . . and the priest shall value him'? — In truth so. Wherefore then [the exposition] of 'person', 'persons'? As we shall explain later on.<sup>12</sup>

'Another interpretation: "Persons", thence I could infer the case of one evaluating one person; whence do I know the case of one evaluating a hundred? The text therefore states: "Persons". Another interpretation: "Persons" , thence I could infer only the case of a man evaluating either ma\_n or woman. But whence do I know the case of a woman evaluating a man, or of a woman evaluating a woman? The text therefore states: "Persons". Another interpretation: "Persons", that means one disfigured or afflicted with boils'. But you have used the word for these [other teachings]?<sup>13</sup> — No Scriptural text is necessary for these, because the balance [between them] is even, hence all may be inferred therefrom.<sup>14</sup> The passage is necessary only for [the inclusion of] one disfigured or afflicted with boils. "'Then thy valuation shall be", that includes one of doubtful sex and an hermaphrodite among those who can have their worth vowed'. But why is a Scriptural passage necessary for [including these in the rule of those whose] worth [can be vowed]? Let them be no worse than the worth of a palm tree! If he said: The worth of a palm tree [do I oblige myself to pay], would he not have to pay it? — Said Rabbah:<sup>15</sup> It means to say that he [his worth] be assessed according to the importance [of his limb].<sup>16</sup> I would have thought that since it is written: 'A vow according to thy valuation', that whatsoever is affected by the law of evaluation is assessed according to the importance [of the limb] ' but that whosoever is not affected by the laws of evaluation is not assessed according to the importance [of the limb, hence the Scriptural indication]. Said Abaye to him: Is indeed one to whom the laws of valuation do not apply assessed according to the importance [of the limb]? Was it not taught: [If someone said], The head of this slave shall be consecrated to the sanctuary, then he and the sanctuary share it in partnership.<sup>17</sup> If he said: The head of this slave be sold to you, they assess its value between them.<sup>18</sup> [If he said], The head of this ass is consecrated, he and the sanctuary share it in partnership; [if he said], The head of this ass is sold to you, they assess it between them. [If he said], The head of this cow is sold to you, he has sold no more than her head. And not only that but even if he said: The head of this cow Is consecrated to the sanctuary, the sanctuary has no more than her head. And R. Papa said: [The reason why there is no partnership in the case of a cow is] because the head of an ox is sold<sup>19</sup> in the butcher's shop. Now ass and cow are not affected by the law of valuations, and yet are not assessed according to the importance [of the limb]? But according to your own position, what of the case of a slave to whom the law of valuation does apply, and yet he is not assessed according to the importance [of the limb]?<sup>20</sup> Rather: There is no difficulty. This latter [Baraita] refers to things dedicated to the altar, the former to things dedicated to the Repair of the House.<sup>21</sup> How did you explain [the latter

Baraita]? As referring to things dedicated to the altar? But look at the second part: And not only that, but even if he said: The head of this cow is consecrated to the sanctuary, the sanctuary owns no more than her head. Why that? Let the sacred character spread so as to include the whole animal?<sup>22</sup> Has it not been taught:

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(1) V. supra p. 16 n. 4.

(2) Ibid. 3.

(3) The suggestion is that the lowest possible amount is involved, namely three shekels, for a female from one month to five years of age.

(4) But why give him the benefit of the doubt? Why not impose, with even justification, the maximum?

(5) A proverb, v. Hag. 17a.

(6) If, however, we consider it safer to impose the minimum amount, because that is definitely included in any general valuation, whereas the maximum may be fought as against the intention of the man who dedicated, then why not impose the minimum possible in connection with valuations, one shekel, v. 25.

(7) That verse refers to a poor person, having made a vow of valuation, in which case the payment of his vow is regulated in accord with the valuator's means, never less than a shekel. But that does not affect the case of one who made a vague general evaluation, who, therefore, must pay the minimum of a valuation, viz., three shekels.

(8) What is the significance then of 'According to thy valuation'? Since it is simple inference that a general valuation implies the minimum of three shekels, below which no valuation can go, the text seems meaningless.

(9) In the case of a general valuation the payment is fixed at three shekels, even if it is beyond the means of him who made the vow.

(10) The word without any suffix would have sufficed. The redundancy of the suffix implies additional information. Hence a double inference such as made here is quite legitimate.

(11) Cf. n. 1. mutatis mutandis.

(12) I.e., to include one disfigured or afflicted with boils.

(13) That one may evaluate a hundred persons, and that a woman too may evaluate.

(14) The word 'nefesh' (person, soul) allows with even logic a number of inferences: any person, male or female, may dedicate or he dedicated; person as well as persons may be dedicated; anything that is vital (to person, or soul) may be dedicated, even if it be but part of a person. Anyone of these inferences are therefore 'balanced', evenly justified and neither could one be inferred exclusively as more logical than the other. But the inclusion of one disfigured or afflicted with boils, which would have seemed incongruous because such persons cannot have their worth vowed, needed some textual justification or at least intimation, and that is provided by the plural 'persons', which includes even persons disfigured etc.

(15) So Sh. Mek. Cur. edd. Raba.

(16) So R. Gershom; e.g., if a person's head or heart or any other vital organ were vowed, such vow, because of the vital need to that person of the respective organ, would be considered as equal to a vow of the whole person's worth, thereupon due to the Temple Treasury.

(17) Sc. its worth, which then is divided between them.

(18) V. infra.

(19) In the case of slave and donkey the head could not be (cut off and) sold, whence the vow implies part ownership. This shows that objects to which the law of valuation does not apply, are nevertheless not considered as having been vowed in their totality when a vital organ has been vowed, which contradicts the thesis, above, of Rabbah.

(20) The same question applies to Abaye's position inasmuch as from the same Baraita it appears that even a slave, who is affected by the law of valuation, is not assumed to have been vowed in his totality, even though one of his vital organs has been vowed.

(21) Only with regard to dedications, the money of which flows to the repair fund, do we go by vow of vital organs, therefore also a hermaphrodite whose worth had been vowed to the repair fund, would be considered totally vowed, as long as a vital organ had been vowed; but such a regulation does not apply to objects dedicated to the altar.

(22) Since the whole animal could be offered up as a sacrifice.

## **Talmud - Mas. Arachin 5a**

If one said: 'The leg of this [animal] shall be a burnt-offering', one might have assumed that the whole animal thereby becomes a burnt-offering, therefore the text states: All that any man giveth thereof unto the Lord shall be holy,<sup>1</sup> i.e., only [that] 'thereof' [which he giveth] shall be holy, but not the whole thereof shall be holy. One might have assumed that the whole becomes profane,<sup>2</sup> therefore the text states: '[It] shall be', i.e., It retains its present character. How then? It is sold for the purchase of burnt-offerings and the money realized, with the exception<sup>3</sup> of the [value of the] limb dedicated, shall be profane; this is the view of R. Meir. R. Judah, R. Jose and R. Simeon say: Whence do we know that if a man said: The leg of this animal shall be a burnt-offering, that the whole animal is a burnt-offering, therefore the text states: 'All that any man giveth thereof unto the Lord shall be holy': that means to include the whole. Now even according to the view that thereby the whole animal does not become consecrated, that applies only to [the vow of] an organ upon which life does not depend, but whenever a limb is vowed upon which the life [of the animal] depends, the whole [animal] becomes consecrated?<sup>4</sup> — This is no difficulty. One speaks of the vow of the animal itself,<sup>5</sup> the other of the vow of its equivalent in money. But it 'was the Master himself<sup>6</sup> who said that if someone consecrates a male [animal] in its money equivalent, that [animal] becomes consecrated in itself!<sup>7</sup> — That is no difficulty: one case<sup>8</sup> speaks of his having dedicated the whole, the other of his dedicating one member of the body.<sup>9</sup> But even concerning [the dedication of] one member it is a matter of doubt, for Rabbah asked: If a man had dedicated one member in its money value, how then? — The question was asked about a perfect animal, whereas here we are dealing with a blemished one, similar to the donkey<sup>10</sup> [discussed above]. But the case of [the dedication of] a blemished one is also doubtful, for Rabbah asked: If someone says the money value of my head<sup>11</sup> is [dedicated] to the altar, what then? — The question was asked before he heard this teaching,<sup>12</sup> but now that he has heard this teaching, it is no more doubtful to him.

[To turn to] the main text: Rabbah asked, [If a man said,] The money value of my head be for the altar, shall he be valued according to the importance [of this], or shall he not be so valued? [Do we say that] it never happens that a vow regarding [a person's] worth be not assessed according to the importance [of the limb] or, [on the other hand, do we say] it never happens with regard to a consecration for the altar that [the consecration] is determined by the importance [of the limb]?<sup>13</sup> — The question remains [unanswered].

Raba asked: [If someone said:] The valuation of myself I undertake to pay for the altar, is he adjudged according to his means, or not? [Do we say,] It is never found in connection with valuation that one is not adjudged according to one's means; or, [on the other hand] it never happens with regard to any vow to the altar that<sup>14</sup> one be adjudged according to his means? — The question remains [unanswered].

R. Ashi asked: If a man dedicated a field of possession<sup>15</sup> for the altar, what then? Do we say it never occurs that a field of possession can be redeemed except on the basis of fifty shekels for each [part of the field sufficient for] the sowing of a homer of barley, or [perhaps, we say] it does not happen with regard to any [gift for] the altar that it be redeemed otherwise than in accord with its actual value?<sup>16</sup> — The question remains [unanswered]. MISHNAH. A PERSON LESS THAN ONE MONTH OLD MAY HAVE HIS WORTH VOWED<sup>17</sup> BUT NOT HIS VALUATION.

GEMARA. Our Rabbis taught: If one evaluates a person less than one month old, R. Meir says, He gives his worth [its market value], but the Sages say, 'He has said nothing'. Wherein are they of divided opinion? — R. Meir says: No man utters his words in vain,<sup>18</sup> and knowing that a person less than one month old cannot be made the subject of a valuation [and having spoken] he makes up his mind to vow his worth. The Sages, however, hold that a man may utter his words in vain. According to whose view [of the disputants] will be what R. Giddal said in the name of Rab, who said. if one said: the valuation of this vessel<sup>19</sup> is upon me, he shall pay its worth! — That is in accord with R. Meir. But this is self-evident? — You might have said: It could be in accord with the view of the

Rabbis [Sages]. For in the other case one could have erred in thinking that just as a child of one month has valuation thus also one less than one month old; but in this case where there is nothing to err about, for a man surely knows that a vessel has no valuation, and therefore he had intended his statement to mean to vow the vessel's worth, therefore we are informed [that even here the Sages do not so hold].

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(1) Lev. XXVII, 9.

(2) The whole animal, apart from the dedicated limb, is profane without further ado.

(3) Both groups base their interpretation on the same Scriptural verse, emphasis deciding the issue. R. Meir stresses the words 'that any man giveth thereof' in a private sense, to exclude such portions as were not included in his gift. The other Rabbis interpret: 'All that any man giveth thereof' to mean that all animals whereof any part is given become fully consecrated.

(4) Tem. 11b places the dispute between R. Meir and the Sages only in the case of a non-vital organ and thus the question arises: why in the case of the head does the sanctuary not own more than the head?

(5) The consecration of one organ is suggested as spreading over the whole animal, when that organ itself has been consecrated, but where only the money value of such an organ has been vowed there, that organ itself remains a detached entity, not connected in its consecration with the rest of the body, hence not affecting it as to consecration.

(6) Rabbah, who gave the last answer.

(7) Tem. 11b.

(8) Rabbah's ruling in Tem.

(9) In the case where he consecrated the head only for its value obviously the consecration is limited to the monetary value of the member consecrated.

(10) Both a blemished animal of a class admitted to the altar, or an animal, though unblemished, but of a class unfit for sacrifices, are in one category.

(11) Shall the vowing of his head be considered, because of the vital importance of the head, as equal to the vowing of his whole worth or not? Now a man is in the same category as an unblemished animal as far as the altar is concerned.

(12) Cited supra. If one consecrates the head of an ass.

(13) I.e., that by consecrating the value of one vital organ the worth of the animal is consecrated to the altar.

(14) Text corrected in accordance with Sh. Mek. cur. ed.: That it can be redeemed except for its value.

(15) V. Lev. XXVII, 16ff.

(16) If someone consecrated that field for the fund from which burnt-offerings were provided, how could he redeem his pledge? Do we abide by the general rule in such cases of a vow for Temple repairs, or do we consider the special circumstance governing vows for the altar?

(17) Because, no matter how young, it would fetch its price in a market; but as to valuation a definite minimum age is stated.

(18) R. Meir holds that no man utters any statement uselessly; he might, however, talk loosely, use terms applicable to a case somewhat different from the one involved. Thus the terminology of dedication might well be used by someone who has in his mind a vow. 'Or, as Tosaf. s.v. **אדם** has it: A man, indifferent to the exact terminology, or ignorant of it, would intend to have his utterance serve whatever purpose the Rabbis attributed to the words he used.

(19) 'Valuation' was fixed only for human beings, hence vessels cannot be evaluated, thus an illustration of the former problem is offered here.

## Talmud - Mas. Arachin 5b

But why was it necessary [for Rab] to state [this ruling] on the view of R. Meir? — One might have thought the reason for R. Meir in that case was that he decreed [the obligation to pay] in the case of a child less than one month old out of consideration<sup>1</sup> for one which was one month old, but that in the case here,<sup>2</sup> where no such decree is warranted, one might [assume that R. Meir would] not [rule thus], therefore we are informed that R. Meir's reason is that no man utters his words at random, so that the same rule applies in both cases.

According to whose view will be the teaching of Rabbah b. Jose<sup>3</sup> in the name of Rab [according to

others R. Yeba b. Jose in the name of Rab]: If one consecrates [to the sanctuary] his neighbour's animal, he shall pay its worth.<sup>4</sup> According to whom? According to R. Meir. But Rab has already said that once before, for R. Giddal in the name of Rab said: If one said, 'The valuation of a vessel be upon me, he shall pay its worth'. — You might have said: In the one case he knew that a vessel has no valuation whereupon he made up his statement with the intention for its worth, but in the case of an animal, which is normally fit to be consecrated, one might say that this is what he meant: If I report it to its owner he will sell it [to me], therefore let it be consecrated as from now already, and I shall offer it up [after having purchased it], but that he did not mean its worth,<sup>5</sup> therefore he informs us [that this is not so].<sup>6</sup> R. Ashi<sup>7</sup> said: This applies only where he said: I undertake the responsibility [for an animal], but not if he said: I assume the obligation [to consecrate] this [animal].<sup>8</sup> MISHNAH. AN IDOL-WORSHIPPER ACCORDING TO R. MEIR CAN BE MADE THE SUBJECT OF A VALUATION BUT CANNOT EVALUATE, WHEREAS ACCORDING TO R. JUDAH HE MAY EVALUATE BUT CANNOT BE MADE THE SUBJECT OF A VALUATION. BOTH AGREE, HOWEVER, THAT HE CAN BOTH VOW ANOTHER'S WORTH AND HAVE HIS WORTH VOWED BY OTHERS.

GEMARA. Our Rabbis taught: The children of Israel<sup>9</sup> may evaluate, but idol-worshippers may not evaluate. One might have assumed that they cannot be made the subject of a valuation either, therefore the text states: Man,<sup>10</sup> these are the words of R. Meir. Said R. Meir: Now that one Scriptural verse includes and the other excludes, whence am I [justified in] saying: He may be made the subject of a valuation, but may not evaluate himself?<sup>11</sup> It is because Scripture has included more among those subject to valuation than among those fit to evaluate; for a deaf-mute, an imbecile and a minor each may be made the subject of a valuation, but is not fit to evaluate. R. Judah said: The children of Israel may be made the subject of a valuation, but idol-worshippers are not fit to be made the subject of a valuation. One might have assumed that they [the latter] are not fit to evaluate either, therefore the text states: 'Man'. Said R. Judah: Since one verse includes and the other excludes, whence do I come to make the statement that idol-worshippers are fit to evaluate and are not subject to valuation? Because Scripture has included more among those fit to evaluate than among those subject to valuation. For one of doubtful sex and a hermaphrodite are fit to evaluate, but are not subject to valuation. Said Raba: The decision of R. Meir appeals to logic, but not the reason; the reason of R. Judah is logical, but not his decision. The decision of R. Meir appeals to logic as it is written: Ye have nothing to do with us to build a house unto our God.<sup>12</sup> His reason does not appeal, for he argues from the case of a deaf-mute, an imbecile or a minor; but it is different with them since they have no intelligence. The reason of R. Judah is logical, for he deduces it from the case of one of doubtful sex and a hermaphrodite, which, although endowed with intelligence, are yet excluded by the Divine Law [from evaluation]. His decision, however, does not appeal, as it is written: 'Ye have nothing to do with us to build a house unto our God'. How, indeed, does R. Judah deal with 'Ye have nothing to do with us'? — R. Hisda said in the name of Abimi: His valuation [money] must be hidden.<sup>13</sup> But then one should not be guilty of sacrilege in connection with them, for it was taught: Concerning the five kinds of sin-offerings which must be left to die, and all moneys that must be cast into the Dead Sea, one must not derive any benefit from them, nor is one guilty of sacrilege [if one has used them].<sup>14</sup> Why then was it taught with regard to the consecration of idol-worshippers: These things apply only to things consecrated for the altar, but things consecrated for Temple repairs are subject to the law of sacrilege?<sup>15</sup> — Rather, said Raba: It<sup>16</sup> was due to the 'weakening of the hands', as it is written: Then the people of the land weakened the hands of the people of Judah and harried them while they were building.<sup>17</sup>

(1) I.e., to safeguard the payment fixed in the Bible.

(2) Referring to a vessel.

(3) So Sh. Mek. cur. edd. Joseph.

(4) Since none can consecrate an object not belonging to himself, the suggestion is that he meant to offer the money value of the object in question, such offering, of course, being independent of his owning the animal.

(5) If his hope was to obtain the animal and to consecrate it (and not its money value), then his utterance was quite in vain and no obligation results: The money value he had not vowed, the animal itself did not belong to him, wherefore he incurred no obligation whatsoever.

(6) That, according to R. Meir he must have known that the animal itself cannot be consecrated, and therefore must have had in mind the payment of its market value, which is now obligatory.

(7) Sh. Mek.: Mar b. R. Ashi.

(8) If a man said: My neighbour's animal do I consecrate, only then does an obligation arise to pay its money value, but if he said 'This animal' shall I provide for the altar,' he obviously has said nothing. For he could undertake to make himself responsible for the money value of an animal, but he could surely not oblige himself to dedicate the animal that does not belong to him. In the latter case his words are for practical purposes meaningless. He has said nothing.

(9) Thus does the chapter on dedications commence: Speak unto the children of Israel, and say unto them (Lev. XXVII, 2), the inference being obvious.

(10) Ibid.

(11) What is the justification for declaring the idol-worshipper fit for one rather than for the other? The text has both inclusive and exclusive indications. 'The children of Israel' excludes, while 'man' includes.

(12) Ezra IV, 3.

(13) R. Judah's view that idol-worshippers are fit to evaluate does not imply that such money is to be used — that is excluded by Ezra IV, 3, — but it does mean that it acquires sacredness, so as to be forbidden for profane use; and since it is also not fit for sacred use, it must be hidden or destroyed.

(14) V. Me'ilah 3a.

(15) Since they are to be destroyed they ought not, according to the cited Baraitha from Me'ilah be subject to the law of sacrilege.

(16) The refusal to accept the idol-worshippers' gifts in the days of Ezra.

(17) Ezra IV, 4.

## **Talmud - Mas. Arachin 6a**

One [Baraitha] taught: If an idol-worshipper offers a freewill- gift towards Temple repairs 'one accepts it from him, whilst another [Baraitha] taught: One does not accept it from him. Said R. Ela in the name of R. Johanan: This is no difficulty: The first applies to the beginning,<sup>1</sup> the latter to the end.<sup>2</sup> For R. Assi said in the name of R. Johanan: In the beginning one should not accept from them even salt or water, whereas at the end one may not accept a thing that can be easily identified,<sup>3</sup> but something that cannot easily be identified one may accept. What is a 'thing that can be easily identified'? — R. Joseph said: Like the cubit [of metal] keeping off the raven.<sup>4</sup>

R. Joseph raised an objection: And a letter unto Asaph the keeper of the king's park [that he may give me timber to make beams, etc.]?<sup>5</sup> — Abaye said: It is different with the government because it will not retract. For Samuel has said: If the government said, I will uproot a mountain, it will uproot the mountain and not retract!

Rab Judah said in the name of Rab: If an idol-worshipper separated the terumah<sup>6</sup> from his pile [of produce], then we examine him. If he said:<sup>7</sup> I have separated it with the same intention as an Israelite, it is to be handed to the priests but if not, it must be hidden, because we consider the possibility of his having in his heart intended it for the Lord.<sup>8</sup> An objection was raised [against that]: If an idol-worshipper had dedicated a beam to the Sanctuary upon which the Name [of God] is inscribed, he is to be examined. If he said: I have separated it with the same intention as an Israelite, then one should cut off [the part containing the Name of God] and use the rest. But if [he does] not [offer this explanation], it must be hidden away, because we fear his heart [intention] may have been [to dedicate it] to the Lord. The reason then [for this decision] is because the Name [of God] is inscribed thereon, and only therefore does it require to be hidden away, but if the Name [of God] were not inscribed thereupon, then indeed, it would not have to be hidden away!<sup>9</sup> — [No!] Even if the Name [of God] were not inscribed thereupon it would likewise have to be hidden away, and it is



exactly this that we are told, that although the Name [of God] is thereon inscribed, he need but cut off that portion and use the rest For the Name of God not in its proper place is not considered sacred.<sup>10</sup> For it was taught: If it [the Name of God] was written upon the handles of a vessel, or upon the props of a bed, behold, it shall be cut off and hidden.<sup>11</sup>

R. Nahman said in the name of R. Abbuha: If one says, This sela' is dedicated to charity, he is permitted to exchange it. Now it was assumed that this is permitted only for himself, but not for anybody else;<sup>12</sup> but it was stated that R. Ammi said in the name of R. Johanan that it is permitted both for oneself and for someone else. R. Ze'ira said: We have learnt that only where he said: [I take] upon myself [generally], but if he said: [I take] upon myself to [give] this, then he is obliged to give this [sela']. Whereupon Raba demurred: On the contrary! The opposite is logical. If he said: Behold this [sela' I take upon myself to pay], then he may use it for himself, so that he may be responsible for it, but when he said: [I take] upon myself [a sela'], he should not [be permitted to exchange it]? But the fact is it makes no difference.<sup>13</sup> It was taught in accord with Raba: Vows are [like] charity, but consecrations [to the sanctuary] are not like charity. What does that mean? Neither vows nor dedications are charity. Is it not rather this that is meant: Charity [is like vows] in respect of the prohibition 'Thou shalt not delay it',<sup>14</sup> but is not like a consecration [to the sanctuary] because anything so consecrated one must not use, whereas [money dedicated to] charity one may [meantime] use for oneself! R. Kahana said: I reported this teaching before R. Zebid of Nehardea whereupon he said: This is how you stated it;<sup>15</sup> we, however, state it thus: R. Nahman in the name of R. Abbuha based on Rab said: If one said, This sela' is [dedicated to] charity, he may exchange it both for himself, or for someone else independent of whether he had said: [I take it] upon myself [in general], or [I take it upon myself to pay] this [sela'].

Our Rabbis taught: [If one said:] This sela' shall be for charity, then before it has reached the hand of the [charity] treasurer, it is permitted to exchange it, but after it has come into the treasurer's hand, it is forbidden to exchange it.

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(1) At the beginning of the building the intention of the idol-worshippers may not be a good one, their gift being made to give them entry into the building programmed which they plan to interfere with or delay. But according to the law they may be accepted for Temple repairs, hence the ruling of R. Judah.

(2) When the building is completed.

(3) Which might cause the heathen to point Boastfully to their contribution, or to its importance for the Temple.

(4) An arrangement of iron points on the roof of the Temple designed to keep ravens away. V. M.K. 9a.

(5) Neh. II, 8. From this passage it is evident that gifts were accepted from (Cyrus) an idolator, and that happened at the beginning of the building.

(6) V. Glos.

(7) One may not accept a gift for the sanctuary from a heathen. Hence, if he says: I want the terumah to go where the Jew's terumah goes, one may accept it from him and give it to the priest, who is permitted to receive it. Rashi: The reference is to the present day when there is no sanctuary, and when consequently things dedicated to the sanctuary must be hidden away, v. Bek. 53a.

(8) But a gift 'Unto the Lord', i.e., for the sanctuary must not be accepted from, him, and must be hidden.

(9) This contradicts the earlier teaching!

(10) There attaches no holiness whatsoever to the name inscribed on the wrong kind of place or material, the right kind would be parchment, or paper, everything else is not normally fit to have the name inscribed thereon.

(11) Shab. 61b.

(12) I.e., to use this coin for his own purpose, to refund it to the Sanctuary afterwards. But it would be wrong for him to lend it to his neighbour, for it may be argued reasonably that he meant to use it meantime for himself, whilst conscious of his obligation to pay it later into the Temple treasury. But he surely did not, in his intention to use it, include ally benefit to his neighbour such as a loan to him of this sum.

(13) One might argue with even force: If he said, I take upon myself to pay this sela' into the Temple treasury, then it thereby has become its property, and by using it one has incurred the obligation, not only moral but legal, of restoring

that property; whereas in the case of a general vow (I accept it upon myself to give a sela') a different argument is to be made. At any rate, since both claims have support, we recognize no practical difference between the one form and the other.

(14) Deut. XXIII, 22.

(15) I.e., you reported R. Nahman's statement in general terms, relying on R. Ammi and Raba to explain its implications.

### **Talmud - Mas. Arachin 6b**

But it is not so, for R. Jannai borrowed and paid it [afterwards]?<sup>1</sup> — It is different with R. Jannai, for what he did was acceptable to the poor, for the more he delayed the more did he succeed in collecting and bringing in to them.

Our Rabbis taught: If an Israelite dedicated a candlestick or a lamp to the synagogue, he is not permitted to exchange it. R. Hiyya had thought that was to say [it may not be changed] either for a secular or a religious purpose. Whereupon R. Ammi said to him: This is what R. Johanan said: We have learnt [of the prohibition] only in connection with a secular purpose, but for a religious purpose it is permitted to exchange [the object dedicated] — For R. Assi said in the name of R. Johanan: If an idol-worshipper had dedicated a candlestick or a lamp to the synagogue, then, before the name of its owner has become forgotten, it is forbidden to exchange it; after the name of the owner has been forgotten, it is permitted to change it. Now to what purpose is it to be changed? Shall I say for secular use? — Then why speak of an idol-worshipper's gift, the same applies to that of an Israelite? Hence you must say for a religious use, and nevertheless the reason [why it may not be changed is]<sup>2</sup> because an idol-worshipper would create a row about it, but in the case of an Israelite who would not create a row about it, it would be proper [to change it].<sup>3</sup>

Sha'azrek, an Arab, made a gift of a lamp to the synagogue of Rab Judah. Rehaba changed it [s use] and Raba took it amiss. (Some say: Raba changed it and Rehaba took it amiss. Others say: The sextons of pumbeditha changed it and both Rehaba and Raba rebuked them for it.) He who changed it held: It would<sup>4</sup> be a rare occurrence, whereas he who rebuked held: It may happen that he comes.<sup>5</sup>

**MISHNAH. ONE AT THE POINT OF DEATH OR ABOUT TO BE PUT TO DEATH CANNOT HAVE HIS WORTH VOWED, NOR BE SUBJECT TO VALUATION. R. HANINA B. AKABIA SAID: HE IS FIT TO BE MADE THE SUBJECT OF A VALUATION BECAUSE HIS PRICE IS FIXED. R. JOSE SAID: HE MAY VOW ANOTHER'S WORTH, EVALUATE, AND CONSECRATE [TO THE SANCTUARY], AND IF HE CAUSED DAMAGE, HE IS OBLIGED TO MAKE RESTITUTION.**

**GEMARA.** It is quite right that one at the point of death cannot have his worth vowed, because he has no money [value]; nor can he be made the subject of a valuation because he is not fit to be set and valued.<sup>6</sup> But as regards one about to be put to death, whilst it is true that he cannot have his worth vowed since he has no money [value], why should he be unfit to be made the subject of a valuation?<sup>7</sup> — Because it was taught: Whence do we know that if one about to be put to death says: The valuation of myself is upon me,<sup>8</sup> he has said nothing? The text states: No devoted thing . . . shall be redeemed.<sup>9</sup> One might have assumed that this holds good even before the proceedings [of his case] are finished, therefore the text states: Of man,<sup>10</sup> i.e., but not [as long as he is] a whole man. But what will R. Hanina b. Akabya who holds him fit to be made the subject of a valuation 'because his price is fixed', do with 'No devoted thing, etc.'? — He needs this in accord with what was taught: R. Ishmael the son of R. Johanan b. Beroka said: Since we find that those to be put to death by the hand of heaven can offer a monetary expiation and thereby obtain atonement, as it is said: If there be laid on him a ransom,<sup>11</sup> I might have thought the same applied to those who are to be put to death by the hand of man, therefore we are taught: 'No devoted thing shall be redeemed'. From here I may derive teaching only for severer penalties of death, for which even when committed in error no atonement

is possible.<sup>12</sup> But whence do I know that it applies also to lesser penalties of death, for which at least when committed in error atonement is possible? The text therefore states: 'Any devoted thing, etc.'

**R. JOSE SAYS: HE MAY VOW ANOTHER'S WORTH, EVALUATE.** But did the first Tanna say that he may? Rather, there is no dispute whatsoever that he may vow another's worth, evaluate and consecrate, the dispute touches only the case of his having caused damage,<sup>13</sup> the first Tanna holding that if he had caused damage he is not obliged to make compensation, whereas R. Jose holds he is obliged to make compensation when he has caused damage. What principle are they disputing? — R. Joseph said: They are disputing whether an oral<sup>14</sup> debt can be collected from the heirs, the first Tanna holding an oral debt cannot be collected from the heirs, whereas R. Jose considers it can be collected. Raba<sup>15</sup> said: All agree that an oral debt cannot be collected from the heirs, what they are here disputing is the [nature of a] debt arising from the law of the Torah, the first Tanna holding that a debt arising from the law of the Torah is not to be considered equal to one acknowledged in a document [of indebtedness], whilst R. Jose considers it like one acknowledged in a document [of indebtedness]. There are some who refer it<sup>16</sup> to the following matter: If one<sup>17</sup> about to be executed wounded others, he is obliged to make reparation, but if others have wounded him, they are free [from reparation].<sup>18</sup> R. Simeon b. Eleazar said: Even if he has wounded someone he is free, because he may not be placed before the Court of Law again.<sup>19</sup>

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(1) He was a commissioner of charity, yet he used to borrow funds to use them for his own purposes!

(2) Before the name of its owner is forgotten.

(3) This proves that R. Johanan holds that it may be changed even for a secular purpose.

(4) That the donor would notice such a change, and protest.

(5) It is not impossible that the donor, who travelled much, might come to the city and see the change and protest therefore their rebuke.

(6) C. supra p. 16 n. 4.

(7) Surely the amount of valuation is fixed.

(8) Var. lec.: and somebody says, The valuation of him is upon me, v. Keth. 37b.

(9) Lev. XXVII, 28. I.e., all condemned persons are not redeemable.

(10) Once a man is sentenced to death he is no more a whole man, hence the partitive 'of man'; v. Keth. 37b. But before such a sentence has actually been pronounced, he is still a whole man to whom the text, 'of man' (i.e., part of man, in the ad hoc meaning) does not apply.

(11) Ex. XXI, 30. As is evident from Sanh. 15b, in the case of the goring ox, the owner incurs death through the decree of heaven for his negligence, and in such a case the evil decree may be averted by a monetary compensation or expiation. The word 'devoted' is interpreted as devoted by human beings, hence 'devoted to death' by human beings. Such interpretation removed the possibility of any devoted thing being saved from execution by compensation-payment, for, No devoted thing shall be redeemed (from death by payment).

(12) The crime of blasphemy even if committed in error cannot be remedied as is done with other unintentionally committed crimes, by sin-offering or (in the case of involuntary manslaughter) by exile.

(13) Since he has a mind, he obviously is fit to do things which one possessed of mentality is fit to do. This obligation would, of course, descend upon his heirs, hence the principle involved.

(14) An obligation arising from the law of the Torah has the character of an orally admitted debt. Hence, even if no definite decision had been made by the court on the question of his damage, a delay in his execution would be considered unnecessary, hence prohibited. Nevertheless the debt arising from the law of the Torah is considered an oral debt.

(15) Var. lec.: Rabbah.

(16) The statements of R. Joseph and Raba.

(17) Tos. B.K. 9.

(18) He is obliged to make reparation because until his moment of death he is presumed to have a mind, hence is responsible. But since he is about to be executed, his body as such is no more in its integrity, hence one who wounds him should be free from any obligation to make compensation payment. All these refer to someone about to be executed by the laws of Israel, i.e., after careful investigation and examination. One, however, sentenced to death by the heathen

tyrants or other malefactors, might perhaps be ransomed, freed by persuasion or payment, hence his physical integrity may yet be said to be unimpaired.

(19) The examination of the claim against him would consume some time. This would involve a delay in his execution, which is forbidden, v. Sanh. 89a.

## **Talmud - Mas. Arachin 7a**

From this it would appear that the first Tanna holds that he may be placed before the Court of Law again! Said R. Joseph: They are disputing whether an oral debt can be collected from the heirs, the first Tanna holding an oral debt may be collected from the heirs, whilst R. Simeon b. Eleazar holds it cannot be collected. Rabbah said: All agree that an oral debt cannot be collected from the heirs, they are disputing here whether an obligation arising from the law of the Torah may be considered as one written in a document of indebtedness, the first Tanna holding it is to be regarded like one acknowledged in a document of indebtedness, whilst R. Simeon b. Eleazar holds it is not to be regarded like one acknowledged in a document of indebtedness.

An objection was raised:<sup>1</sup> If one dug a pit in a public thoroughfare, and an ox fell upon him and killed him, [the owner of the latter] is free, and even more, if the ox should die, then the heirs of the owner of the pit must repay its money value to the owner of the ox! Said R. Ela in the name of Rab: [This speaks of the case] where he stood before the Court of Law.<sup>2</sup> But the text reads: 'And killed him'! — Said R. Adda b. Ahabah: It means he hurt him fatally. But did not R. Nahman say that R. Haggai read: Killed and buried him!<sup>3</sup> But the law is [that the heirs are liable] where the judges were sitting at the opening of the pit. Our Rabbis taught: If one is about to be executed one sprinkles<sup>4</sup> for him the blood of the sin-offering or the blood of the guilt-offering. But if he sinned at that time,<sup>5</sup> one is no more obliged to attend to him.<sup>6</sup> What is the reason? — R. Joseph said: We must not put off his execution. Said Abaye: If so, then concerning the first part, too?<sup>7</sup> — That refers to the case that his sacrifice by that hour was killed already. But if it had not been slaughtered before that hour, what then [would be the law]? presumably it would not be so! Then instead of having the text read, 'If he sinned at that time they do not attend to him', let the distinction be made with reference to [the sacrifice itself]: These things apply only when his sacrifice by that hour had been slaughtered already, but if his sacrifice had not been slaughtered by that hour, one does not [sprinkle of his blood upon him]? — This indeed is what he said: These things apply only if by that hour his sacrifice had been slaughtered already, but if his sacrifice had not been slaughtered yet, then his case is like that of one who sinned at that hour, and to whom therefore one need not attend in this matter.

**MISHNAH. IF A WOMAN IS ABOUT TO BE EXECUTED, ONE DOES NOT WAIT FOR HER UNTIL SHE GIVES BIRTH.<sup>8</sup> BUT IF SHE HAD ALREADY SAT ON THE BIRTHSTOOL,<sup>9</sup> ONE WAITS FOR HER UNTIL SHE GIVES BIRTH. IF A WOMAN HAS BEEN PUT TO DEATH ONE MAY USE HER HAIR; IF AN ANIMAL HAS BEEN PUT TO DEATH IT IS FORBIDDEN TO MAKE ANY USE OF IT.<sup>10</sup>**

**GEMARA.** But that is self-evident, for it is her body!<sup>11</sup> — It is necessary to teach it, for one might have assumed since Scripture says: According as the woman's husband shall lay upon him,<sup>12</sup> that it [the unborn child] is the husband's property, of which he should not be deprived, therefore we are informed [that it is not so]. But perhaps [the former point of view] may indeed [be the law]? — Said R. Abbuha in the name of R. Johanan: Scripture says: They shall die, also both of them,<sup>13</sup> that includes the child. But this [verse] is required for the inference that they must both be of equal condition,<sup>14</sup> as R. Joseph teaches? — We infer it from 'also'.<sup>15</sup>

**BUT IF SHE HAD ALREADY SAT ON THE BIRTHSTOOL:** What is the reason? — As soon as it moves [from its place in the womb] it is another body. Rab Judah said in the name of Samuel: If a woman is about to be executed one strikes her against her womb so that the child may die first, to

avoid her being disgraced.<sup>16</sup> That means to say that [otherwise] she dies first? But we have an established [assumption] principle that the child dies first, for we learnt: A child one day old inherits and bequeaths;<sup>17</sup> and R. Shesheth said [in explanation]: He inherits the mother's property to bequeath it to his brothers from his father. Now this [as is clearly indicated] applies only to a child 'one day old', but not to an embryo, because it would die first and no son already in the grave can inherit from his mother to bequeath to his paternal brothers?<sup>18</sup> — This applies only to [her natural] death, because the child's life is very frail, the 'drop' [of poison] from the angel of death enters and destroys its vital organs,<sup>19</sup> but in the case of death by execution she dies first. But there was a case in which [the child] moved three times? — Mar son of R. Ashi said: That is analogous to the tail of a lizard which moves [after being cut off].<sup>20</sup>

R. Nahman said in the name of Samuel: If a woman who has been sitting on a birthstool died on a Sabbath, one may bring a knife and cut her womb open to take out the child. But that is self-evident? What is he doing?

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(1) From here it is evident that an obligation arising out of the law of the Torah is considered like one acknowledged in a document of indebtedness, and since the principle is there definitely established as legitimate, it is wrong to assume that what is a recognized Tannaitic principle, since it is reported in an anonymous, i.e., accepted form, is opposed by the majority view in our Mishnah on Raba's explanation.

(2) Before he died the court had decided that he must pay the fine, such decision being equal to a debt acknowledged by himself in writing.

(3) The ox killed and buried the man, by his fall upon him, in the pit. According to this reading the owner of the pit could not have been adjudged before the court. I.e., the court was held at the pit, with the fatally wounded man adjudged guilty before his actual death, the obligation arising having the character of a debt acknowledged in writing.

(4) I.e., for his sake, to obtain for him forgiveness for another sin committed in error, for which this sacrifice had been offered up.

(5) E.g., he ate some forbidden fat in error whilst on his way to be executed.

(6) He is about to be executed and any ceremony on his behalf would have to take place before he actually dies, and thus may cause the prohibited delay in his execution.

(7) One would have to wait here with the killing of the animal and the sprinkling, and thus delay his execution.

(8) If she were found to be pregnant.

(9) I.e., if her pains of parturition had begun already. Rashi holds this to apply to a woman whose pains had started before sentence was pronounced; according to Tosaf, even if the pains had begun only after the sentence. For the child is considered as of one body with the mother only as long as it still is in its normal place. But as soon as it has started to move, it is another body and thus unaffected by the mother's state.

(10) In the case of an animal sentenced by the court to be destroyed (as e.g., an ox which gored a man to death) the prohibition to use its corpse in any manner comes into force as soon as sentence is pronounced, in the case of a human being only with the execution proper.

(11) The embryo is part of her body, having no identity of its own and dependent for its life upon the body of the woman.

(12) Ex. XXI, 22 refers to the indemnity to be paid to the husband for a premature child.

(13) So literally. E.V. 'They shall both of them die'. Deut. XXII, 22. The redundant 'both of them' is used for another situation.

(14) That they must both be of age so that both are punishable; if one is a minor, no death penalty for this adultery is inflicted.

(15) Which is redundant, and from which the law here concerning the embryo is derived.

(16) If the child, having escaped death, came forth after her execution, it would cause bleeding and thus expose the executed mother to be disgraced.

(17) If on that one day of its life it should inherit some property, by dying on the same day the child would cause its paternal brothers to inherit it. V. B.B. 142a; Nid. 44a.

(18) Hence, when the mother dies after the child, her property does not pass to the child, which is legally assumed to be in the grave; he is therefore unable to inherit his mother's property and much less to bequeath it to his paternal brothers.

This proves that the child is assumed to die before the mother as otherwise the case above could also deal with an unborn child, whilst the Mishnah limits it to the child born and one day old.

(19) The phrase here is borrowed from the death of an animal, which is achieved in accordance with the laws of Shechitah by the cutting of the windpipe and the gullet, the two organs to be cut in accordance with the ritual law.

(20) Although no more alive; similarly such moving on the part of the child is no sign of its life.

## **Talmud - Mas. Arachin 7b**

Only cutting flesh?<sup>1</sup> — Rabbah said: It is necessary [to permit the] fetching of the knife by way of a public thoroughfare.<sup>2</sup> But what is he informing us? That in case of doubt one may desecrate the Sabbath! Surely we have learnt already: If debris falls down upon one and there is doubt whether he is there or not, or whether he is alive or dead, whether he is a Canaanite or an Israelite, one may remove the debris from above him!<sup>3</sup> You might have said: There [permission was given] because [the person in question] had at least presumption of having been alive, but here where it [the embryo] did not have such original presumption of life, one might say no [desecration of the Sabbath shall be permitted], therefore we are informed [that it is].

IF A WOMAN HAS BEEN PUT TO DEATH etc. But why? These things are forbidden for any use? — Rab said: [This refers to the case] where she had said: Give my hair to my daughter. But if she had [similarly] said: Give my hand to my daughter, would we have given it to her? — Rab said: It refers to a wig.<sup>4</sup> Now the reason [for the permission] is that she had said: 'Give [it]', but if she had not said: 'Give [it]', it would have been as part of her body and forbidden [for any use]. But this matter was questioned by R. Jose b. Hanina, for R. Jose b. Hanina asked: What about the hair of righteous women, and Raba had remarked: His question refers to [their] wig?<sup>5</sup> — The question of R. Jose b. Hanina referred to the case of [such wig] its hanging on a peg; but here the wig is attached to her [head], therefore the reason [it is permitted] is because she said: 'Give [it]', but if she had not said 'Give [it]', it would be as her body and forbidden.

This appeared difficult to R. Nahman b. Isaac for it is placed in juxtaposition to the [law concerning an] animal, hence just as there [the hair] is part of the body, here too it should be part of the body?<sup>6</sup> — Rather, said R. Nahman: In the one case [the woman's] it is the actual death which renders the body prohibited for any use,<sup>7</sup> whereas in the other case [the animal's], the close of the legal proceedings [the pronouncement of the death sentence] renders it prohibited for any use. Levi taught in accord with Rab and he also taught in accord with R. Nahman b. Isaac.<sup>8</sup> He taught in accord with Rab: If a woman went forth to be executed and she said: 'Give my hair to my daughter', one would give it to her; but if she died [before making such a demand] one would not give it, because the dead must not be used for any purpose. But that is self-evident? — [Say] rather the ornaments of the dead are prohibited for any use.<sup>9</sup> It was taught in accord with R. Nahman b. Isaac: If a woman died, her hair is permitted for use. If an animal was put to death, it is forbidden for any use. And what is the difference between the one and the other? In the one case it is only the actual death which renders the body prohibited for any use, and in the other case the pronouncement of the death sentence in itself renders it prohibited for any use.

## **CHAPTER II**

MISHNAH. THERE IS NO VALUATION LESS THAN ONE SELA' NOR MORE THAN FIFTY. HOW IS THAT? IF ONE PAID A SELA' <sup>10</sup> AND BECAME RICH, HE NEED NOT GIVE ANY [MORE]. BUT IF HE GAVE LESS THAN A SELA' AND BECAME RICH, HE MUST PAY FIFTY SELA'S. <sup>11</sup> IF HE HAD FIVE SELA'S IN HIS POSSESSION, <sup>12</sup> R. MEIR SAYS, THEN HE NEED NOT GIVE MORE THAN ONE, WHEREAS THE SAGES SAY HE MUST GIVE THEM ALL. FOR THERE IS NO VALUATION OF LESS THAN ONE SELA NOR MORE THAN FIFTY SELA'S.

GEMARA. THERE IS NO VALUATION LESS THAN ONE SELA. Whence do we know that? — For Scripture said: And all thy valuations shall be according to the shekel of the sanctuary,<sup>13</sup> i.e., all valuations which you evaluate shall be of no less than a shekel. Nor more than fifty sela's, as it is written: Fifty.<sup>14</sup>

IF HE HAD FIVE SELA'S IN HIS POSSESSION, etc. What is the reason of R. Meir? — Scripture says: 'Fifty', and it is also written: 'Shekel', i.e., either fifty or one shekel. And the Rabbis? That means that all valuations which you evaluate shall be of no less than one shekel.<sup>15</sup> But where he has [more], there applies the Scriptural verse: According to the means of him that vowed,<sup>16</sup> and here he has means. And R. Meir?<sup>17</sup> — That indicates that the possessions of him who evaluates rather than of him who is evaluated are to be considered. And the Rabbis? — Does this not incidentally prove that where he has possessions, take from him as much as he can pay?

R. Adda b. Ahabah said: If a man had five sela's in his possession and said: My own valuation be upon me [to pay], and he repeats: My own valuation be upon me, and then he paid four sela's on account for the second valuation and one sela' for the first, then he has fulfilled his duty to both. What is the reason? — Because:<sup>18</sup> A creditor, later in order of time, who has collected before [an earlier one] retains what he has collected. [Likewise] here when he paid for the second [valuation] he was in debt for the first,<sup>19</sup> and when he paid for the first he had no more.

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(1) Only the cutting of a living person constitutes desecration of the Sabbath, the cutting of meat is unavoidable in eating.

(2) The bringing of any portable property from private territory into a public thoroughfare or vice versa constitutes transgression of the law of the Sabbath as Biblically stated.

(3) V. Yoma 83a.

(4) That wig, tied to her hair, might have been considered part of her body and therefore forbidden for any use, hence also inadmissible as a gift to her daughter. But since she left instruction of such gift, she evidently did not consider the wig part of her body, and guided by her view we do not consider it such either, hence the gift is valid.

(5) According to Deut. XIII, 13ff the inhabitants of a city condemned for idolatrous practices to which they had been led astray were to be destroyed with all their property. Righteous persons, however, lost only their property but not their life. The theoretical question touched the wig of righteous women of such a city: Was it to be considered part of their body and thus will it escape destruction, or is it to be regarded as detachable from the head and as general property does it fall under the ban? At any rate what is a matter of doubt there could not possibly be taken here as settled law!

(6) How then could he interpret our Mishnah as referring to the woman's wig, which is not part of the body?

(7) The reference is indeed to her natural hair, but since hair never lived it is not affected by death, which renders forbidden all such parts of the body which had their vitality cut off by death (Rashi).

(8) Levi had an ancient Baraita the view of which accorded with Rab and another with R. Nahman b. Isaac.

(9) The reference must hence be to a wig.

(10) A Biblical shekel. According to Lev. XXVII, 8 a special reduction was made in the case of the poor, but any such reduced estimate may not fall below a sela'.

(11) One twenty years of age and of male sex whose normal valuation is fifty sela's, happens to be poor when paying the poor man's exceptional one sela' for any valuation. That sela', being the legal minimum for a poor man, therefore has paid his debt, and freed him from any obligation, even if afterwards he became rich. But if, whilst poor, he had paid less than a sela', he has not paid the minimum, his obligation to pay his valuation still rests upon him, and on becoming rich he must therefore pay the complete sum due, under the circumstances of payment which for a man not poor, amounts to fifty sela's.

(12) And his prescribed valuation was, say, fifty.

(13) Ibid. XXVII, 25.

(14) Ibid. 3.

(15) Indicating only a minimum beyond which the sum may be increased to the maximum of fifty. There are no rigorous restrictions between these two sums, adjustments being made in accordance with the possessions of the respective

dedicator.

(16) Lev. XXVII, 8.

(17) How will he explain this latter verse?

(18) B.K. 34a.

(19) To the extent of the whole five sela's on the view of the Sages in our Mishnah, so that as far as the second valuation is concerned he had no five sela's to pay and hence discharged his obligation by paying the four sela's.

## Talmud - Mas. Arachin 8a

But if he paid four for the first [valuation] and one for the second, then he has fulfilled his obligation regarding the second one, but he has failed to discharge his obligation touching the first, as all [his sela's] were subject to the payment for the first.<sup>1</sup>

R. Adda b. Ahabah asked: If he had five sela's and said in one utterance, Two of my valuations be upon me [to pay], how then? [Shall I say]. Since he said it in one utterance the obligations arise simultaneously so that he would have to pay two and a half for the one valuation and two and a half for the other, or is the whole sum due for each of them? — The question remains [unanswered].

THERE IS NO VALUATION LESS THAN ONE SELA' NOR MORE etc. Why is this re-statement necessary? — This is what we are told: There is none less than one sela', but there are some above one sela'; there is none above fifty sela's, but there are some below fifty sela's, and it [the teaching] is stated anonymously<sup>2</sup> in accord with the Rabbis.

MISHNAH. IF A WOMAN GOES ASTRAY<sup>3</sup> IN HER RECKONING THERE IS NO RE-OPENING FOR HER [OF THE NIDDAH COUNT] EARLIER THAN SEVEN, NOR LATER THAN AFTER SEVENTEEN DAYS.

GEMARA. Our Rabbis taught: If a woman astray in her reckoning said: 'I saw uncleanness for one day' then her re-count begins after seventeen days;<sup>4</sup> [if she says.] 'I saw uncleanness for two days', her re-count commences after seventeen days;<sup>5</sup> [if she says,] 'I saw uncleanness for three days', her re-count commences after seventeen days.<sup>6</sup> [If she says,] 'I saw uncleanness for four days', her re-count commences after sixteen days;<sup>7</sup> [if she says,] 'I saw uncleanness for five days', her re-count commences after fifteen days.<sup>8</sup> [If she says,] 'I saw uncleanness for six days', her re-count commences after fourteen days; [if she says,] 'I saw uncleanness for seven days', her re-count commences after thirteen days; [if she says,] 'I saw uncleanness for eight days', her re-count commences after twelve days; [if she says,] 'I saw uncleanness for nine days', her re-count commences after eleven days; [if she says,] 'I saw uncleanness for ten days', her re-count commences after ten days;<sup>9</sup> [if she says,] 'I saw uncleanness for eleven days', her re-count commences after nine days; [if she says,] 'I saw uncleanness for twelve days',<sup>10</sup> her re-count commences after eight days;

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(1) The decision being in accord with the Sages, all his sela's were affected by the first valuation. The practical difference lies in the fact that since now he is considered as still obliged to make payment for the first valuation, he would have to pay full fifty sela's if at any later time he became rich.

(2) Whenever one Mishnah reports conflicting opinions in the name of the disputants, and another a decision in this case anonymously, the latter is regarded as authoritative.

(3) Lev. XV deals with the regulations touching the woman's issue (of blood), and distinguishes between an issue 'in time of her impurity' and one 'not in' or 'beyond' the time of her impurity. The flow 'in the time of her impurity' is called dam niddah — the blood of her menstruation; the flow beyond or outside the time of her impurity is called dam zibah — the blood of one having an issue. According to the law of the Torah a woman who menstruates for the first time becomes unclean as niddah for seven days, the day on which she menstruated included. She remains in this state of uncleanness for seven days, independent of whether she has had that issue of blood for the first day only or on any other



of the seven days. Even if she should suffer such issue for seven days continuously, as long as it has stopped before sunset on the seventh day, she takes the ritual bath that night and becomes clean thereby. These seven days are her niddah days. The eleven days following are called 'the days of her having an issue', yeme zibah, any issue of blood during which is considered 'not in' or 'beyond the time of her impurity'; this period starts at the end of the seven days of her normal impurity, quite independent of her having taken the bath prescribed or not. Any issue of blood on one of these eleven days renders the woman a zabah ketannah, one having a minor issue, and by taking the ritual bath on the day following the issue, she becomes clean if no new issue appeared on the day of the bath. The same law applies if on any other of the eleven days issue should have appeared. But if such issue appeared on three consecutive days, the woman's considered zabah gedolah, one having a major issue, and she does not regain her ritual cleanness until seven days. free from any issue following the last of the three days, have passed. On the seventh day she takes the ritual bath of purification, and on the eighth day she offers two turtle-doves as her sacrifice of purification. If during these eleven days there had been no issue of blood, or only a 'minor issue' then any day from the twelfth on, on which she should have an issue, is the commencement of her niddah days, yeme niddah. If, however, she had become during the eleven days zabah gedolah, one having a major issue, then she does not become a niddah again until there have been seven days after the last day of the flow during which there was no issue whatsoever. Any issue of blood appearing before such seven days have passed is considered part of the days of zibah. Even after the days of her niddah have started she of course becomes a niddah only when and if she has an issue, yeme niddah signifying no more than that she becomes a niddah in case of any issue, as against her being a zibah during the other period. After she has become a niddah again she remains in this state for seven days. to be followed again by the days of zibah. A woman thus can become a zabah only in the eleven days following her yeme niddah; or, if during these eleven days she had three days' consecutive flow, she remains a zabah until she had had seven days of freedom from any flow. After that period she becomes a niddah again, with the first flow. And similarly a woman can become niddah again only after the passing of the eleven days of zibah, or, if during these days she had become a zabah gedolah, one having a large issue, she can become a niddah only after seven days have gone after the last day of the flow during which no further flow was experienced. Upon the day on which the woman becomes niddah again, depends the count of the rest of these days of her niddah state as well as the count of the days of her zibah. Therefore the day on which she becomes niddah is considered the 'entrance', the 'gate', the 're-opening'. The Mishnah refers to a woman 'astray in her reckoning', i.e., one who after purification has experienced a flow of blood, and does not remember whether she was passing through the days of niddah or those of her zibah. She is unable to emerge from this state of uncertainty to a new safe reckoning until after the end of the present flow she experiences a new one, as to which she is definitely sure that it was her period of niddah. This certainty cannot be obtained earlier than after seven days, nor later than after seventeen days, during which she experiences no flow of blood at all.

(4) If the flow of blood had lasted for only one day, followed by seventeen days free from any flow, then any new flow signifies the commencement of her days of niddah. For the day on which she had the flow concerning which she was astray fell either into her period of zibah or into that of niddah. If that day was one, or even the first one, of her days of zibah then the days of her niddah would have commenced no later than on the tenth day after the flow; and her flow on the eighteenth day renders her a niddah. If, however, the day on which she had that flow, concerning which she was astray, should have been one of her yeme niddah, then having become niddah on that day (after her bath of purification which terminated her uncleanness) she remains in the state of niddah for six more days, becomes a zabah for the eleven days following, to enter her period of niddah thereupon, eleven days later, which is on the eighteenth day or any day following it.

(5) Similarly, if she had seen blood for two days, then the flow of blood again after seventeen days of cleanness is there-commencement of her days of niddah. If these two days were days of zibah then the days of niddah would commence no later than nine days after the flow, Or, if the two days of the flow were in the period of niddah then that period of niddah was over in five days, the following period of zibah terminated after eleven days, or the new period of niddah would re-commence after only sixteen days. But it is also possible that the first of the two days was the last day of the zibah period and the second the first of the niddah period, in which case six more days would be necessary to terminate her niddah period, to be followed by eleven days for her zibah period, so that seventeen days must pass before she can definitely be said to have become a niddah again.

(6) If all the three days were part of the zibah period, then the niddah period would commence no later than eight days after that, the assumption throughout being that there was no flow whatsoever during these seventeen days. If all of the three days fell into the niddah period, then the new period of niddah would commence after fifteen days, i.e., after the

last four days of the niddah period, and the following eleven of the zibah period. But since it is also possible that the first two of the three days of the flow were the last days of the zibah period, and that consequently the niddah period would commence only with the third, six more days of the niddah period followed by eleven days of the zibah period must pass before the woman can re-commence her new niddah period, hence again the necessity of seventeen clean days before she can definitely re-commence her reckoning.

(7) If all the four days were either yeme niddah or yeme zibah, the new re-commencement could have started before seventeen days. If they were yeme zibah, the new period of niddah would start after seven days. If the days of the flow fell in the niddah period, the new reckoning could start after fourteen days, viz., the remaining three days of the niddah period and the eleven of the zibah period. In this case one cannot posit the possibility of the first three days of the four days' flow having been the last days of the zibah period, followed by the fourth day as the first of the new niddah period, for, as explained above, the niddah period does not follow upon a three-day flow in the zibah period, before seven completely free days have passed. But it is possible that the first two of the four-day flow were the last days of the zibah period, whereupon only the third day signified the commencement of the zibah period, so that five more days of the niddah and eleven days of the zibah period are required before her re-commencement of her new niddah period may be definitely assumed.

(8) V. next note.

(9) The same consideration, that the first two days may be the last days of her zibah period, necessitates, in the case of the five-day flow, the counting of at least fifteen days, the remaining four of the niddah plus the complete eleven of the zibah periods, in the case of the six-days flow, the counting of the remaining four days of the niddah plus the eleven of the zibah period; of three remaining niddah plus eleven zibah days in the case of a seven-day flow; of two niddah and eleven zibah days in the case of an eight-day flow, and of one remaining day of niddah and eleven days of zibah in the case of a nine-day flow. So that the number of the days necessary moves from seventeen to twelve, on the above considerations. In the case of a ten-day flow, then, even on the assumption that the first two days had belonged to the zibah period, the zibah period recommenced after the seven days of niddah, i.e., on the tenth day, whence only the remaining ten days of zibah need pass before the woman becomes niddah again.

(10) In the case of eleven days, on the same basis, two days of the new zibah period have passed after the intervening days of niddah, so that only the remaining nine days of zibah must be counted before the woman re-enters her niddah period; in the case of a twelve-day flow there are only eight; in the case of a thirteen-day flow only seven days of the zibah period before the new niddah period re-commences. Never earlier than before the passing of seven days, because that is the period necessary for a zibah to become a niddah again, never later than after seventeen days, so that the Mishnaic law becomes evident as indicating the minimum and the maximum necessary for a woman astray in her reckoning before she can definitely reach the 'gate' of her safe reckoning, i.e., the re-commencement of her niddah period.

## **Talmud - Mas. Arachin 8b**

[if she says,] 'I saw uncleanness for thirteen days', then her re-count commences after seven days; for the re-opening [of the Niddah count] does not come before seven nor later than after seventeen days. R. Adda b. Ahabah said to Rabbah: Why all this [reckoning]? Let her count seven days and be permitted [to have intercourse]! — He answered: [We are meaning] to set her right concerning her menstruation and its re-commencement.<sup>1</sup>

Our Rabbis taught: All women who are astray in their reckoning are zaboth<sup>2</sup> and must offer a sacrifice which must not be eaten,<sup>3</sup> with the exception of those whose [niddah] re-count started after the seventh or after the eighth day.<sup>4</sup> who must offer a sacrifice which is to be eaten. But are women astray in their reckoning zaboth? Furthermore, must a woman who has had an issue one day, or two days, at all offer up a sacrifice? — Rather read, Zaboth who are astray in their reckoning<sup>5</sup> must offer a sacrifice which is not to be eaten, with the exception of the woman whose [niddah] re-count starts after seven or after eight days, who must offer up a sacrifice that is to be eaten.

MISHNAH. NO SIGNS OF LEPROSY ARE SHUT<sup>6</sup> UP LESS THAN ONE WEEK AND NONE MORE THAN TWO WEEKS.

GEMARA. NO LESS THAN ONE WEEK refers to human leprosy. NONE MORE THAN THREE WEEKS refers to leprosy of houses. R. Papa said: Thy righteousness is like the mighty mountains,<sup>7</sup> refers to human leprosy. Thy judgments are like the great deep,<sup>7</sup> refers to the leprosy of houses. What is the simple meaning of the Scriptural verse? — Were it not for Thy righteousness [as great] as the mighty mountains, who could stand before Thy judgments [as profound] as the great deep! Rabbah said: ‘Thy righteousness is like the mighty mountains’, because ‘Thy judgments are like the great deep’. Wherein are they conflicting? — In the dispute of R. Eleazar and R. Jose b. Hanina, for it was reported that R. Eleazar says: He suppresses;<sup>8</sup> R. Jose b. Hanina says: He forgives;<sup>9</sup> Rabbah agrees with the view of R. Eleazar, whilst Rab Judah concurs with that of R. Jose b. Hanina.

MISHNAH. THERE ARE NEVER LESS THAN FOUR FULL MONTHS IN THE YEAR, NOR DID IT SEEM RIGHT TO HAVE MORE THAN EIGHT.<sup>10</sup> THE TWO LOAVES<sup>11</sup> WERE CONSUMED NEVER EARLIER THAN THE SECOND, NOR LATER THAN THE THIRD DAY. THE SHEWBREAD<sup>12</sup> WAS CONSUMED NEVER EARLIER THAN THE NINTH NOR LATER THAN THE ELEVENTH DAY. AN INFANT MAY NEVER BE CIRCUMCISED EARLIER THAN THE EIGHTH NOR LATER THAN THE TWELFTH DAY.<sup>13</sup>

GEMARA. What does DID NOT SEEM RIGHT TO HAVE MORE THAN EIGHT mean? — R. Huna said: It did not appear right to the Sages to make more than eight months full. Wherefore is the difference with regard to nine, that they would not [make full]? Because if they did not [stop at eight]

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(1) R. Adda meant that this counting of the days has as its sole purpose the permission of renewed sexual congress, whereas our purpose was to enable her to re-establish a definite rule of her counting. For, if e.g., she does not know whether she is in the period of niddah or zibah, she would be confused as to how soon she becomes clean again. as niddah only four more days would be required for her to become clean after a three-day flow, whereas if she were a zibah seven days would be necessary before she becomes a niddah again; or, after one-day's flow, as niddah she would have to wait six more days for the bath of purification, whereas in the case of a minor zibah, such a bath may be taken on the next day.

(2) Plur. of zabah, v. Glos.

(3) This is explained as referring to women astray as to their reckoning who may be suspected of being zaboth. As such they must offer the sacrifices, prescribed for a zabah gedolah, a pair of turtle-doves of which one is a sin-offering, the other a burnt-offering. The burnt-offering is consumed on the altar, but the sin-offering as a rule is partly eaten by the priests. The form of killing, melikah (pinching of the bird's neck with the fingernail) is legitimate only with the required bird sin-offering. Since the woman in the above cases is only suspected of being a ‘zabah’, her sin-offering is not definitely required. In this doubtful case the sin-offering had to be brought to satisfy the possibility of the woman having been a zabah; but it must not be eaten, because there is reasonable doubt, hence the sacrifice may be legally profane and having been killed in a manner prohibited for profane food, is unfit to be eaten by anybody.

(4) In which the woman must have been a zabah. Having had a twelve-day flow of blood, she must have been zabah. For even on the assumption that the first two days were the last days of a zibah, the woman became zibah again on the second count, for the ten days left, seven had belonged to the niddah and the other three to the new zibah, and of course, if the first days came at the beginning of niddah, or three of them were the end of zibah, the woman would definitely be a zibah. In all other cases, however, the woman is only doubtfully a zabah, for just as one could say that three of the days were in the zibah period, making her a zibah proper (zabah gedolah), so could one say that the last two days of the flow came from the zibah period, without making her a zabah gedolah, so that within the days concerned she could not become a zibah again.

(5) I.e., only those who, having had a three-day flow and being thus under the definite suspicion of zibah, whilst astray in their reckoning.

(6) Rashi reads: There is no cleanliness obtainable in the case of leprosy. etc. Lev. XIII distinguishes between leprosy which the priest at his first inspection may be able to declare as either clean or unclean, and doubtful cases. In case of

doubt (*ibid.*, 4) the priests must shut up the suspected leper for at least one week, in the case of leprosy of a house, which has remained unchanged after the first week, and has either remained unchanged or has spread at the end of the second week, the priest must shut up the house for another, the third week. V. Neg. XIII, 1.

(7) Ps. XXXVI, 7. The word *zedakah* (righteousness) has also the meaning of ‘mercy’. It is a mark of divine mercy in prescribing one week's shutting in for man.

(8) Or, presses down the balance of merits; v. next note.

(9) Or, raises the scale of impurity. According to R. Eleazar: The Lord in His mercy ignores man's sins, so that his good deeds may save him when before the throne of God in judgment. According to R. Jose b. Hanina: The Lord forgiving, wipes the sins off completely, or, in the case of the man's repentance, changes his very sins into virtues. (V. R.H. 17a.) Rabbah, explaining in terms of R. Eleazar, sees God's *zedakah* in the fact He keeps His judgment of man's sins in the deep abyss, invisible on the day of judgment, whereas Rab Judah suggests, in accord with the other Tanna, that but for God's supreme *zedakah* which forgives iniquity, or, for the repentant changes it into moral asset, man could not stand the divine judgment.

(10) A full month (*lit.*, ‘a prolonged one’) is one of thirty days, a defective one is one of twenty-nine days. The average year has six months of thirty days each, and six of twenty-nine days each. For there are about twenty-nine and one half days between one new moon and the other, whence a month of thirty days, to restore the balance, must be followed by one of twenty-nine days. However, there are more than twenty-nine and one half days between one new moon and the other, approximately twenty-nine days, twelve hours and forty minutes; furthermore, there are other causes influencing the fixing of the calendar, as the result of which the arrangement of six full and defective months undergoes certain variations, so that one year might have a larger number of full, the other more than the half of defective months. In the time of the Mishnah the Sanhedrin decreed the beginning of the new months on the basis of the testimony of witnesses who had actually seen the new moon. But even then conditions would arise (such as non-visibility of the new moon, due to cloudy weather) when the Sanhedrin would be guided by its own astronomical calculations. For such a decree the principle was adopted that no year may have more than eight, nor less than four full months.

(11) Of the Feast of Weeks, v. Lev. XXIII, 27. Since they could not be eaten before the lambs of the sacrifice had been offered up, they were not as profane food, for which alone permission to bake or cook was given on the Holy Day on which all manner of work is prohibited. And as not immediately ready for human food, and hence not under the category of permitted labour, these breads had to be baked on the day before the Feast of Weeks, or, if the latter fell on a Sabbath, on the Friday preceding it. *i.e.*, on the third day. Ex. XII, 16: Save that which every man must eat, that alone may be done by you, excludes that which is not immediately available for human use.

(12) Placed every Sabbath on the Table in the Sanctuary and consumed by the priests on the following Sabbath, they had to be baked on the preceding Friday (not earlier, since they were to be fresh). If a Holy Day fell on Friday, they were baked on Thursday. If the two days of the New Year fell on Thursday and Friday (the only Holy Day which could, even in the time of the Sanhedrin, last for two days. v. Men. 100b), the shewbread would be baked on Wednesday to be eaten on the following Sabbath, on the eleventh day, its baking overriding neither the Sabbath, nor a Holy Day.

(13) The circumcision performed on the eighth day overrides both Sabbath and Holy Day. Here, however, we deal with a boy born Friday eve at twilight. Hence his birthday is doubtful: it may be either Friday or Saturday. the twilight may be considered as belonging either to the day past or to the following one. The Sabbath following may therefore be the eighth or the ninth day after the birth and the circumcision must be postponed (for a doubtfully eighth day circumcision does not override the Sabbath) to the following, the tenth day. If the following day be a Holy Day, the circumcision could not take place before the eleventh day. If the two days of New Year fall on Sunday, the circumcision is postponed to the twelfth day. V. Shab. 137b.

## Talmud - Mas. Arachin 9a

the new moon<sup>1</sup> would come three days too early! But now, too. It would come two days too early?<sup>2</sup> — This is in accord with what R. Mesharsheya said: ‘It refers to a case where the preceding year was prolonged’,<sup>3</sup> Here, too, the reference is to a year following a prolonged year, and the prolongation of a year is one month.<sup>4</sup> But put one full month against one incomplete month, and there will be still one day left?<sup>5</sup> — People do not pay too much attention to that.<sup>6</sup>

‘Ulla said: [the meaning is,] It did not seem right to the Sages to make more than eight defective

months. He [the Tanna] states here a reason:<sup>7</sup> What is the reason that it did not seem right to the Sages to have less than four full months? Because it did not seem right to them to have more than eight defective months. Why not nine? Because in that case the new moon would be coming three days too late?<sup>8</sup> But now, too, it would be coming two days too late? — That is to be explained in accord with R. Mesharsheya: ‘It refers to a case where the preceding year was prolonged’; here, too, the reference is to a year following a prolonged year.<sup>9</sup> Deduct one defective month against one full month, and still there will be one day left?<sup>10</sup> They [the people] will say: It [the moon] has actually been seen, whilst we had paid no attention.<sup>11</sup> [

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(1) The new moon, coming say on Wednesday, with New Year starting only on the Sabbath. This discrepancy would cause popular murmuring against the ‘arbitrariness of the Sages’.

(2) But the arrangement of eight months, too, would leave a difference of two days, hence what is the value of limiting it to eight full months? Normally six full months plus six defective ones would take care of the situation.

(3) I.e., a year of thirteen months.

(4) Which may be either full or defective, and having made the intercalation of the preceding year defective, we have regained one day. which is counter-balanced by one day of the eight full months this year.

(5) Yet, even with one month full, and one month of last year incomplete. we gain only one day, so that one day still intervenes between the new moon of Tishri and the fixation of the New Year; so that popular clamour against the Sanhedrin's margin would be aroused still.

(6) A one day's margin would not be considered abuse of the Sanhedrin's function.

(7) And ‘for what reason’, he says.

(8) ‘Ulla's interpretation of the Mishnah: No less than four full months, but not more either, because ‘it did not seem right to the Sages to have more than eight defective months’, so that the New Moon should not appear three days after the New Year.

(9) And the prolonged month was made full, the consideration being the reverse of the former.

(10) Cf. n. 3 *mutatis mutandis*.

(11) The people assume in this case that the Sanhedrin had good reason, the basis of which, the actual seeing of the new moon, had escaped themselves.

## **Talmud - Mas. Arachin 9b**

In what principle do they differ?<sup>1</sup> — In regard to the prolonged year. For it was taught: By how much is a year prolonged? By thirty days. R. Simeon b. Gamaliel said: By a month.<sup>2</sup>

An objection was raised: The Feast of Weeks can fall only on the day of the waving,<sup>3</sup> and the New Year can fall only on either the day of the waving or the day following the night of the last day of the full month [of Nisan].<sup>4</sup> Now that will be right according to ‘Ulla if eight defective months could be arranged, but not full ones; hence this may happen thus: if both are defective, it falls on the day of the waving; if one is full and the other defective, it falls on the day following the night of the last day of the full month.<sup>5</sup> But according to R. Huna who says one does make [eight] full months, it may happen that it falls on the day following the day after the night of the last day of the full month?<sup>6</sup> — R. Huna will answer you: But is it indeed right. according to ‘Ulla? Only eight [full] months are not made, but we do make seven. Now can it not happen that we arrange them not in winter but in the summer, with the result that it would possibly fall upon the day following the day after the last day of the full month?<sup>7</sup> — Rather, this is in agreement with the ‘Others’, for it was taught: ‘Others’ taught. Between one Feast of Weeks and the other, and between one New Year and the other, there is an interval of no more than four days [of the week], or in the case of a prolonged year, five days.<sup>8</sup> But, at all events, on the view of the ‘Others’, it could not fall on the day of the waving? — R. Mesharsheya said: The reference is to a prolonged year, and the prolongation of a year is by thirty days. Deduct one [full] month against the other [full one] and it will fall upon the day of the waving.<sup>9</sup>

Said R. Adda b. Ahabah to Raba: Do ‘Others’ intend teaching us [how to count] the number?<sup>10</sup> —

This is what they convey to us: That it is not obligatory to proclaim a new moon on the basis of having seen it.<sup>11</sup> Rabina demurred: But there are days made of hours,<sup>12</sup> and days of thirty years?<sup>13</sup> — Since they do not occur every year, he does not count them. Samuel, too, agreed with the view of R. Huna, for Samuel said: The lunar year consists of no less than three hundred and fifty-two, nor of more than three hundred and fifty-six days. How is that? — If the two are full,<sup>14</sup> there are [fifty] six; if the two are incomplete. [fifty] two; if one is complete and one incomplete, [fifty] four.

An objection was raised: [If one said,] I shall be a Nazirite according to the number of the days of the solar year, then he must count for his Naziriteship three hundred and sixty-five days according to the years of the sun; [if he said,] According to the days of the lunar year, he must count for his Naziriteship three hundred and fifty-four days according to the days of the lunar year. Now, if that [account above] were right, at times you find [a year of three hundred and fifty] six days?<sup>15</sup> — With regard to vows go after human parlance as well as after the majority of years. Rabbi, too, held the view of R. Huna, for it was taught: Rabbi happened to have arranged for nine defective months, and the moon [of Tishri] was seen in its due season! Whereupon Rabbi was amazed and said: We have arranged nine incomplete ones and yet the moon [of Tishri] appeared in due season! R. Simeon b. Rabbi said to him: perhaps this happened to be a prolonged year

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(1) R. Huna and ‘Ulla. R. Huna accepts R. Simeon b. Gamaliel's view and ‘Ulla that of the first Tanna.

(2) A month of twenty-nine days. The margin is the point of difference.

(3) The second day of Passover (v. Lev. XXIII, 10-12) i.e., on the same day of the week as the second day of Passover. The fifty days are counted from the sixteenth of Nisan to the first of Shabuoth. Hence the fiftieth day must fall upon the same week-day as the first, the day of the waving.

(4) Or iburo, the night of its being made a full month, because upon the night depends its completeness, for if the new moon is proclaimed for the thirty-first day, that fact renders the month just passed full (one of thirty days).

(5) [Normally the twelve months of the year beginning with Tishri are full and defective in rotation. Where there is a departure from this order, the only months affected are Kislew in the winter and Siwan in the summer, which months are made defective instead of being normally full. Now if both these months are made defective, giving eight defective months for the year, there is an interval between the 30th of Nisan and the first of Tishri of eight days of the week, i.e., the first of Tishri falls on the same day of the week as the 31st of Nisan; and since the 30th of Nisan falls on the same day as the day of waving, which is exactly fifteen days before, the New Year will also fall on the day of waving. Should, on the other hand, only one of these two months be made defective — namely Kislew, whilst Siwan is full, there would be nine days of the week difference between the 30th of Nisan and the first of Tishri, so that New Year will fall on the 31st day. i.e., the day following the night of the last day of the full month of Nisan.]

(6) [On the view of R. Huna that we make eight full months, the two months Heshwan (in winter) and Iyyar (in summer) normally defective are made full, with the result that one extra day of the week is added as interval between the 30th day of Nisan and the first Tishri making New Year to fall two week-days after the 30th of Nisan.]

(7) [By making the extra full month in the summer, there would be added an extra day of the week as in p. 51, n. 6 with the same result.]

(8) The statement that the New Year must fall either on the day of the week on which the waving day falls or upon the day following the night after the last day of the full month is in accord with the teaching of ‘Others’, who hold that all months are full and defective in strict rotation, making a total of 354 which is four days over fifty weeks, leaving four days of the week as interval between one New Year and the other in a normal year and five in a prolonged year.

(9) [Having added in winter an extra full month, Nisan is made defective, with the result that we have four defective months during the summer, making New Year fall on the day of the waving. v. p. 51, n. 5.]

(10) From the fact that all months follow each other in regular order, it follows that there are four days’ difference between the New Years.

(11) Even without having actually seen the new moon the new month may be proclaimed by the proper authorities.

(12) Granted that ‘Others’ go by the order of the new moons, yet it happens that in a simple (not prolonged) year, five days may intervene between one Passover and the other. For the forty minutes above twenty-nine days and twelve hours, between one moon and the other, make in one year an additional eight hours, in three years an additional day.

(13) And even when that is accounted for, there remain minutes, which added to one another amount in every thirty

years to one complete day. The exact duration is: twenty-nine days, twelve  $\frac{793}{1080}$  hours, which time fragments combined add one day in every three, and one additional one every thirty years.

(14) Of the defective ones (i.e., Marheshwan and Iyyar) they add two days, i.e., three hundred and fifty-six days altogether; if two of the full ones (i.e., Kislew and Siwan) are made defective, there are two days less than usual, and the year has but three hundred and fifty-two days.

(15) Then why should the Nazirite be given a reduced term, two days shorter?

## Talmud - Mas. Arachin 10a

and the prolongation of a year is by thirty days. and last year we made the two full, put the three full against the three defective, and it will come to Its proper place.<sup>1</sup> He answered to him: Light of Israel! So it was! MISHNAH. THEY BLEW NEVER LESS THAN TWENTY-ONE BLASTS IN THE SANCTUARY AND NEVER MORE THAN FORTY-EIGHT.<sup>2</sup> THEY PLAYED NEVER ON LESS THAN TWO HARPS,<sup>3</sup> OR MORE THAN SIX, NOR EVER ON LESS THAN TWO FLUTES OR MORE THAN TWELVE. ON TWELVE DAYS IN THE YEAR WAS THE FLUTE [HALIL] PLAYED BEFORE THE ALTAR:<sup>4</sup> AT THE KILLING OF THE FIRST PASSOVER-SACRIFICE,<sup>5</sup> AT THE KILLING OF THE SECOND PASSOVER-SACRIFICE,<sup>6</sup> ON THE FIRST FESTIVAL DAY OF PASSOVER, ON THE FESTIVAL DAY OF THE FEAST OF WEEKS, AND ON THE EIGHT DAYS OF THE FEAST [OF TABERNACLES].<sup>7</sup> AND THEY DID NOT PLAY ON A PIPE [ABUB]<sup>8</sup> OF BRONZE BUT ON A REED PIPE, BECAUSE ITS TUNE IS SWEETER. NOR WAS ANY BUT A PIPE SOLO USED FOR CLOSING<sup>9</sup> A TUNE. BECAUSE IT MAKES A PLEASANT FINALE. THEY<sup>10</sup> WERE SLAVES OF THE PRIESTS. ACCORDING TO R. MEIR. R. JOSE SAID: THEY WERE OF THE FAMILIES BETH HAPEGARIM, BETH-ZIPPORUA AND FROM EMMAUS,<sup>11</sup> FROM WHICH PRIESTS WOULD MARRY [WOMEN].<sup>12</sup> R. HANINA B. ANTIGONOS SAID: THEY WERE LEVITES.<sup>13</sup>

GEMARA. Our Mishnah<sup>14</sup> will not be in accord with R. Judah. for it was taught: R. Judah said: One who sounds a smaller number of blasts may not sound less than seven, and one who sounds a larger number must not exceed sixteen. What principle are they disputing? — R. Judah says: Teki'ah, teru'ah, teki'ah<sup>15</sup> constitute one sound,<sup>16</sup> whereas the Sages hold: Teki'ah is a separate sound, so is teru'ah, and so the [second] teki'ah.<sup>17</sup> What is the reason for R. Judah's view? — It is written: And when ye blow an alarm [teki'ah],<sup>18</sup> and again it is written: They shall blow an alarm [teru'ah],<sup>19</sup> from this it is evident that teki'ah, teru'ah and teki'ah are one sound.<sup>20</sup> And the Sages? — That merely indicates that the teru'ah sound is to be both preceded and followed by a teki'ah sound.<sup>21</sup> What is the reason of the Sages' view? — Scripture says: But when the assembly is to be gathered together, ye shall blow, but ye shall not sound an alarm.<sup>22</sup> Now, if one should assume that teki'ah, teru'ah, and teki'ah are together only one sound would the Divine Law have said: perform but one half of the command! And R. Judah? — This is no more than a signal.<sup>23</sup> According to whom will be the following teaching of R. Kahana: There may be no interruption whatever between teki'ah and teru'ah? — According to whom? According to R. Judah. But this is obvious. You might have said: It may be in accord even with the Rabbis, and it is taught thus only to exclude the view of R. Johanan who said that if one heard nine sounds even in the course of nine hours during the day, he had fulfilled his duty,<sup>24</sup> therefore we are informed [that this is not so]. But say, perhaps it is indeed so? — If that were the case, what means: 'No interruption whatever'?

ON TWELVE DAYS IN THE YEAR WAS THE FLUTE PLAYED etc. Why just on these days? Because an individual<sup>25</sup> completes the Hallel psalms on them.<sup>26</sup> For R. Johanan said in the name of R. Simeon b. Jehozadak: There are eighteen days on which an individual completes the Hallel: the eight days of the Feast [of Tabernacles], the eight days of Hanukkah, the first Festival day of Passover and the Festival day of the Feast of Weeks. In the exile<sup>27</sup> [one praying individually completes the Hallel] on twenty-one days: the nine days of the Feast [of Tabernacles], the eight days of Hanukkah, the two Festival days of Passover, and the two Festival days of the Feast of Weeks.

## Why this difference that on the Feast [of Tabernacles] we complete Hallel on all the days, and on the Passover Festival we do

(1) Rabbi also held that eight full months are the limit, hence his astonishment when the new moon of Tishri came at the proper time in spite of the additional incomplete months. Last year the two normally defective months (Heshwan and Iyyar) were made full and the intercalated month was full. If the three defective ones of this year are placed against the three full ones of last year a normal situation is achieved, hence the new moon of Tishri appeared at the moment when it was fixed.

(2) V. Suk. 53b.

(3) Lit., 'a kind of hose', nabla in Greek, which according to Josephus had twelve strings and was played with the hand.

(4) On these days all the thanksgiving Psalms (Hallel. Ps. CXIII-CXVIII) were sung. The meaning here is doubtful: either, 'on these days the flute was played before the altar, whereas on other days it was played together with all other instruments on the Dukhan by the Levites', or on these days alone the flute was played, on other days other instruments only. The technical term 'beat' ( **מכה** ) applies to the flute, because tunes are evoked thereon by beating with the fingers on the holes.

(5) During the singing of the Hallel, Pes. 64a.

(6) On Iyyar the fourteenth, when the Passover-sacrifice of those who on Nisan the fourteenth were on a journey afar off, or in an unclean state, was offered up. V. Num. IX, 9ff.

(7) The playing of the flute on these days was part of the official music in the Sanctuary, prescribed during the process of offering up the sacrifices, and overriding both Sabbath and Holy Days. But the playing of the flute at the Water Festival (Suk. 50a) overrode neither, and was permissible on a week-day only.

(8) The change in the Hebrew designation for 'pipe' is explained in the Gemara.

(9) Either, 'to smoothe', then in the causative, to close a tune softly; or, 'to separate', to close one before the other starts; or, the overture, before the song commences.

(10) It was the youths or servants who played the flutes as well as the other instruments.

(11) Near Tiberias.

(12) Not slaves but youths of noble families, with whom the proud priestly families were willing to intermarry. The practical difference arising from this dispute has something to do with a man's claim to descent and desire to marry into a priestly family. If none but the youths of such excellent families were admitted to such service, participation in the latter would be sufficient evidence of noble descent and would eo ipso be sufficient ground for admission into such family. According to R. Meir even servants were admitted to such service, hence former participation therein is no evidence of noble descent, and no self-sufficient ground for admission into a priestly family.

(13) Legally also non-Levites were admissible. Actually, however, only Levites were admitted, whence the fact of ones participation was sufficient proof of levitical descent,

(14) In that it teaches: 'They blew never less than twenty-one, nor more than forty-eight blasts'.

(15) Teki'ah: one long sound; teru'ah; a rapid succession of three notes each, a broken tune. The value (length) of a teki'ah is equal to a teru'ah. V. R.H. 34a as to the significance and form of the sounds.

(16) And consequently are to be sounded without a break between them.

(17) And consequently are to be separated from each other by a small pause.

(18) Num. X, 5.

(19) Ibid. 6.

(20) The Hebrew verb used to denote 'blow' in both instances is derived from the same root as teki'ah.

(21) The proof is derived from the fact that teru'ah in these passages is preceded and followed by the root word of 'teki'ah', interpreted here as indicative of the form the blast took.

(22) Num. X, 7.

(23) It is not a proper sound of teki'ah, but a mere signal of assembly.

(24) That of hearing the sound of the shofar, v. R.H. 34b.

(25) One praying individually, not in or as part of a congregation, a minyan.

(26) V. Ta'an., Sonc. ed., p. 150, n. 7.

(27) Where two days of Festival holiness would be celebrated instead of one.



## Talmud - Mas. Arachin 10b

not do so on all of its days? — The days of the Feast [of Tabernacles] are differentiated from one another in respect of the sacrifices due thereon, whereas the days of Passover are differentiated from one another in respect of their sacrifices.<sup>1</sup> Let it then be read on the Sabbath which is distinguished by its sacrifices? — It [Sabbath] is not called a festival. But what of New Moon which is called a festival, let the complete Hallel be said on it? — [New Moon] is not sanctified as to [prohibition of] labour, as it is written: Ye shall have a song as in the night when a feast is hallowed,<sup>2</sup> i.e., only the night sanctified towards a festival requires a song, but the night which is not sanctified towards a festival does not require a song. Then let the Hallel be said on the New Year and on the Day of Atonement, both of which are called Festival and are sanctified by [the prohibition of] labour?<sup>3</sup> — That [is not possible] because of R. Abbahu, for R. Abbahu said: The ministering angels said before the Holy One, blessed be He: Why do not the Israelites sing a song before you on the New Year and on the Day of Atonement? He answered them: Would that be possible; the King sits on the throne of Judgment, with the books of those destined to live and destined to die before Him, and Israel singing a song before Me? But there is Hanukkah, on which neither one nor the other [condition applies] and the Hallel is said? — That is due to the miracle. Then let it be said on Purim, on which, too, a miracle occurred? — Said R. Isaac: [It is not said] because no song [Hallel] is said for a miracle that occurred outside the [Holy] Land. To this R. Nahman b. Isaac demurred: But there is the exodus from Egypt, which constitutes a miracle that happened outside the Land, and yet we say Hallel? — There it is due to the fact taught, for it was taught: Before Israel entered the [Holy] Land, all the lands were considered fit for song to be said [if a miracle had occurred in their boundaries]; once Israel had entered the Land, no other countries were considered fit for song to be said. R. Nahman, however, answered: The reading [of the Megillah]<sup>4</sup> that is its [Purim's] Hallel. Raba said: It fits quite well there: Praise ye servants of the Lord,<sup>5</sup> but not servants of Pharaoh; but here 'servants of the Lord', not servants of Ahasuerus. Surely they are still servants of Ahasuerus! But according to R. Nahman who says the reading [of the Megillah] is its Hallel, was it not taught that after Israel had entered the Land, no other land was considered fit to sing Hallel about? — After Israel was exiled they [the other countries] were restored to their original fitness.

THEY DID NOT PLAY ON A PIPE OF BRONZE: He [the Tanna] begins with Halil and closes with Abub? — Said R. Papa. Halil is the same of Abub [this latter being its right name], and why was it called Halil? — Because its tune is sweet [hali].

Our Rabbis taught: There was a pipe in the Sanctuary which was smooth and thin, made of reed, and from the days of Moses, [and its sound was pleasant].<sup>6</sup> The king commanded to overlay it with gold, whereupon its sound was no more pleasant. Then its overlay was taken off, and its sound was pleasant again as before. There was a cymbal in the Sanctuary from the days of Moses, made of bronze, and its sound was pleasant; then it became damaged. The Sages sent for craftsmen from Alexandria of Egypt, and they mended it, but its sound was not pleasant any more. Thereupon they removed the improvement and its sound became as pleasant as it was before. A bronze mortar was in the Sanctuary, from the days of Moses, and it would mix the drugs. When it became damaged the Sages sent for craftsmen from Alexandria of Egypt who mended it, but it would no more mix the drugs as well as it used to.<sup>7</sup> Whereupon they removed the improvement, and it would mix them well again as before. These two vessels were left over from the first Sanctuary, and after they had been damaged there was no remedy for them. It is with reference to them that David said: They were of burnished brass,<sup>8</sup> and bright brass.<sup>9</sup> In connection with them it is said also: And two vessels of fine bright brass, precious as gold.<sup>10</sup> Rab and Samuel were disputing: One said each of them had the full weight of two of gold; the other held both of them had the weight of one of gold. R. Joseph learnt: Both of them had the weight of one of gold. It was taught: Nathan said: They were two each,<sup>11</sup> for shenayim is the written text, which one should read: not shenayim [two], but shniyyim [double ones].

R. Simeon b. Gamaliel taught: The Siloah was gushing forth through a mouth of the size of an issar.<sup>12</sup> The king commanded and it was widened so that its waters be increased, but the waters diminished. Thereupon it was narrowed again, whereupon it had its [original] flow, to make true that which was said: Let not the wise man glory in his wisdom, neither let the mighty man glory in his might.<sup>13</sup> Thus also would R. Simeon b. Gamaliel say: There was no hirdolim in the Sanctuary. [What is hirdolim?] — Abaye said: A musical instrument [table]<sup>14</sup> worked by pressure [of water] because its sound was heavy and disturbed the music. Rabbah b. Shila, in the name of R. Mattenah, on the authority of Samuel, said: There was a magrefa<sup>15</sup> in the Sanctuary; it had ten holes, each of which produced

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(1) The number of bullocks to be sacrificed on the Feast of Tabernacles diminished from day to day. which was thus distinguished from Passover, where the number was stationary.

(2) Isa. XXX, 29.

(3) In spite of the fact that the New Moon is also called a festival, it lacks the condition of 'sanctification by Prohibition of labour'.

(4) The Scroll of Esther.

(5) Ps. CXIII, 1. This clause fits Passover, but not Purim.

(6) Added with Sh. Mek.

(7) v. Ker. 6b.

(8) I Kings VII, 45. Tosaf. a.l. remark that this could not possibly have been said by David, because it refers to vessels made by Solomon, and hence reads: 'concerning which Scripture says'. That fits also the next quotation.

(9) II Chron. IV, 16.

(10) Ezra VIII, 27.

(11) I.e., two cymbals and two mortars.

(12) V. Glos.

(13) Jer. IX, 22. The lesson to be derived from these accounts seems to be, no 'foreign' improvements could remove what appeared imperfect in the Sanctuary. Things became right after the disastrous 'improvements' were removed.

(14) No absolutely satisfactory interpretation of this work is available: The very letters are uncertain, nor is the text clear. V. Tosaf. a.l. The rendering here adopts the reading ab (heavy) instead of 'areb (pleasant) of cur. edd. V. Marginal Gloss. Jast. connects it with hydraula (water-organ) and renders: There was no organ used in the Sanctuary because it would interfere (eliminating 'areb, pleasant. perhaps as dittography of um'arbeb) with the sweetness of the song.

(15) A name of another musical instrument.

## Talmud - Mas. Arachin 11a

ten different kinds of sounds, with the result that the whole amounted to one hundred kinds of sounds. A Tanna taught: It was one cubit long, one cubit high, from it projected a handle, which had ten holes. Each of them produced one hundred kinds of sounds, amounting for the whole to one thousand kinds of sounds. Said R. Nahman b. Isaac: To remember whose teaching it is: The Baraita exaggerates'.<sup>1</sup> THEY WERE SLAVES OF THE PRIESTS. Shall we say they are of conflicting opinions concerning the following principle: He who said they [the players of the instruments] were slaves holds that the essential in the music of the Sanctuary was the singing with the mouth, the instrumental music being just for sweetening the sound; whereas he who said that they were Levites holds the instrumental music to have been the essential. But if you reason this way, what will appear as R. Jose's view? If he holds that the essential of the [Sanctuary] music was the singing with the mouth, it [the instrumental music] should have been satisfactory [if performed] by slaves; if [on the other hand] he holds that instrumental music was the essential, it would have to be done by Levites?<sup>2</sup> — In reality he holds that vocal music was the essential; here, however, they are disputing as to whether one may promote one from the dukhan<sup>3</sup> to noble<sup>4</sup> families and to the enjoyment of tithes.<sup>5</sup> He who said that they [the players of the instruments] were slaves would hold one may not promote any one from the dukhan to either noble families or to the enjoyment of tithes; whereas he who said they were Levites would hold one may promote any one from the dukhan both to [marriage into]

noble families and to the enjoyment of tithes; whereas he who said that they [the players of instruments] were Israelites, would hold that one may promote any one from the dukhan to [marriage into] noble families, but not to the enjoyment of tithes.<sup>6</sup>

Our Rabbis taught: The omission of the song invalidates the sacrifice, this is the view of R. Meir. The Sages, however, hold that the omission of the song does not invalidate the sacrifice. What is the reason of R. Meir? — R. Eleazar<sup>7</sup> said: Because Scripture said, And I have given the Levites — they are given to Aaron and to his sons from among the children of Israel . . . and to make atonement for the children of Israel,<sup>8</sup> i.e., just as atonement<sup>9</sup> is indispensable, so is the song indispensable. And the Rabbis? — This [analogy is] with reference to another teaching of R. Eleazar, for R. Eleazar said: Just as the atonement is performed during the day, so does the song take place during the day.<sup>10</sup>

Rab Judah said in the name of Samuel: Whence do we know that fundamentally the song is obligatory on the basis of the Torah? As it is said: Then shall he minister in the name of the Lord his God.<sup>11</sup> Now which ministry is it in the course of which the Lord's name is mentioned? You must say: It is the song. But perhaps it is the [priest's] raising of the hands [to bless]? — Since Scripture said: To minister unto Him and to bless in His name,<sup>12</sup> it follows that the priest's blessing [in itself] is no ministry. R. Mattenah said: [It is derived] from here: Because thou didst not serve the Lord thy God in joyfulness and with gladness of heart.<sup>13</sup> Now which service is it that is 'in joyfulness and with gladness of heart'? — You must say: It is song. But perhaps it means the words of the Torah, as it is written: The precepts of the Lord are right, rejoicing the heart?<sup>14</sup> — They are described as 'rejoicing the heart', but not as 'gladdening [the heart]'. But say [it refers to] first-fruits, as it is written: And thou shalt rejoice in all the good?<sup>15</sup> — They are called 'good', but not 'gladdening the heart'. R. Mattenah said: Whence do we know that the [offering up of] first-fruits requires a song? — We infer that from the analogy of the words 'good', 'good'<sup>16</sup> which occur here too. But that is not so, for R. Samuel b. Nahmani said in the name of R. Jonathan: Whence do we know that the song is not sung [in the Sanctuary] except over wine? — Because it is said: And the vine said unto them: Should I leave my wine, which cheereth God and man?<sup>17</sup> Granted that it cheers men, whereby can it cheer God? From this it is evident that the song is not sung except over wine! — That is possible in accord with what R. Jose taught: [You shall take of the fruit of the ground<sup>18</sup> implies] You may offer the fruit, but not liquids. Whence do we know that if he brought grapes and pressed them [he has performed his duty de facto]? The text therefore states: Which thou shalt bring.<sup>19</sup>

Hezekiah said [we infer this] from the following passage:<sup>20</sup> And Chenaniah, chief of the Levites, was over the song; he was master [yasor] in the song, because he was skilful.<sup>21</sup> Do not read 'yasor', but 'yashir' [he sang]. Belvati, in the name of R. Johanan inferred it from here: To do the work of service.<sup>22</sup> Which work needs [depends on] service? Say: That is the song. R. Isaac inferred it from here: Take up the melody, and sound the timbrel, the sweet harp with the psaltery.<sup>23</sup> R. Nahman b. Isaac derived it from here: Those yonder lift up their voice, they sing for joy; for the majesty of the Lord they shout from the sea.<sup>24</sup> One Tanna derived it from here: But unto the sons of Kohath he gave none, because the service of the holy things belonged unto them: they bore them upon their shoulders.<sup>25</sup> Would I not have known from the meaning of 'upon their shoulders', that they bore them? Wherefore then they bore them? But 'they bore them' here means 'in song', for thus also it is said: Take up [se'u] the melody and sound the timbrel,<sup>23</sup> and it is said also: They lift up [yisse'u] their voices, they sing for joy, etc.<sup>24</sup> Hananiah, the son of the brother of R. Joshua derived it from here: Moses spoke and God answered him by a voice<sup>26</sup>

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(1) Whereas the Mishnah is exact in its style, the Baraitha allows itself occasional hyperbolic language. R. Gershom a.l. uses severe language against the Baraitha. Rashi refers to Hul. 90b where, however, some of the exaggerations go back to the Mishnah Middoth, or are no exaggerations. In this case, at any rate, the Mishnah reports a reasonably effective instrument, whereas the Baraitha tells a tall instrument story.

(2) Neither of the two views would account for his divergence from the other Tannaim.

- (3) The platform upon which the Levites stood during the singing of psalms.
- (4) I.e., free from any taint of illegitimacy.
- (5) If they are Levites they are not only privileged to marry into Israel's noble families, but also, a more practical benefit, to obtain the tithe which a member of that tribe is entitled to receive from the average Jew.
- (6) V. Suk. 51a
- (7) Changed in accord with Marginal Gloss.
- (8) Num. VIII, 19. The Levites were the singers.
- (9) The atoning rites, e.g., the sprinkling of the blood.
- (10) This 'other teaching of Eleazar' justifies the marginal change above. V, n. 1.
- (11) Deut. XVIII, 7.
- (12) Ibid. X, 8.
- (13) Ibid. XXVIII, 47.
- (14) Ps. XIX, 9.
- (15) Deut. XXVI, 11.
- (16) The same word occurs in the command concerning the first-fruits as well as in connection with the song in the Sanctuary, hence the inferences.
- (17) Judg. IX, 13.
- (18) Deut. XXVI, 2: Thou shalt take of the fruit of the ground.
- (19) Ibid. From this redundant word this additional teaching is to be derived: In any way, as long as thou bringest them.
- (20) Do we derive the Biblical basis for song in the Sanctuary.
- (21) I Chron. XV, 22.
- (22) Num. IV, 47. The song required the service of the sacrifice, at the libations of which the trumpets sounded,
- (23) Ps. LXXXI, 3.
- (24) Isa. XXIV, 14.
- (25) Num. VII, 9.
- (26) Ex. XIX, 19.

### **Talmud - Mas. Arachin 11b**

[i.e.,] concerning the voice.<sup>1</sup> R. Ashi<sup>2</sup> derived it from here: It came even to pass when the trumpeters and singers were as one to make one sound to be heard.<sup>3</sup> R. Jonathan derived it from here: That they die not, neither they, nor ye.<sup>4</sup> [i.e.,] just as you at the service of the altar, so they, too, at the service of the altar. It was taught also thus: 'That they die not, neither they, nor ye. viz., ye by engaging in their work, or they by engaging in yours, would incur penalty of death; they, however, by engaging in [another's] work of their<sup>5</sup> own [group] would be incurring penalty for transgression, but not death. Abaye said: We have it on tradition that a singing Levite who did his colleague's work at the gate incurs the penalty of death,<sup>6</sup> as it is said: And those that were to pitch before the tabernacle eastward before the tent of meeting toward the sunrising, were Moses and Aaron, etc. and the stranger that drew nigh was to be put to death.<sup>7</sup> What 'stranger' is meant here? Would you say a real stranger [non-priest]? But that has been mentioned [by Scripture] already! Rather, must it mean a 'stranger' to this particular service.

An objection was raised: Concerning a Levite chorister that attended to the Temple gates, or a gate-keeping Levite who sang, as to whether they are guilty of a transgression or incurring penalty of death, that is a matter of dispute among Tannaim, for it was taught: It happened that R. Joshua b. Hananyia went to assist R. Johanan b. Gudgeda in the fastening of the Temple doors,<sup>8</sup> whereupon he [the latter] said to him: My son, turn back, for you are of the choristers, not of the door-keepers. Would you not say that they were of divided opinion herein, that one held<sup>9</sup> he incurs the penalty of death, and for this reason the Rabbis forbade [their assisting], whereas the other held that only a transgression was involved, whence [the Rabbis] did not decree this preventive measure? — No, both agree that only a transgression is involved; [and their point of issue is the following:] one holds that the Rabbis forbade assisting as a preventive measure, the other holding that they did not forbid

assisting as a preventive measure.<sup>10</sup>

R. Abin asked: Does a freewill burnt-offering of a community require song or not? The Divine Law says: Your burnt-offerings<sup>11</sup>, which means no matter whether they are obligatory or freewill-offerings; or in saying 'your burnt-offerings' does perhaps the Divine Law mean those of all Israel?<sup>12</sup> — Come and hear: And Hezekiah commanded to offer the burnt-offering upon the altar. And when the burnt-offering began, the song of the Lord began also, and the trumpets, together with the instruments of David, King of Israel.<sup>13</sup> What need was there here for song? Would you say it was on account of [the daily] obligatory burnt-offering? That surely needed no consultation? Rather, it was one in connection with a freewill burnt-offering! Said R. Joseph: No, it was the burnt-offering [offered] on the new moon, and it was questionable as to whether the new month has been fixed in its right time so that it should be offered up, or not. Said Abaye to him: How can you say so,<sup>14</sup> is it not written: And on the sixteenth day of the first month they made an end . . . then Hezekiah commanded to offer the burnt-offering upon the altar, etc.<sup>15</sup> — Rather, said Rami the son of R. Yeba: The question was with reference to the lamb offered up with the 'Omer,<sup>16</sup> [namely]: Was the new month decreed in its right time or not so that the lamb may be offered? — R. Avya demurred to this: They should have seen when the paschal lamb had been sacrificed, when the leavened bread had been eaten!<sup>17</sup> Rather, said R. Ashi: It is the same as with the messenger of the congregation, who consults [formally asks for permission to start the prayer].<sup>18</sup> Now that you have come to this answer, say: Even if it was the case of the [daily] obligatory burnt-offering, [yet there is no difficulty]: It is the same as with any messenger of a community, who consults [his congregation].

Come and hear: R. Jose said, Good<sup>19</sup> things are brought about on a good [auspicious] day, and evil ones on a bad one. It is said, The day on which the first Temple was destroyed was the ninth of Ab, and it was at the going out of the Sabbath,<sup>20</sup> and at the end of the seventh [Sabbatical] year. The [priestly] guard was that of Jehoharib, the priests and Levites were standing on their platform singing the song. What song was it? And He hath brought upon them their iniquity, and will cut them off in their evil.<sup>21</sup> They had no time to complete [the psalm with] 'The Lord our God will cut them off', before the enemies came and overwhelmed them. The same happened the second time [the second Sanctuary's destruction].<sup>22</sup> Now what need was there for song? Would you say that it was on account of the [daily] burnt-offering? But that could not be, for on the seventeenth of Tammuz the continual sacrifice had been abolished.<sup>23</sup> Hence it was on account of a freewill burnt-offering! But how could you think so? Why should an obligatory-offering have been impossible and a freewill-offering available? — That is no difficulty: A young ox may accidentally have come to them!<sup>24</sup> Said Raba, or, as some say, R. Ashi: But how could you think so?<sup>25</sup> The song of the day was: The earth is the Lord's and the fulness thereof,<sup>26</sup> whereas the verse, 'And He hath brought upon them their iniquity' belongs to the song due on the fourth day of the week! Rather [what you must say is.] It was just a lamentation text that had come to their mouth. But it says: 'They were standing upon the platform'<sup>27</sup> [Rather, say] That is in accord with Resh Lakish who said: The song may be sung even without any [attending] sacrifice.<sup>28</sup> But that principle might be applied to a voluntary burnt-offering, too?<sup>29</sup> — That might lead to an offence.<sup>30</sup> How is it therewith?<sup>31</sup> — Come and hear: R. Mari the son of R. Kahana taught: Over your burnt-offerings and over the sacrifices of your peace-offerings;<sup>32</sup> just as the burnt-offering is Most Holy, so are the peace-offerings [referred to] Most Holy;<sup>33</sup> and just as the peace-offerings have a definite time fixed for them, so have the burnt-offerings a definite time fixed for them.<sup>34</sup>

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(1) He commanded him concerning the voice of song, Moses being a Levite.

(2) Marginal Gloss suggests R. Oshaia, the usual disputant of R. Jonathan who follows.

(3) II Chron. V, 13.

(4) Num. XVIII, 3. The only altar service of fit Levites was the singing. Anyone performing at the altar any service for which he is unfitted, as e.g., exchanging the Levite's task for that of the priest's incurs that penalty.

(5) If a Levite engaged in the work of another Levite, his offence is not as serious as that of one who had undertaken

Priest's work; still, it is an offence.

(6) Abaye does not appear satisfied with the distinction made just now, because he found a teaching much more severe, (7) Num. III, 38. The Torah would not state anything twice. In III, 10: The stranger that draweth nigh shall be put to death (i.e., by the hand of heaven). Hence the statement involving a similar penalty to the stranger in verse 38 must refer to another 'stranger', a Levite who was a 'stranger' because unfit for that service allotted to another.

(8) Both Rabbis were Levites.

(9) When a chorister or doorkeeper do each other's work.

(10) R. Johanan held that if a chorister did gate-service alone he incurred penalty of death, hence if he assisted in such work as was not allotted to him, he, at any rate, fell under the interdiction of the Sages, whence he advised him to return; the interdiction of the Sages having for its purpose the prevention of any Levite's doing his neighbour's work unassisted, which offence would involve death as the penalty. But R. Joshua held that even if a Levite did his neighbour's work alone, no more than a transgression of a prohibition, without attendant severe penalty, was involved; hence if one only assisted one's neighbour, not even Rabbinic interdiction was transgressed.

(11) Num. X, 10.

(12) Restricting it, however, to obligatory dues.

(13) II Chron. XXIX, 27. Obviously he had been consulted, otherwise he would not have commanded a self-evident thing. Hence the matter must have been non-obvious.

(14) That this was on the new moon,

(15) Ibid. 17.

(16) V. Lev. XXIII, 12. The lamb was an obligatory burnt-offering.

(17) Aliter: How could they have offered up if the date was not clear to them?

(18) Similarly with the case of Hezekiah, formal permission was first obtained from him before sacrificing the lamb offered in connection with the omer, though it was an obligatory one.

(19) E.g., the redemption from Egypt, as well as the final redemption, fall into the month of Nisan. In Num. XIV, 1 the whole congregation is reported to 'have lifted up their voice and cried', complaining against Moses and Aaron, and against God. That evil day fell on the ninth of Ab. The ninth of Ab therefore was a day predestined to disaster. (R. Gershom.)

(20) I.e., Sunday.

(21) Ps. XCIV, 23.

(22) V. Ta'an, 27a.

(23) Because no lambs were left for the sacrifice and none would be imported on account of the siege.

(24) The siege had prevented the securing of proper animals (lambs) for the continual offering. but any cattle was fit for the freewill burnt-offering.

(25) That the song referred to is the song sung in connection with offerings.

(26) Ps. XXIV, 1. This is the song for Sunday; every day had its song definitely arranged.

(27) [How then could it be assumed that the references to a freewill-offering; surely not all the Levites would take their stand on the platform for the offering of a freewill sacrifice (v. R. Gershom).]

(28) [So that the song could have been sung though there was no continual sacrifice. Consequently the song in the cited Baraitha may refer to the one sung in connection with the obligatory daily burnt-offerings, affording no solution to R. Abin's query.]

(29) If a song was in order even without any sacrifice being offered, the answer would have been found for the question above of R. Abin (Tosaf.).

(30) One would have inferred that no freewill-offering may be offered up without a song, so that if no Levites were present or available, as happened in the time of Ezra, no freewill burnt-offerings would be made at all! (R. Gershom.) According to Rashi: If voluntary singing were permitted, its very voluntariness would occasion legal laxities, and such laxities would be transferred to obligatory songs. too.

(31) What is the answer to R. Abin's question?

(32) Num. X, 10. Here Scripture compares the freewill peace offering to the burnt-offering, in connection with prescribed music.

(33) I.e., congregational peace-offerings, v. Lev. XXIII, 19.

(34) Only burnt-offerings due at a definite time, i.e., only prescribed, obligatory ones, require a song, but not voluntary ones.

## Talmud - Mas. Arachin 12a

The following question was asked: Do libations offered<sup>1</sup> up by themselves require a song or not? Since R. Samuel b. Nahmani had said: Whence do we know that one does not sing the [Sanctuary] song except over wine, etc.?<sup>2</sup> Do we say it [over wine alone], or do we say it only when [the sacrifice] includes food and drink, but not over drink alone? — Come and hear: R. Jose said, Good things are brought about on an auspicious day. etc. Now what need was there for song? Would you say it was on account of an obligatory burnt-offering? But that could not be for on the seventeenth of Tammuz the continual offering was abolished! And if it was on account of a voluntary burnt-offering! Did not R. Mari the son of R. Kahana teach that such did not require a song?<sup>3</sup> — Hence it must have been the song on account of libations?<sup>4</sup> Said Raba, or as some say. R. Ashi: But how could you think so? The song of the day was ‘The earth is the Lord's and the fulness thereof’, whereas the verse, ‘And He brought upon them their iniquity’ belongs to the song due on the fourth day of the week? Rather [say]: It was a verse of lamentation that came to their mouth! But it says: ‘And they were standing on their platform’? — [Rather say,] That is in accord with Resh Lakish; for Resh Lakish said: The song may be sung even without any [attending] sacrifice. Then let the same be said for libations, too? — That might lead to an offence.

[To turn to] the [above] text: R. Jose said, Good things are brought about on an auspicious day, etc. ‘At the first time it was at the end of the seventh year’. How could that have been? Is it not written: In the five and twentieth year of our captivity. in the beginning of the year, in the tenth day of the month, in the fourteenth year after that the city was smitten.<sup>5</sup> Now which is the year the beginning of which falls on the tenth of Tishri? Say: This is the jubilee year.<sup>6</sup> And if you should think that [the Sanctuary] was destroyed in the first year [of the seven years’ cycle], [consider] there are from the first year of one seven years’ cycle to the first year of another seven years’ cycle eight years, and to the first of the next seven years cycle fifteen years? — Said Rabina: It was in the fourteenth year after the year in which the city was smitten. But how, then, in ‘the twenty-fifth year’? It was, really in the twenty-sixth year, for a Master said: They were exiled in the seventh year, they were exiled in the eighth year, they were exiled in the eighteenth year, they were exiled in the nineteenth year. Now from the seventh to the eighteenth are eleven years, add fifteen and that makes it twenty-six years!<sup>7</sup> — Rabina will answer you: But even according to your own reckoning is it right? Since they were exiled also in the nineteenth year, [you have] from the seventh to the nineteenth twelve years, add fourteen years and you have twenty-six years? What you must therefore say<sup>8</sup> is that [the counting] excludes the year in which they were exiled. So is it with me: [the counting] excludes the year in which they were exiled. But, at any rate, the number nineteen remains a difficulty according to Rabina?<sup>9</sup> Do you think three exiles are involved? [No, rather:] they were exiled in the seventh year after the subjection of Jehoiakim,<sup>10</sup> which happened to be the eighth year of Nebuchadnezzar; they were exiled in the eighteenth year<sup>11</sup> after the conquest of Jehoiakim. which was the nineteenth year of Nebuchadnezzar, for a Master has taught: In the first year he [Nebuchadnezzar] conquered Nineveh

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(1) V. Men. 44, according to which libations could be offered up on the morrow after the sacrifice.

(2) V. supra 11a.

(3) V. supra p. 66 n. 10.

(4) Which solves the query first propounded.

(5) According to Ezek. XL, 1 this was the year when the Sanctuary was destroyed. ‘Our Exile’ meaning the exile of Jehoiakim in 597.

(6) In the jubilee year the beginning falls on the Day of Atonement, on which the Sanhedrin sounds the shofar, the slaves are set free, and the fields are restored to their original owners. V. R.H. 8b.

(7) This is soon explained.

(8) In order to explain the statement of Ezekiel satisfactorily.

(9) For, if he counts from seven to nineteen, he finds twelve years, which with fourteen added, again are twenty-six.

(10) In 597.

(11) In 586 under Zedekiah.

## Talmud - Mas. Arachin 12b

, in the second he came up and conquered Jehoiakim.<sup>1</sup> ‘The same happened with the second [destruction of the Temple]’. But how is it possible that the second time it happened at the end of a septennate? For how long did the second [Temple] stand? Four hundred and twenty years. Now, four hundred years correspond to eight [cycles of] jubilees, fourteen years would make two septennates, leaving six years over. Hence it [the second destruction] should have happened in the sixth year [of the septennate]! — This is in accord with R. Judah, who says that the fiftieth year is counted both ways.<sup>2</sup> Take the eight years of the eight jubilee [cycles], add [to them] those six [years] which will amount to fourteen years, thus it is found that it [the destruction of the second Sanctuary] happened at the end of a septennate. But on the view of R. Judah it could not have happened the first time at the end of a septennate; for it was taught: Seventeen jubilee [cycles] did Israel count from the time they entered the Land [of Israel] until they left it. And you cannot assume that they counted from the moment they entered, for if you were to say so, it would be found that the [first] Temple was destroyed at the beginning of a jubilee, and you could not find [right the statement]: ‘in the fourteenth year, after that the city was smitten’.<sup>3</sup> Rather, deduct from them the seven years of the conquest and the seven during which the land was distributed, thus you find [substantiated]: ‘In the fourteenth year after that the city was smitten’. But according to R. Judah you must count the seventeen years of the seventeen jubilee [cycles], and add them to these, so that it happened in the third year of a seven years cycle! — The years from the exile by Sennecherib until their return through Jeremiah are not counted.<sup>4</sup> Or, if you like, I can say it is indeed in accord with the Rabbis, and as to the statement ‘the same happened the second time’, this refers to the remaining [details].<sup>5</sup> This also stands to reason, for if you were not to take it thus, was there indeed the guard of Jehoiarib at the second Sanctuary? Was it not taught: Four guards went up from the Exile: Jedaiah,<sup>6</sup> Harim, Pashhur and Immer. The prophets who were among them divided them into twenty-four guards. They mixed them [the lots] and placed them into an urn. Thereupon came Jedaiah and took six for his own portion and for that of his fellows;

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(1) It was not exile, but subjection which Jehoiakim suffered. According to II Kings XXIV, 1: Jehoiakim became his servant three years; then he turned and rebelled against him.

(2) The fiftieth year is counted as the end of the last and as the beginning of the new jubilee cycle.

(3) Which, as explained supra 12a, was a jubilee year.

(4) So Rashi and Tosaf. According to tradition Jeremiah restored the ten tribes in the eighteenth year of King Josiah (v. infra 33a and Meg. 14b). With their return began the counting of a new jubilee cycle to mark the renewed observance of the laws of the Year of Release and Jubilee which had fallen into disuse while the Northern Kingdom was in exile. The Temple was destroyed 36 years later so that the ‘fourteenth year after that the city was smitten’ fell in the jubilee year. Cur. edd. read: ‘the three years from the exile’ which is inexplicable.

(5) Outgoing of Sabbath, ninth of Ab.

(6) In the first Sanctuary the guard of Jedaiah came before that of Pashhur, which again preceded that of Immer. Now, however, the order was not clear, hence the prophets chose to abide by the decision of the lots.

## Talmud - Mas. Arachin 13a

then came Harim and took six for his own portion and for that of his fellows. Thus also Pashhur and Immer. Then the prophets who were among them regulated that even if Jehoiarib the head of the guards were to come up he could not push Jedaiah from his place, but Jedaiah would remain the chief, and Jehoiarib only an adjunct to him.<sup>1</sup> Hence [the statement refers only] to the remaining [details].



R. Ashi said: He does not count the six years until Ezra had come up and dedicated [the Sanctuary].<sup>2</sup> For it is written: Then ceased the work of the house of God which is at Jerusalem.<sup>3</sup> And it is also written: And this house was finished on the third day of the month Adar, which was in the sixth year of the reign of Darius the king.<sup>4</sup> And a Tanna taught: About the same time in the following year Ezra with his exiled community went up [to the Land], as it is said: And he came to Jerusalem in the fifth month, which was in the seventh year of the king.<sup>5</sup> [To revert to] the main text: ‘Seventeen jubilee cycles did Israel count from the time they entered the Land until they left it’. But you cannot say that they counted from the moment they entered. For if you were to say so, then it would be found that the Temple was destroyed at the beginning of a seven years cycle and you could not account for: ‘In the fourteenth year after that the city was smitten, etc.’ Whence do we know that it took seven years to conquer [the Land]? — Caleb said: Forty years old was I when Moses the servant of the Lord sent me from Kadesh-Barnea to spy out the land<sup>6</sup> . . . and now, lo, I am this day four-score and five years old.<sup>7</sup> And a Master said: ‘The first year Moses built the tabernacle, in the second the tabernacle was put up, then he sent out the spies. When Caleb passed over the Jordan how old therefore was he? He was two years less than eighty years old.<sup>8</sup> When he distributed the inheritances, he said: ‘Now, lo, I am this day four-score and five years old’. Whence it follows that it took seven years for them to conquer the land. And whence do we know that it took them seven years to distribute it? — If you like, say: Since the conquest took seven years, so did the distribution. Or, if you like, say: Because otherwise one could not account for ‘In the fourteenth year after that the city was smitten’.

**MISHNAH.** THERE WERE NEVER LESS THAN SIX<sup>9</sup> INSPECTED LAMBS IN THE CELL OF LAMBS,<sup>10</sup> SUFFICIENT FOR A SABBATH AND THE [TWO] FESTIVAL DAYS OF THE NEW YEAR,<sup>11</sup> AND THEIR NUMBER COULD BE INCREASED INTO INFINITY. THERE WERE NEVER LESS THAN TWO TRUMPETS AND THEIR NUMBER COULD BE INCREASED INTO INFINITY.<sup>12</sup> THERE WERE NEVER LESS THAN NINE LYRES, AND THEIR NUMBER COULD BE INCREASED INTO INFINITY. BUT THERE WAS ONLY ONE CYMBAL.

**GEMARA.** But the continual and the additional sacrifices were larger in number?<sup>13</sup> — The Tanna refers to average days, and only to continual daily offerings. As for SUFFICIENT FOR A SABBATH AND THE [TWO] FESTIVAL DAYS OF THE NEW YEAR, that is to serve only as a mnemotechnical note, and this is what he says: There were never less than six inspected

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(1) V. Ta'an, 27a.

(2) And thereby reintroduced into force the laws of the Years of Release and Jubilee.

(3) Ezra IV, 24.

(4) Ibid. VI, 15.

(5) Ibid. VII, 8. R. Ashi holds that the statement ‘the same happened with the second Temple’ refers also to the termination of the jubilee and explains it by deducting six years from the total of 420.

(6) Jos. XIV, 7.

(7) Ibid. 10.

(8) Allowing forty years for the sojourn of Israel in the wilderness.

(9) Two lambs each were required for the continual daily morning and evening sacrifice. The Gemara infers below that just as with the paschal lamb, which was ordered on the tenth of Nissan to be slaughtered on the fourteenth, the lambs for the continual daily sacrifices too had to be examined four days before the actual slaughtering for any blemish which would render them invalid. Whenever the two lambs were taken out for the daily need, at least six other examined ones had to be left at the same time, so that the lambs, newly introduced, were actually used only on the fourth day thereafter.

(10) V. Tam. III, 3.

(11) When the three fell on consecutive days, the Gemara described these words as a mnemotechnical expression. Rashi: The number of six is required for Sabbath and the two days of the New Year if they ate consecutive, each needing two.

Maimonides: Six was the necessary number, because the newly introduced lambs had to be inspected for four days before they could be used, four being the number of the days which remain in a week after one has taken off the maximum of festival days that can occur in one week, i.e., the Sabbath and the two days of the New Year. Bartinoro follows Maimonides with this modification: The lambs required inspection four days, just as it would be necessary when the New Year's two days followed the Sabbath, because in that case the lambs to be used the following Tuesday would have to have been provided on the Friday before, in order that they be available early on Tuesday.

(12) There seems to be a contradiction between the Mishnah and the statement in the Gemara that the maximum number of trumpets is one hundred and twenty. As a matter of fact, some editions of the Talmud omit the words 'and their number could be increased, etc.'.

(13) On these three days, the Sabbath and the two days of the New Year Festival.

### **Talmud - Mas. Arachin 13b**

lambs in the cell of lambs, [having thus been inspected] four days before they were actually slaughtered. Whose view is this? That of Ben Bag Bag, for it was taught: Ben Bag Bag said, Whence do we know that it [the lamb destined for the continual daily offering] requires to be inspected four days before the slaughtering? The text states: Shall ye observe [tishmru] to offer unto Me in its due season,<sup>1</sup> and there it is said: And ye shall keep it [le-mishmereth] until the fourteenth day of the same month;<sup>2</sup> just as there<sup>3</sup> it was required that it [the animal] be inspected four days before the slaughtering, so here, too, is it required that it be examined four days before the slaughtering. That<sup>4</sup> may also be inferred from [the wording]: SUFFICIENT FOR A SABBATH, not 'for a Sabbath'. That inference is conclusive.

NEVER LESS THAN TWO TRUMPETS AND THEIR NUMBER COULD BE INCREASED INTO INFINITY. How far? — R. Huna b. Zabdi (or, according to others, R. Zabdi said in the name of R. Huna): Up to one hundred and twenty. And it is said: And with them a hundred and twenty priests sounding with trumpets.<sup>5</sup>

NEVER LESS THAN NINE LYRES . . . BUT ONLY ONE CYMBAL. Whence do we know that? — R. Ashi said: Scripture said: And Asaph with cymbals, sounding aloud.<sup>6</sup> But 'cymbals' implies two? — Since they both perform one function and are played by one man, he [the Tanna] called them one.

MISHNAH. THERE WERE NEVER LESS THAN TWELVE LEVITES<sup>7</sup> STANDING ON THE PLATFORM<sup>8</sup> AND THEIR NUMBER COULD BE INCREASED INTO INFINITY. NO MINOR COULD ENTER THE COURT OF THE SANCTUARY TO TAKE PART IN THE SERVICE EXCEPT WHEN THE LEVITES STOOD UP TO SING.<sup>9</sup> NOR DID THEY<sup>10</sup> JOIN IN THE SINGING WITH HARP AND LYRE, BUT WITH THE MOUTH ALONE, TO ADD FLAVOUR TO THE MUSIC, R. ELIEZER B. JACOB SAID: THEY DID NOT HELP TO MAKE UP THE REQUIRED NUMBER, NOR DID THEY STAND ON THE PLATFORM. BUT THEY WOULD STAND ON THE GROUND, SO THAT THEIR HEADS WERE BETWEEN THE FEET OF THE LEVITES. AND THEY WOULD BE CALLED THE TORMENTORS OF THE LEVITES. GEMARA. To whom did these correspond? — To the nine lyres, two harps, and the one cymbal, as it is said: He and his brethren and sons were twelve.<sup>11</sup>

NO MINOR COULD ENTER THE COURT OF THE SANCTUARY etc. Whence do we know that? — R. Johanan said: Because Scripture said, Then stood Jeshua with his sons and his brethren, and Kadmiel and his sons, the sons of Judah together, to have the oversight of the workmen in the house of God.<sup>12</sup>

NOR DID THEY JOIN IN THE SINGING WITH THE HARP AND LYRE, BUT WITH THE MOUTH ALONE etc. One would say therefore that harp and lyre are different instruments. Is this to

say that our Mishnah is not in accord with R. Judah, for it was taught: R. Judah said, The harp of the Sanctuary had seven cords, as it is written: In Thy presence is fitness [soba'] of joy;<sup>13</sup> read not, fulness [soba'], but seven [sheba']! The harp of the messianic days has eight cords, as it is said: For the leader on the Sheminith,<sup>14</sup> [i.e., the eighth string]. The harp of the world to come has ten cords, as it is said: With an instrument of ten strings, and with the psaltery; with a solemn sound upon the harp.<sup>15</sup> Furthermore, it is said: Give thanks unto the Lord with harp, sing praises unto Him with the psaltery of ten strings. Sing unto Him a new song; play skilfully midst shouts of joy.<sup>16</sup> You could say also that [our Mishnah will be] in accord with R. Judah: Since, in the world to come, it will have more cords and its sound will be stronger, like that of a harp, he calls it 'harp'.

R. ELIEZER B. JACOB SAID: THEY DID NOT HELP TO MAKE UP THE REQUIRED NUMBER etc. A Tanna taught: They were called assistants to the Levites. Our Tanna, however, called them tormentors of the Levites because their voice was high, the voice of the others low: they could sing high. whereas the others could not do so.

### CHAPTER III

MISHNAH. THE LAW OF VALUATION IS AT TIMES IN THE DIRECTION OF LENIENCY, AT OTHERS IN THE DIRECTION OF STRINGENCY. THE LAW OF THE FIELD OF POSSESSION<sup>17</sup> IS AT TIMES MORE LENIENT, AT OTHERS MORE STRINGENT. THE LAW CONCERNING A MU'AD<sup>18</sup> OX THAT HAS KILLED A SLAVE IS AT TIMES MORE LENIENT, AT OTHERS MORE STRINGENT. THE LAW OF THE VIOLATOR<sup>19</sup> AND SEDUCER<sup>20</sup> AND OF HIM THAT HATH BROUGHT UP AN EVIL NAME<sup>21</sup> IS AT TIMES MORE LENIENT, AT OTHERS MORE STRINGENT. THE LAW OF VALUATION IS AT TIMES MORE LENIENT, AT OTHERS MORE STRINGENT. HOW IS THAT? IT IS ALL ONE WHETHER A MAN HAS EVALUATED THE FAIREST IN ISRAEL, OR THE UGLIEST IN ISRAEL, HE MUST PAY FIFTY SELA'S.<sup>22</sup> BUT IF HE SAID: I VOW HIS WORTH,<sup>23</sup> HE NEED PAY BUT AS MUCH AS HE IS WORTH [THERE].

GEMARA. THE LAW OF VALUATION IS AT TIMES MORE LENIENT, AT OTHERS MORE STRINGENT etc. HOW IS THAT? IT IS ALL ONE WHETHER A MAN HAS EVALUATED etc. Only IN ISRAEL but not in the case of an idolater. Shall We say that our Mishnah will not be in accord with R. Meir? For it was taught: Concerning an idolater, R. Meir said he may be made the subject of valuation, but he may not evaluate!<sup>24</sup> You may say also that it is in accord With R. Meir, and that the same law would apply to idolaters, but

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(1) Num. XXVIII, 2 in connection with the daily continual offering.

(2) Ex. XII, 6 in connection with the first paschal offering.

(3) On the tenth of Nisan it was to be prepared. on the fourteenth to be sacrificed.

(4) I.e., that the Mishnah meant this to serve as a mere mnemotechnical note.

(5) II Chron. V, 12.

(6) I Chron. XVI, 5.

(7) To play the twelve instruments, accompanying with them their song, the song being, according to all, the essential (Tosaf.). Maimonides holds the twelve Levites to have been the singers, as distinct from the players of the instruments.

(8) The raised platform, on which the Levites stood whilst playing or singing.

(9) According to Rashi minors were not admitted at all to any service in the Sanctuary except to join the Levites in the singing. Maimonides, however, refers this passage to the introduction of young priests and Levites to the service, who, even after having reached maturity. could enter the Sanctuary for first time participation in the service, only when the Levites, standing on the platform, were singing.

(10) Rashi: the minors, Maim.: the twelve Levites.

(11) I Chron. XXV, 9.

(12) Ezra III, 9.

- (13) Ps. XVI, II.  
 (14) Lit., 'on the eighth'. Ibid. XII, 1.  
 (15) Ps. XCII, 4.  
 (16) Ibid. XXXIII, 2, 3.  
 (17) Which one has inherited, Lev. XXVII, 16ff.  
 (18) Lit., '(whose master has been) forewarned', the ox having done damage three times. V. Glos.  
 (19) V. Deut. XXII, 28.  
 (20) V. Ex. XXII, 15.  
 (21) V. Deut. XXII, 19.  
 (22) If the man valued was between twenty and sixty years of age.  
 (23) Lit., 'his money'.  
 (24) V. supra 5b.

## Talmud - Mas. Arachin 14a

[our Mishnah] informs us incidentally<sup>1</sup> of a teaching in accord with Rab Judah, Who said in the name of Rab: One should not say, How beautiful is this Canaanite!<sup>2</sup> Then let it teach: 'Whether a man has dedicated the fairest in Israel or the ugliest among Canaanites'? It deals with one nation, not With two nations. But does it not? Surely it teaches: 'Of the noblest among the priests, and the humblest in Israel'?<sup>3</sup> — There it is one nation, except that the priests are holier. And if you like, say: Since it is about to teach, in the second part of the Mishnah, concerning a field of possession which applies only to Israel, not to idolaters, because they do not possess fields [by inheritance in the Land],<sup>4</sup> therefore it teaches also [in the first part of the Mishnah] with reference to Israel alone.

MISHNAH. 'THE LAW OF THE FIELD OF POSSESSION IS AT TIMES MORE LENIENT, AT OTHERS MORE STRINGENT. HOW IS THAT? IT IS ALL ONE WHETHER A MAN DEDICATES A FIELD IN THE SANDY PLAIN OF MAHUZ<sup>5</sup> OR IN THE GARDENS OF SEBASTE, [IF HE WOULD REDEEM IT] HE MUST PAY FIFTY SHEKELS OF SILVER FOR [EVERY PART OF THE FIELD SUFFICIENT FOR] THE SOWING OF A HOMER OF BARLEY,<sup>6</sup> BUT IF IT WAS A FIELD WHICH HE HATH BOUGHT',<sup>7</sup> HE MUST PAY WHAT IT IS WORTH. R. ELIEZER SAYS: IT IS ALL THE SAME WHETHER IT BE A FIELD OF POSSESSION OR ONE THAT HE HATH BOUGHT. THE ONLY DIFFERENCE BETWEEN THE FIELD OF POSSESSION AND THAT WHICH HE HATH BOUGHT LIES THEREIN: FOR A FIELD OF POSSESSION HE MUST PAY THE [ADDED] FIFTH, WHEREAS FOR A FIELD THAT HE HATH BOUGHT HE NEED NOT PAY THE ADDED FIFTH.'<sup>8</sup>

GEMARA. R. Huna said: If a man had dedicated a field full of trees, he must, when he comes to redeem them, redeem the trees for what they are worth, and then redeem the ground at [the rate of] fifty shekels of silver for [every part of the field sufficient for] 'the sowing of a homer of barley'. We see thus that R. Huna tells one Who dedicated, dedicates with a generous eye.<sup>9</sup> R. Nahman raised the following objection to R. Huna: IT IS ALL ONE WHETHER A MAN DEDICATES A FIELD IN THE SANDY PLAIN OF MAHUZ OR IN THE GARDENS<sup>10</sup> OF SEBASTE, HE MUST PAY FIFTY SHEKELS OF SILVER FOR [EVERY PART OF THE FIELD SUFFICIENT FOR] THE SOWING OF A HOMER OF BARLEY? — He answered: He [the Tanna] means: Such as are fit to be gardens.<sup>11</sup>

He raised a further objection: 'Field for the sowing':<sup>12</sup> from this I know only [the rule] in the case of a field for sowing. whence do we know it concerning a field of vines, or a field of reeds, or a field of trees? Therefore Scripture says: Field,<sup>13</sup> i.e., as long as it is a field! — R. Huna replied: Here, too, he redeems, and then redeems again!

He raised a further objection: If one dedicates three trees of a plantation in which ten were planted

in a field sufficient for the sowing of one se'ah,<sup>14</sup> then he also dedicates the soil as well as the trees between them.<sup>15</sup> When he redeems them, he redeems them at the rate of fifty shekels of silver for every piece of the field sufficient for the sowing of a homer of barley.<sup>16</sup> If they are planted more thickly or less thickly than this, or if he dedicates them one after the other, then he does not dedicate thereby either the soil or the trees between them;<sup>17</sup> therefore, when he redeems them he redeems the trees at their value; and even more, if he first dedicates his trees<sup>18</sup> and afterwards dedicates the ground, when he comes to redeem them, he must redeem the trees at their value, and then he must redeem the ground again, at the rate of fifty shekels of silver for [every part of the field sufficient for] the sowing of a homer of barley!<sup>19</sup> And, if you were to say: Here<sup>20</sup> too, he redeems and then must redeem again; but surely since the second clause expressly mentions 'he must redeem and redeem again', it follows that in the first clause this is not so! Rather, say: According to whom is this [teaching]?<sup>19</sup> It is in accord with R. Simeon, who holds that one who dedicates does so 'with an ungenerous eye', for it was taught: If one dedicates a field, he dedicates the whole of it.<sup>21</sup> R. Simeon says: He does not dedicate anything [together with the field] save the full grown carob tree and the cropped sycamore tree. If this be in accord with R. Simeon, consider the second part: 'And not only that, but if he dedicates the trees and afterwards the ground, when he comes to redeem, he must redeem the trees at their value, and then must redeem the ground again at the rate of fifty shekels of silver for [every part of the field sufficient for] the sowing of a homer of barley'! Now if it were in accord with R. Simeon, one should be guided only by the circumstances<sup>22</sup> at the time of redemption, and hence they should be redeemed [automatically] with the ground, for we have heard from R. Simeon to be guided by circumstances at the time of redemption. For it was taught: Whence do we know that if one buys a field from his father and dedicates it, and the father died afterwards, that that field is considered a 'field of possession'? Because the text states: And if he sanctify unto the Lord a field which he hath bought, which is not of the field of his possession,<sup>23</sup> i.e., a field which could not become a field of possession,<sup>24</sup> that excludes [such a field as] this, which would have become his field of possession. This is the view of R. Judah and R. Simeon. R. Meir said: Whence do we know that if one buys a field from his father, and his father died, and he thereupon dedicated it, that it is considered a field of possession?

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(1) By not teaching 'the fairest among Canaanites', because one should not attribute any beauty to those indulging in the cruelty and immorality of idolaters.

(2) This was Rab Judah's teaching (v. A.Z. 20a). for which the Mishnah offers authoritative endorsement by implication.

(3) V. infra 15a.

(4) An idolater could not, by Biblical law, redeem his field of possession for the payment of fifty shekels; he would have to repay its value.

(5) Mahuz may be the term tech. for 'place', 'circle', or the name of an unidentified locality. 'The desert, sandy wilderness of Mahuz' would be a good contrast to the rich, developed gardens of Sebaste, the city built by Herod on the ruins of Samaria. According to Rashi the reference in Mahuz is to a field in the environs of a town the ground of which is continually trodden on and thus has become sterile.

(6) Lev. XXVII, 16. A field sufficient for the sowing of a 'homer of barley', according to 'Er. 23b would hold 75,000 square cubits.

(7) V. Lev. XXVII, 22.

(8) For the field of possession as well as for the field bought, the price of redemption is fifty silver pieces for every part of the field sufficient for the sowing of a homer of barley. But with the field of possession, the owner must pay the additional fifth, whereas with a field bought he need but pay what it is worth.

(9) He dedicated the tract and in addition thereto, the trees, hence when he comes to redeem, he must redeem the tract after having redeemed the trees.

(10) The gardens of Sebaste were planted vineyards, nevertheless the Mishnah states they can be redeemed with fifty silver pieces etc., which shows that the trees were redeemed with them, thus disproving the view of R. Huna. The latter says the sum mentioned refers only to the field; as for the trees, they must be redeemed at their value, the redemption of one following the other.

(11) Without being actually planted with trees.

(12) The reference is probably to Lev. XXVII, 16, although the word 'field' (lit., 'house') does not occur in the Biblical text.

(13) Ibid.

(14) One se'ah is the thirtieth part of a homer; the field corresponding would contain 2,500 square cubits.

(15) Small trees.

(16) This would be contra R. Huna.

(17) The usual way of planting trees is to plant ten in a field sufficient for the sowing of one se'ah. The whole tract is needed for these trees, hence if they are dedicated, the tract and the small trees between them are dedicated too. If the trees are planted either more or less thickly, only the trees are considered dedicated, and only they need be redeemed.

(18) Planted more or less thickly.

(19) V. B.B. 72a.

(20) In the first clause from which an objection is raised against R. Huna.

(21) All that it contains. (9) Which are old and large. and derive their sustenance from the ground more than any other tree, v. B.B., Sonc. ed., p. 282 notes.

(22) At the moment of the redemption the trees are on the ground, and the question as to whether they were dedicated together with or after the tract is then irrelevant.

(23) Lev. XXVII, 22.

(24) Since he bought it from a stranger, from whom he would not inherit it.

### **Talmud - Mas. Arachin 14b**

— Because the text states: 'And if he sanctify unto the Lord a field which he hath bought, which is not the field of his possession', i.e., a field which is not a field of possession, excluding one that is his field of possession. Now according to R. Judah and R. Simeon, even if he dedicated it and his father died subsequently, it is still considered a field of possession. What is the reason therefore? It is on account of the Scriptural text?<sup>1</sup> But that is in favour of R. Meir's view!<sup>2</sup> Rather must you say because one is guided by the circumstances at the redeeming!<sup>3</sup> Said R. Nahman b. Isaac: R. Judah and R. Simeon found a Scriptural verse and expounded it. If it were so [as R. Meir holds], the Divine Law should have written: 'If he sanctify . . . a field which he hath bought, which is not his possession'. But since it says: Which is not of the field of his possession, [it means:] A field which is not fit<sup>4</sup> to be the field of his possession.

R. Papa said: If one dedicates stony ground, he must redeem it at its value. Why? — The Divine Law speaks of a 'field for the sowing', and this ground cannot be sown. If he has not redeemed it, then in the jubilee year, it goes forth to the priests.<sup>5</sup> Why? — Because the Divine Law speaks of a 'field', no matter of what kind. If he sold stony ground, it can be redeemed even within two years.<sup>6</sup> Why? 'According to the number of the years of the crops', says the Divine Law, and it [stony ground] is incapable of having crops. If he has not redeemed it, it returns in the jubilee year to the owners. Why? And he shall return into his possession,<sup>7</sup> the Divine Law says, and this, too, is possession. If he dedicates trees he redeems them at their worth. What is the reason? — The Divine Law says: 'a field for sowing', but not trees. If he did not redeem them they do not go forth in the jubilee year to the priest. What is the reason? — The Divine Law says, 'and the field shall be', but not trees. If he sold trees they are not redeemed before two years. What is the reason? — 'According to the number of the years of the crops', says the Divine Law, and these are productive of crops. If he has not redeemed them they do not return to the owner at Jubilee. What is the reason? — 'And he shall return unto his possession says the Divine Law, but not trees.

The Master said: If he dedicates trees he redeems them at their worth [etc.]. But why? — Let them become sacred [property] through the ground and be redeemed together with it and return to their owners [at Jubilee] together with the ground? And if you were to argue: He dedicated trees, but not ground, but did not the Nehardeans say: If one sells to his neighbour a [date] palm, the latter acquires it from the base<sup>8</sup> to the furthest depth? — But it was taught in connection therewith: Only if he came

with such a claim.<sup>9</sup>

BUT IF IT WAS A FIELD WHICH HE HATH BOUGHT HE MUST PAY WHAT IT IS ACTUALLY WORTH: Our Rabbis taught: The worth,<sup>10</sup> what does that teach us? Since it is said: 'Fifty shekels of silver for every piece of the field sufficient for the sowing of a homer of barley', I might have thought the same applied also to a field which he bought, therefore the text states 'the worth'.<sup>11</sup> R. Eliezer says: Here it is said: [The priest] shall reckon,<sup>10</sup> and above it is said: [The priest] shall reckon.<sup>12</sup> Just as there a definite [sum], so here, also, a definite [sum]. The following question was asked: Do the Rabbis accept this gezerah shawah,<sup>13</sup> and hence they infer also the additional fifth,<sup>14</sup> or do they not accept this gezerah shawah and neither the fifth? — Said Raba: It seems logical that they do not accept this gezerah shawah. For the Divine Law revealed [taught] concerning the fifth, both in connection with a field of possession, and also with one who dedicated his house;<sup>15</sup> we have thus two Scriptural verses teaching the same thing and 'whenever two Scriptural verses teach the same thing, they do not serve as illustrations for other cases'.<sup>16</sup> But what according to him who says 'they do serve as illustrations for other cases'? — Since the Divine Law revealed about a fifth in connection with the title of pure and impure cattle, it is a teaching occurring frequently, and hence they do not serve as illustrations in other cases. It was taught in accord with Raba, but not for the reason he advanced:<sup>17</sup> It was taught: 'The worth of thy valuation', herewith Scripture compares it to valuation: just as no fifth is added in connection with valuation, so no fifth is added in connection with a field that he has bought.

MISHNAH. THE LAW CONCERNING A MU'AD OX THAT HAS KILLED A SLAVE,<sup>18</sup> IS AT TIMES IN THE DIRECTION OF LENIENCY, AT OTHERS IN THE DIRECTION OF STRINGENCY. HOW IS THAT? IT IS ALL ONE WHETHER IT KILLED THE FINEST SLAVE OR THE UGLIEST SLAVE, HE MUST PAY THIRTY SELA'S. IF IT KILLED A FREE MAN HE MUST PAY WHAT HE IS WORTH. IF IT WOUNDED HIM. WHETHER THE ONE OR THE OTHER, HE MUST PAY THE DAMAGE IN FULL.<sup>19</sup>

GEMARA. This<sup>20</sup> then applies only to a mu'ad,<sup>21</sup> but not to a tam?<sup>22</sup> Shall we say that our Mishnah will not be in accord with R. Akiba? For it was taught: R. Akiba said, Even with a tam which injured a man, the larger<sup>23</sup> damage must be paid in full! — You can even say that it is in accord with R. Akiba, for it applies to a tam too; but since he wishes to teach in the latter part the case where IT KILLED A SLAVE OR A FREE MAN, which applies only to a mu'ad, but not to a tam, therefore it speaks of mu'ad.

MISHNAH. 'THE LAW OF THE VIOLATOR AND SEDUCER IS AT TIMES IN THE DIRECTION OF LENIENCY, AT OTHERS IN THE DIRECTION OF STRINGENCY.' HOW IS THAT? IT IS ALL ONE WHETHER A MAN VIOLATED OR SEDUCED A WOMAN FROM AMONG THE NOBLEST OF THE PRIESTLY STOCK OR THE HUMBLEST IN ISRAEL, HE MUST PAY FIFTY SELA'S.<sup>24</sup> BUT COMPENSATION FOR SHAMING AND FOR BLEMISH IS IN ACCORD WITH THE [CIRCUMSTANCES] OF HIM WHO SHAMES AND OF HER WHO SUFFERS THAT SHAME.<sup>25</sup>

GEMARA. But why? Perhaps the Divine Law means: Fifty sela's for all the things together? — R. Ze'ira replied: People would say, How should one who has lain with a king's daughter pay fifty, and one who has lain with the daughter of a commoner pay fifty! — Abaye replied to him: If that be right, one could argue in the case of a slave too: why for a slave who perforates pearls thirty, and for one who does needlework also thirty?<sup>26</sup> Rather said R. Ze'ira:

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(1) 'Which is not the field of his possession'.

(2) The text quoted may not mean to exclude a field which he has dedicated before the father died; rather does it support the interpretation of R. Meir: to exclude the case where his father died and he afterwards dedicated it.

- (3) And since at the redemption the father was dead, it is a field of possession.
- (4) The argument is based on the mem privative. v. B.B. Sonc. ed., p. 285ff notes.
- (5) Lev. XXVII, 20-21.
- (6) Normally a field cannot be redeemed before two years (v. infra 29b). The stony ground is a field and therefore falls into some part of the law, but since it is an abnormal field, it is not affected by such regulations as apply to the usual type. Lev. XXV. 15 covers the ordinary field, bearing crop.
- (7) Lev. XXV, 27.
- (8) And can therefore plant a new one when this one withered, B.B. 37b, which teaching indicates that he who owns the tree owns the land on which it stands, whence the dedication of a tree implied the dedication of such ground.
- (9) That he had bought the ground with the tree. That renders it an exceptional case, not a general rule, v. *ibid*.
- (10) Lev. XXVII, 23.
- (11) I.e., only the actual worth not the amount imposed by the Torah on the field of possession.
- (12) With reference to a field of possession: Lev. XXVII, 18: arguing hence from analogy of expression, the fixed sum is fifty shekels.
- (13) I.e., the inference based on the similarity of expression. v. Glos.
- (14) The consequence of the inference from analogy would be that with regard to other items too, hence with regard to the fifth additional in case of redemption, a field which is bought shall be governed by the rules applicable to a field of possession.
- (15) V. Lev. XXVII, 14.
- (16) Lit., 'they do not teach'. The Torah does not repeat itself. A general law would be stated once. The very fact that it appears twice indicates that it applies only to those detailed situations and that no general rule may be inferred from them for others.
- (17) His argument came from the fact that the rule was stated too often to be considered one generally applicable, whereas this teaching is based on an analogy with valuation, as explained.
- (18) Ex. XXI, 29. The owner must pay the damage caused by his ox, for which he is responsible.
- (19) The value which he would have had as bond-servant.
- (20) The ruling in the last clause that full damage must be paid by the owner in case the ox has wounded either a free man or slave.
- (21) As is indicated by the introductory words of our Mishnah.
- (22) Lit., 'simple', 'innocuous', i.e., an ox whose owner had not been forewarned (v. Glos.).
- (23) Lit., 'the difference (between the two damages)'. If ox and man injured each other, then if the owner of the ox had not been forewarned, he need pay but one half of the greater damage. R. Akiba held he must pay in full, even though the ox was a tam, v. B.K. 33a.
- (24) V. Deut. XXII, 29.
- (25) In addition to the fifty sela's the violator as well as the seducer must pay damages for the shame and the blemish caused. V. Keth. 40a.
- (26) Just as the shame suffered by a king's daughter is greater than that suffered by one of common descent, so is the damage suffered in the loss of a skilled slave much greater than that suffered in the loss of an unskilled one.

## **Talmud - Mas. Arachin 15a**

[Argue thus,] If two men had intercourse with her, the one in a natural way, the other in an unnatural manner,<sup>1</sup> people will say: He who has lain with a blemished [woman pays] fifty, and he who has lain with a sound [woman]<sup>2</sup> fifty! Said Abaye to him: But with regard to a slave they would equally say: For [the death of] a healthy slave thirty, and for one afflicted with boils also thirty? Rather, said Abaye: [This is his answer,] Scripture said: Because he hath humbled her,' from this it is evident that there is also indemnification for shame and blemish. Raba said: Since Scripture said, Then the man that lay with her shall give,<sup>3</sup> it indicates that for the enjoyment of lying with her [he must pay] fifty shekels, from which we infer that there are other things [to pay for], viz., shame and blemish.

MISHNAH. THE LAW OF HIM THAT HATH BROUGHT UP AN EVIL NAME<sup>4</sup> IS AT TIMES IN THE DIRECTION OF LENIENCY, AT OTHERS IN THE DIRECTION OF



STRINGENCY. HOW IS THAT? IT IS ALL ONE WHETHER A MAN HATH BROUGHT UP AN EVIL NAME AGAINST A WOMAN FROM THE NOBLEST OF PRIESTLY STOCK OR OF THE HUMBLEST IN ISRAEL. HE MUST PAY A HUNDRED SELA'S. THUS IT IS FOUND THAT HE WHO SPEAKS WITH HIS MOUTH SUFFERS MORE THAN HE THAT COMMITS AN ACT.<sup>5</sup> THUS WE DO ALSO FIND THAT THE JUDGMENT AGAINST OUR FATHERS IN THE WILDERNESS WAS SEALED ONLY BECAUSE OF THEIR EVIL TONGUE, AS IT IS WRITTEN: YET HAVE PUT ME TO PROOF THESE TEN TIMES etc.<sup>6</sup>

GEMARA. Whence do we know that?<sup>7</sup> Perhaps it is due to the fact that he wanted to bring about her death, as it is written: But if this thing be true . . . then they shall bring out the damsel . . . and stone her with stones that she die!<sup>8</sup> — Raba answered: Scripture said, Because he hath brought up an evil name,<sup>9</sup> i.e., [only] because of the evil name that he has brought up.

THUS DO WE ALSO FIND THAT THE JUDGMENT etc. Whence do we know that? Perhaps it was due to the fact that their measure [of guilt] was not full yet. for R. Hamnuna said: The Holy One, blessed be He, does not punish man until his measure is full, as it is said: In the fulness of his sufficiency he shall be in straits!<sup>10</sup> — Resh Lakish replied: Scripture said, 'Yet have put Me to proof these ten times', i.e., because of 'these' was the judgment against them sealed,

It was taught: R. Eleazar b. Perata said, Come and see how great the power of an evil tongue is! Whence do we know [its power]? From the spies: for if it happens thus to those who bring up an evil report against wood and stones, how much more will it happen to him who brings up an evil report against his neighbour! But whence [follows] that? Perhaps it is as explained by R. Hanina b. Papa; for R. Hanina b. Papa said: A stark thing did the spies say in that hour, as it is written: For they are stronger than we'.<sup>11</sup> Do not read: 'than we' but 'than He': as it were, even the Master of the house cannot remove his utensils from here!<sup>12</sup> Rather, said Rabbah in the name of Resh Lakish: Scripture said, Even those men that did bring up an evil report against the land, died by the plague against the Lord,<sup>13</sup> i.e., [they died just] because of the evil report which they had brought up.

It was taught: R. Judah said, With ten trials did our forefathers try the Holy One, blessed be He: two at the sea, two because of water, two because of manna, two because of the quails, one in connection with the golden calf, and one in the wilderness of Paran, 'Two at the sea': one at the going down, the other at the coming up. 'At the going down', as it is written: Because there were no graves in Egypt [hast thou taken us away to die in the wilderness]?<sup>14</sup> 'At the coming up': That is in accord with what R. Huna taught, for he said: The Israelites of that generation were among those of little faith; as Rabbah b. Mari expressed it; for Rabbah b. Mari said: It is written: But they were rebellions at the sea, even at the Red Sea; nevertheless He saved them for His name's sake.<sup>15</sup> This teaches that Israel were rebellious at that very hour, saying: Just as we go up from this side, so will the Egyptians go up from the other side. The Holy One, blessed be He, said to the Prince of the Sea: Cast them out on the dry land! He answered: Sovereign of the Universe, is there a slave to whom his Master gives a gift and then takes it away from him again? He said to him: I shall give you [afterwards] one and a half times as many of them.<sup>16</sup> He said before Him: Sovereign of the Universe, is there any slave who can claim anything against his master? He said: The brook of Kishon shall be surety. At once he cast them on the dry land, as it is written: And Israel saw the Egyptians dead on the sea-shore.<sup>17</sup> 'Twice because of water': at Marah, and at Refidim. 'At Marah', as it is written: And when they came to Marah, they could not drink,<sup>18</sup> and it is written: And the people murmured against Moses.<sup>19</sup> 'At Refidim', as it is written: They encamped in Refidim and there was no water to drink,<sup>20</sup> and it is also written: Wherefore the people strove with Moses.<sup>21</sup> 'Twice because of the manna as it is written:

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(1) So that she remained a virgin still and could obtain the fifty shekels, compensation in case of another attack or seduction. Thereupon she suffered the second violation.

- (2) I.e., he who had intercourse with her without blemishing her shall pay fifty sela's, and he who had intercourse with her when she was blemished shall pay the same. Hence the additional indemnifications.
- (3) Deut. XXII, 29.
- (4) Ibid. 13-19.
- (5) Because he must pay a hundred sela's for bringing up an evil name against her, whereas if he himself had committed that act (before she was married), he would have to pay but fifty sela's. (If she was betrothed and he violated or seduced her, he suffers the penalty of death, she only in case of seduction, not of course if she was violated).
- (6) Num. XIV, 22.
- (7) That one who speaks with his mouth suffers more than one who commits the act.
- (8) Deut. XXII, 20.
- (9) Ibid. 19.
- (10) Job XX, 22.
- (11) Num. XIII, 31. The Hebrew gadol here means less a 'big' than a 'stark' word.
- (12) V. Sot., Sonc. ed., p. 172. n, 1.
- (13) Ibid. XIV, 37.
- (14) Ex, XIV, 11.
- (15) Ps. CVI, 7.
- (16) There were nine hundred war chariots at the brook Kishon (Judg. IV, 3), one and a half times as many as at the Red Sea, where there were only six hundred, thus making true the promise.
- (17) Ex. XIV, 30.
- (18) Ibid. XV. 23.
- (19) Ibid. XVII, 3.
- (20) Ibid. XVII, 1.
- (21) Ibid. 2.

## Talmud - Mas. Arachin 15b

'Do not go out',<sup>1</sup> whereas they did go out. Do not leave over,<sup>2</sup> but they did leave over. Twice because of the quails': of the first and second quails. With the first: When we sat by the fleshpots;<sup>3</sup> with the second quails: And the mixed multitude that was among them.<sup>4</sup> 'With the golden calf': as it happened.<sup>5</sup> 'In the wilderness of Paran': As it happened.<sup>6</sup> R. Johanan said in the name of R. Joseph b. Zimra: What is the meaning of: What shall be given unto thee, and what shall be done more unto thee, thou deceitful tongue.<sup>7</sup> The Holy One, blessed be He, said to the tongue: All members of the human body<sup>8</sup> are standing, you are lying; all members of the human body are outside, you are guarded inside; not only that, but I surrounded you with two walls, one of bone and one of flesh; 'What shall be given unto thee, what shall be done more unto thee, thou deceitful tongue'! And R. Johanan said in the name of R. Joseph b. Zimra: One who bears evil tales almost denies the foundation<sup>9</sup> [of faith].<sup>10</sup> as it is said: Who have said: Our tongue will we make mighty; our lips are with us; who is lord over us?<sup>11</sup> — Further did R. Johanan say in the name of R. Joseph b. Zimra: Any one who bears evil tales will be visited by the plague of leprosy, as it is said: Whoso slandereth his neighbour in secret, him azmith [will I destroy].<sup>12</sup> And there it is said: La-zemithuth [in perpetuity],<sup>13</sup> which we translate as: 'absolutely' [permanently],<sup>14</sup> and we learnt: The leper that is shut up differs from the leper that is certified unclean only in respect of unkempt hair and rent garments.<sup>15</sup> Resh Lakish said: What is the meaning of: This shall be the law of the leper?<sup>16</sup> [It means,] 'This shall be the law for him who brings up an evil name'. Further, said Resh Lakish: What is the meaning of the Scriptural verse: If the serpent bite before it is charmed, then the charmer hath no advantage?<sup>17</sup> — At some future time all the animals will assemble and come to the serpent and say: The lion attacks and devours; the wolf tears and consumes; but what profit hast thou? But he will answer: What benefit has he who uses his tongue? Further said Resh Lakish: One who slanders makes his sin reach unto heaven, as it is said: They have set their mouth against the heavens, and their tongue walketh through the earth.<sup>18</sup>

R. Hisda said in the name of Mar 'Ukba: One who slanders deserves to be stoned with stones. It is written here: 'Him azmith [will I destroy]', and it is written there: zamethu [they have cut off] my life in the dungeon, and have cast stones upon me.<sup>19</sup> Further did R. Hisda say in the name of Mar 'Ukba: Of him who slanders, the Holy One, blessed be He, says: He and I cannot live together in the world, as it is said: Whoso slandereth his neighbor in secret, hint will I destroy; whoso is haughty of eye and proud of heart, him will I not suffer.<sup>20</sup> Do not read: 'Otho [him] will I not suffer', but 'Itto [with him] can I not suffer [to be together]'. Some refer this to the arrogant.

Further said R. Hisda in the name of Mar 'Ukba: About one who slanders, the Holy One, blessed be He, says to the prince of Gehinnom: I shall be against him from above, you be against him from below, and we shall condemn him, as it is said: Sharp arrows of the mighty, with coals of broom.<sup>21</sup> 'Arrow' means nothing else but the evil tongue, as it is said: Their tongue is a sharpened arrow, it speaketh deceit;<sup>22</sup> and 'mighty' means only the Holy One, blessed be He, as it is said: The Lord will go forth as a mighty man;<sup>23</sup> and 'coals of broom' is Gehinnom.

R. Hama b. Hanina said: What is the remedy for slanderers? If he be a scholar, let him engage in the Torah, as it is said: The healing for a tongue is the tree of life,<sup>24</sup> and 'tongue' here means the evil tongue, as it is said: 'Their tongue is a sharpened arrow', and 'tree [of life]' means only the Torah, as it is said: She is a tree of life, to them that lay hold upon her.<sup>25</sup> — But if he be an ignorant person, let him become humble, as it is said: But perverseness therein is a wound to the spirit.<sup>26</sup> R. Aha b. R. Hanina said: If he has slandered already, there is no remedy for him, for King David, in his holy spirit, has cut him off already, as it is said: May the Lord cut off all flattering lips, the tongue that speaketh great [proud] things!<sup>27</sup> Nevertheless, what shall be his remedy so that he may not come to [utter] evil speech? If he be a scholar, let him engage in the Torah, and if he be an ignorant person, let him humble himself, as it is said: 'But perverseness therein is a wound to the spirit'.

The School of R. Ishmael taught: Whoever speaks slander increases his sins even up to [the degree of] the three [cardinal] sins: idolatry, incest,<sup>28</sup> and the shedding of blood. It is said here: 'The tongue that speaketh great things', and it is written in connection with idolatry: Oh, this people have sinned a great sin.<sup>29</sup> Touching incest Scripture said: How then can I do this great wickedness?<sup>30</sup> And in connection with the shedding of blood it is written: My punishment is greater than I can bear.<sup>31</sup> Perhaps 'great things' refers to two [sins of the three]? Which of them would you exclude? In the West [Palestine] they say: The talk about third [persons]<sup>32</sup> kills three persons: him who tells [the slander], him who accepts it, and him about whom it is told. R. Hama b. Hanina said: What is the meaning of: Death and life are in the hand [power] of the tongue?<sup>33</sup> Has the tongue 'a hand'? It tells you that just as the hand can kill, so can the tongue. One might say that just as the hand can kill only one near it, thus also the tongue can kill only one near it, therefore the text states: 'Their tongue is a sharpened arrow'. Then one might assume that just as an arrow kills only within forty or fifty cubits, thus also the tongue kills only up to forty or fifty cubits, therefore the text states: 'They have set their mouth against the heavens, and their tongue walketh through the earth'. But since it is written already: 'They set their mouth against the heavens', why was it necessary to state also: 'Their tongue is a sharpened arrow'? — This is what we are informed: That [the tongue] kills as an arrow. But once it is written: 'Their tongue is a sharpened arrow', why was it necessary to state: Death and life are in the hand of the tongue'? — It is in accord with Raba; for Raba said: He who wants to live [can find life] through the tongue;<sup>34</sup> he who wants to die [can find death] through the tongue.

What constitutes evil speech? — Rabbah said: For example [to say] there is fire in the house of So-and-so.<sup>35</sup> Said Abaye: What did he do? He just gave information? — Rather, when he utters that in slanderous fashion: 'Where else should there be fire if not in the house of So-and-so? There is always meat and fish'.<sup>36</sup> Rabbah said: Whatsoever is said in the presence of the person concerned is not considered evil speech. Said Abaye to him: But then it is the more impudence and evil speech! — He answered: I hold with R. Jose, for R. Jose said: I have never said a word and looked behind

my back.<sup>37</sup>

(1) There is no text for this statement. Ex. XVI, 29 is not relevant here. The Gemara quotes the second verse, too, loosely, indirectly. Some MSS. omit 'as it is written', thus rendering the statement correct (Goldschmidt).

(2) Cf. Ex. XVI, 19.

(3) Ibid. 3.

(4) Num. XI, 4.

(5) Ex. XXXII, 1ff.

(6) The story of the spies. Num. Xlii-XIV.

(7) Ps. CXX, 3. More guarded and protected than all other members, the tongue's ambition is ever unsatisfied. The walls of flesh and bone are, of course, cheeks and teeth.

(8) Lit., 'man',

(9) Lit., 'root'.

(10) God.

(11) Ps. XII, 5.

(12) Ps. CI, 5.

(13) Lev. XXV, 30.

(14) The Hebrew for the words 'I will destroy' and 'in perpetuity' are both derived from one and the same root. Hence the suggestion that, since the word is used in connection with leprosy 'absolutely' (the Aramaic version of 'in perpetuity') and the word 'destroy' refers to the same thing, the punishment of destruction will take the form of leprosy. V. Lev. XIII for details.

(15) V. Meg. 8b.

(16) Lev. XIV, 2. It is a play on the word: mezora' (a leper) was mozi-shem-ra', a slanderer before. The 'law' for a slanderer is that he become a leper.

(17) Eccl. X, 11. According to Yoma 75a the serpent eats only earth. It bites therefore not for food, but by Divine order and in retribution for slander, which, similarly, produces no advantage to the offender. The verse may be interpreted (paraphrased): Will the serpent bite without whisper (order from on high) etc.?

(18) Ps. LXXIII, 9.

(19) Lam. III, 53.

(20) Ps. CI, 5.

(21) Ibid. CXX, 4.

(22) Jer. IX, 7.

(23) Isa. XLII, 13.

(24) Prov. XV, 4. The usual rendering: A soothing tongue is a tree of life, but it bears the ad hoc interpretation well.

(25) Prov. III, 18.

(26) Prov. XV, 4. The ad hoc interpretation of this verse is: To depart from it (only by) a broken spirit!

(27) Ps. XII, 4.

(28) Including adultery.

(29) Ex. XXXII, 31.

(30) Gen. XXXIX, 9.

(31) Ibid. IV, 13.

(32) So Jast. Rashi: The third tongue. i.e., the go-between.

(33) Prov. XVIII, 21. The tongue is called threefold.

(34) Rashi: By the study of the Torah.

(35) The fire of the oven. The suggestion: they are wealthy and eating all the time.

(36) Behind that apparently innocent phrase lurks the slanderer's purpose.

(37) To see whether the man concerned was near. I would say it to his face, which proves that in such a case it is not accounted slander (Rashi).

## **Talmud - Mas. Arachin 16a**

Rabbah son of R. Huna said: Whatsoever is said before three is not considered slander. Why? Your

friend has a friend, and your friend's friend has a friend.<sup>1</sup> When R. Dimi came [from Palestine]. he said: What is the meaning of the verse: He that blesseth his friend with a loud voice, rising early in the morning, it shall be counted a curse to him?<sup>2</sup> It refers, for example, to the case of one who happened to stay in a house where they laboured much on his behalf, and next morning he goes out into the street and says: May the Merciful One bless So-and-so, who laboured so much on my behalf. Whereupon people will hear it and come and plunder him.<sup>3</sup>

R. Dimi, brother of R. Safra, learnt: Let no man ever talk in praise of his neighbour, for through [talking in] his praise he will come<sup>4</sup> to disparage him. Some there are who say: R. Dimi, brother of R. Safra, was ill. R. Safra entered to inquire about his state of health. He said, May it come [home] to me<sup>5</sup> that I have kept whatever the Rabbis have enjoined. He said to him: Hast thou also kept [their command]: Let no man ever talk in praise of his neighbour. for through talking in his praise he will come to disparage him? He answered: I have not heard it, for had I heard it, I would have kept it.

R. Samuel b. Nahmani said in the name of R. Johanan: Because of seven things the plague of leprosy is incurred: [These are:] slander, the shedding of blood, vain oath,<sup>6</sup> incest, arrogance, robbery and envy. Because of slander, as it is written: Whoso slandereth his neighbour in secret, him will I destroy.<sup>7</sup> For 'blood-shed', as it is written: And let there not fail front the house of Joab one ... hath an issue or that is a leper.<sup>8</sup> For a vain oath', as it is written: And Naaman said: be content, take two talents,<sup>9</sup> and it is written: The leprosy therefore of Naaman shall cleave unto thee.<sup>9</sup> For 'incest', as it is written: And the Lord plagued Pharaoh . . . with great plagues.<sup>10</sup> Because of 'arrogance'. as it is written: But when he was strong, his heart was lifted up so he did corruptly, and he trespassed against the Lord, his God . . . and the leprosy broke forth in his forehead.<sup>11</sup> Because of 'robbery', as it is written: And the priest shall command that they empty the house,<sup>12</sup> in connection with which a Tanna taught: Because he had gathered money that was not his own, the priest comes and scatters it. And because of 'envy', as it is said: Then he that owneth the house shall come,<sup>13</sup> referring to which the school of R. Ishmael taught: He who would reserve his house for himself.<sup>14</sup> But that is not so, for R. 'Anani b. Sason said: Why is the portion about the priestly garments<sup>15</sup> placed next to the portion about the sacrifices? It is to tell you that just as sacrifices procure atonement, so do the priestly garments. The tunic procures atonement for bloodshed, as it is written: And they dipped the coat in the blood.<sup>16</sup> The breeches procure atonement for incest, as it is written: And thou shalt make them linen breeches to cover the flesh of their nakedness.<sup>17</sup> The mitre procures atonement for those of arrogant mind, in accord with what R. Hanina taught; for he said: Let that which is [placed] high procure atonement for acts of haughtiness. The girdle procures atonement for sinful thoughts of the heart, [for it atones] where it is [worn].<sup>18</sup> The breastplate procures atonement for [error in] legal decisions, as it is written: And thou shalt make a breastplate of judgment.<sup>19</sup> The ephod procures atonement for idolatry, as it is written: And without ephod or teraphim.<sup>20</sup> The robe procures atonement for slander, for the Holy One, blessed be He, said: Let that which emits a sound,<sup>21</sup> procure atonement for an act of sound [the voice]. The [golden] plate procures atonement for impudent deeds, for there it is written: And it shall be upon Aaron's forehead,<sup>22</sup> and it is written there: Yet thou hadst a harlot's forehead!<sup>23</sup> — This is no contradiction: The one results when his actions were effective, the other when they were not effective. If his acts were effective, the plague of leprosy visits him, if his actions were not effective, the robe procures atonement.<sup>24</sup> But R. Simeon said in the name of R. Joshua b. Levi: For two things we do not find any atonement through sacrifices, but we do find atonement for them through something else, [viz.,] bloodshed and slander. Bloodshed through the heifer whose neck is to be broken, and slander through incense. For R. Hanina taught: We have learnt that the incense procures atonement, as it is written: And he put oil the incense and made atonement for the people.<sup>25</sup> And the School of R. Ishmael taught: For what does incense procure atonement? For slander. The Holy One, blessed be He, said: Let that which is [offered]<sup>26</sup> in secret [come and] procure atonement for what was done in secret. Now we have a contradiction from [one teaching concerning] bloodshed as against another [teaching touching] bloodshed; and a contradiction from [one teaching about] slander against [another about] slander? — There is no

contradiction between the two teachings about bloodshed; one speaks of the case where it is known who has killed him, and the other where it is unknown. But where it is known who has killed him, he ought to be executed? — It speaks of a case where he did it deliberately, but without having been forewarned.<sup>27</sup> Neither is there a contradiction between the two teachings about slander; the one was committed in secret,

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- (1) By making his statement before three he expects their spreading it in his name, as something that will become known. Cf. R. Jose's attitude just above.
  - (2) Prov. XXVII, 14. The expression seems too strong, his tactlessness might call for reproof, but why is it a curse?
  - (3) If that praise indicates that the host has much, violent men may go to rob him; normally. such praise will subject the host to the importunities of indecent people eager to be fed by him.
  - (4) He will say: 'With the exception of this or that bad habit', thus dispraising his neighbour. Aliter: 'it will come' etc. His praise will arouse the hostile remarks of the envious.
  - (5) I.e., I believe to have merited reward, in that . . .
  - (6) The taking of the Lord's name in vain being a great offence. Or, perjury: the example chosen shows that the latter is meant.
  - (7) Ps. CI, 5. 'Destroy' here has been explained as signifying afflict with leprosy. v. supra 15b.
  - (8) II Sam. III, 29.
  - (9) II Kings V, 23 and 27.
  - (10) Gen. XII, 17.
  - (11) II Chron. XXVI, 16 and 19.
  - (12) Lev. XIV, 36.
  - (13) Ibid. v. 35.
  - (14) Will suffer from house leprosy. v. Yoma 11b.
  - (15) In Ex. XXVIII and XXIX.
  - (16) Gen. XXXVII, 31. A hint that the coat covers (as it was covered by) blood.
  - (17) Ex. XXVIII, 42.
  - (18) The girdle was supposed to have been wide enough to cover his heart.
  - (19) Ex. XXVIII, 15. 'Of' equivalent for 'error in' judgment.
  - (20) Hosea III, 4, interpreting thus: 'Because there was no ephod. there were teraphim (idols).
  - (21) Ex. XXVIII, 33. The robe had small bells on its hem so that one might hear the approach of the high priest. Slander. too, is audible.
  - (22) Ex. XXVIII, 38.
  - (23) Jer. III, 3. The argument is from analogy of phrase.
  - (24) According to the reaching above, slander is visited by plagues. whereas now we are taught that the priestly robe procures atonement for it.
  - (25) Num XVII, 12.
  - (26) The incense is offered in the Holy of Holies, which therefore is 'in secret', v. Yoma 44a. That 'slander' is described here as something said in secret endorses the view of Rabbah v. R. Huna supra 16a.
  - (27) For a murderer to be executed he must have been forewarned, and his deed must have been seen by two witnesses.

## **Talmud - Mas. Arachin 16b**

the other in public.<sup>1</sup>

R. Samuel b. Elnadab asked of R. Hanina, or as others say. R. Samuel b. Nadab, the son-in-law of R. Hanina, asked of R. Hanina; or, according to still others, asked of R. Joshua b. Levi: Wherein is the leper different that the Torah said: He shall dwell alone; without the camp shall his dwelling be?<sup>2</sup> He separated a husband from his wife, a man from his neighbour, therefore said the Torah: 'He shall dwell alone'. R. Joshua b. Levi said: Wherein is the leper different that the Torah said: Two living clean birds<sup>3</sup> [he should bring] so that he may become pure again? The Holy One, blessed be He, said: He did the work of a babbler, therefore let him offer a babbler as a sacrifice.<sup>4</sup>

Our Rabbis taught: Thou shalt not hate thy brother in thy heart.<sup>5</sup> One might have believed one may only not smite him, slap him, curse him, therefore the text states: 'In thy heart'; Scripture speaks of 'hatred in the heart'. Whence do we know that if a man sees something unseemly in his neighbour, he is obliged to reprove him? Because it is said: Thou shalt surely rebuke.<sup>6</sup> If he rebuked him and he did not accept it, whence do we know that he must rebuke him again? The text states: 'surely rebuke' all ways. One might assume [this to be obligatory] even though his face blanched, therefore the text states: 'Thou shalt not bear sin because of him'.<sup>6</sup>

It was taught [in a Baraita]: R. Tarfon said, I wonder whether there is any one in this generation who accepts reproof, for if one says to him: Remove the mote from between your eyes, he would answer: Remove the beam from between your eyes! R. Eleazar b. Azariah said: I wonder if there is one in this generation who knows how to reprove! R. Johanan b. Nuri said: I call heaven and earth to witness for myself that often was Akiba punished<sup>7</sup> through me because I used to complain against him before our Rabban, Gamaliel Beribbi,<sup>8</sup> and all the more he showered love upon me, to make true what has been said: Reprove not a scorner, lest he hate thee; reprove a wise man and he will love thee.<sup>9</sup>

R. Judah son of R. Simeon b. Pazzi asked of R. Simeon b. Pazzi: What is preferable: reproof with honest purpose or false modesty?<sup>10</sup> — He answered: Won't you agree that true modesty is better,<sup>11</sup> for a Master said: Modesty is the greatest of them all? Thus also is false modesty preferable. For Rab Judah said in the name of Rab: By all means let a man engage in the study of the Torah and in good deeds, even if not for their own sake, because through the work for an ulterior purpose he will arrive at the stage of doing [good] for its own sake.<sup>12</sup> What is honest reproof and what is false modesty? — For instance the case of R. Huna and Hiyya b. Rab who were sitting before Samuel, when Hiyya b. Rab said: Sir, look how he is vexing me greatly. He [R. Huna] undertook not to vex him any more. After he [the former] left, he [R. Huna] said: He did this and that [unseemly] thing. Whereupon Samuel said: Why did you not tell him that to his face? He replied: Forbid that the seed of Rab should be put to shame through me!<sup>13</sup>

How far shall reproof be administered? Rab said: Until he [the reprover] be beaten. Samuel said: Until he be cursed. R. Johanan said: Until he be rebuked. This is a point at issue between Tannaim. R. Eliezer said: Until he be beaten. R. Joshua said: Until he be cursed. Ben 'Azzai said: Until he be rebuked. Said R. Nahman b. Isaac: All the three expounded one Scriptural verse; [It is written:] Then Saul's anger was kindled against Jonathan and he said unto him: Thou son of perverse rebellion, do not I know that thou hast chosen the son of Jesse to thine own shame, and unto the shame of thy mother's nakedness?<sup>14</sup> And it is written: And Saul cast his spear at him to smite him.<sup>15</sup> The one who said [above] 'Until he be beaten' [said so] because it is written: 'to smite him'; the other who said: 'Until he be cursed' [said so] because it is written: 'to thine own shame and to the shame of thy mother's nakedness'; the other, who said: 'Until he be rebuked' [said so] because it is written: 'Then Saul's anger was kindled'. But according to him who says: 'Until he be shouted at', does not Scripture mention 'beating' and 'cursing'? — That was different, because for his great love of David, Jonathan risked his life even further. How far shall a man suffer before changing his lodging? — Rab said: Until he is beaten, Samuel said: Until they throw his bundles over his shoulder. Where he himself is beaten there is no dispute [that it is proper for him to leave]; similarly if they threw his bundles over his shoulder, there is likewise no dispute. They are of conflicting opinion only in case his wife is beaten, one holding: 'As long as he himself is not vexed what difference does it make?'<sup>16</sup> The other's view being: 'It will end in a quarrel [ultimately]'. Why all that [deliberation]?<sup>17</sup> — Because a Master said: A boarder [constantly changing his lodging] discredits others and himself.<sup>18</sup> R. Judah in the name of Rab said: Whence is derived from the Torah the view that a man should not change his lodging? Because it is said: [And he went] unto the place where his tent had been at the beginning.<sup>19</sup> R. Jose b. Hanina said: [It is derived] from here: And he went on his [former]

journeys.<sup>20</sup> What is the practical difference between them? — There is this difference: the case of a casual lodging.

R. Johanan said: Whence do we know that a man should not change his occupation and that of his forebears? As it is said: And King Solomon sent and fetched Hiram out of Tyre. He was the son of a widow of the tribe of Naphtali,<sup>21</sup> and his father was a man of Tyre, a worker in brass;<sup>22</sup> and a Master said: His mother was of the house of Dan;<sup>23</sup> and it is written: And I behold I have appointed him with Ohaliab, the son of Ahisamach, of the tribe of Dan.<sup>24</sup>

At what stage do [Divine] visitations commence?<sup>25</sup> — R. Eleazar said: If a man had, for example, a garment woven for him to wear and it does not fit him. Raba the younger (or, as others say. R. Ze'ira; or again. as others say. R. Samuel b. Nahmani) demurred to this: But more than that was said. 'Even if it had been intended to serve him [the wine] hot, and it was served cold to him; or it was intended to be served cold, and it was served hot to him [is accounted as a divine visitation]', and you say [only] at that stage? Mar, the son of Rabina, said: Even if his shirt gets turned inside out. Raba (or, as others say, R. Hisda, or again, as some say. R. Isaac, or as it was said, it was taught in a Baraitha): Even if he puts the hand into his pocket to take out three [coins] and he takes out but two. Now this is only in the case [where he intended to take out] three, and [took out] two, but not if [he meant to take] two and three came into his hand, because it is no trouble to throw it back. But why all this [information]? — Because the School of R. Ishmael taught: Anyone upon whom forty days have passed without [divine] visitation, had received his world. In the West [Palestine] they say:

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- (1) If he slandered in private the incense procures atonement, as it, too, functions in private. If he slandered in public the robe, emitting sound, procures atonement for the act of sound which is his sin.
- (2) Lev. XIII, 46.
- (3) Lev. XIV, 4.
- (4) The slanderer babbled, hence his sacrifice is chosen from babblers. The babblers may yet teach him the folly of babbling.
- (5) Lev. XIX, 17.
- (6) Lev. XIX, 17. Lit., 'rebuking thou shalt rebuke'. The repetition of the word indicates the obligation to repeat the reproof, even though it was not accepted when administered first.
- (7) [Sifre Deut. I, 'was rebuked'. v. Finkelstein. Akiba p. 113.].
- (8) Var. lec. v. Marginal Gloss. The reference is to R. Gamaliel of Jamnia; cur. edd. R. Simeon b. Rabbi.
- (9) Prov. IX, 8.
- (10) For a man to pretend to be unworthy of administering reproof, whereas in fact it is the fear of arousing hatred that deters him from doing his duty in this respect.
- (11) In A.Z. 20b modesty is hailed as the chief of the virtues enumerated there.
- (12) V. Hor. Sonc. ed., p. 75, n. 10.
- (13) The false modesty of R. Huna expressed itself in this: He would vex Hiyya, to suggest his displeasure at his unseemly behaviour (whatever it was), but he would not disgrace him by direct reproach, while reporting his misbehaviour in his absence.
- (14) I Sam. XX, 30.
- (15) Ibid. 33.
- (16) V. Maharsha.
- (17) Why undergo so much suffering before changing one's lodging? Is there any significance in this seemingly trivial act?
- (18) Frequent change of lodging brings disgrace upon him who changes, because he will acquire the reputation of a man hard-to-please, as well as upon the lodging place, which will be regarded as unsatisfactory.
- (19) Gen. XIII, 3.
- (20) He who based his view on 'where his tent had been' would not object to a change from a casual dwelling, because 'his tent' suggests a certain permanency. whereas he who emphasized the Biblical 'he went on his journeys' would want to see the place of any of his journeys revisited.



(21) I.e., on his father's side.

(22) I Kings VII, 13-14.

(23) [Var. lec. and it is written, the son of a woman of the daughters of Dan (II Chron. II, 13)].

(24) Ex. XXXI, 6. This indicates that the family all through the centuries intervening had practised the same profession.

(25) Below which they are not 'chastisements' for sins committed in this world, so that one may look forward to a future existence, in which one will derive but the fruits of one's good deeds on earth, having received the punishments for misdeeds whilst yet on earth. Everything below the stage of chastisement is but unimportant annoyance of no compensating quality.

## Talmud - Mas. Arachin 17a

Retribution is prepared for him.

It was taught: R. Eliezer the great said: If the Holy One, blessed be He, wished to enter in judgment with Abraham, Isaac or Jacob, not [even] they could stand before His reproof! As it is said: Now therefore stand still, that I may plead with you before the Lord concerning all the righteous acts of the Lord, which He did to you and to your fathers.<sup>1</sup> [It is written:] Such is the generation of them that seek after Him, that seek Thy face, even Jacob. Selah.<sup>2</sup> R. Judah Nesi'ah<sup>3</sup> and the Rabbis differ [as to the meaning]: One says, as the leader, so the generation; the other: as the generation, so the leader. For what practical purpose [is this discussion]? Would you say: It refers to virtue so that one holds: if the generation is virtuous, so is the leader; the other's view being: if the leader is virtuous, so is the generation; but surely there is Zedekiah who was virtuous, whereas his generation was not so; and there is Jehoiakim who was not virtuous, whilst his generation was so. For R. Johanan said in the name of R. Simeon b. Yohai: What is the meaning of: In the beginning of the reign of Jehoiakim, the son of Josiah, king of Judah?<sup>4</sup> The Holy One, blessed be He, wanted to reduce the world to formlessness and emptiness because of Jehoiakim, but when He considered His generation. His anger subsided.<sup>5</sup> The Holy One, blessed be He, wanted to reduce the world to formlessness and emptiness because of the generation of Zedekiah, but when he considered Zedekiah, his anger subsided? — Rather, it refers to anger and gentleness respectively.<sup>6</sup>

### CHAPTER IV

MISHNAH. AS TO THE SUFFICIENCY OF MEANS,<sup>7</sup> THIS SHALL BE DONE ACCORDING TO THE ABILITY OF HIM WHO VOWS. AND [WHEN ACCORDING TO] THE YEARS OF HIS AGE, THIS SHALL BE ACCORDING TO HIM WHO IS THE SUBJECT OF THE VOW. AS FOR VALUATIONS,<sup>8</sup> THIS SHALL BE ACCORDING TO HIM WHO IS THE SUBJECT OF THE VALUATION. AND THE VALUATIONS [SHALL BE PAID ACCORDING TO THE RATE PRESCRIBED] AT THE TIME OF THE VALUATION. AS TO THE SUFFICIENCY OF MEANS, THIS SHALL BE ACCORDING TO THE MAN WHO VOWS'. HOW IS THAT? IF A POOR MAN EVALUATED A RICH MAN, HE SHALL PAY ONLY THE VALUATION OF A POOR MAN.<sup>9</sup> BUT IF A RICH MAN EVALUATED A POOR MAN, HE MUST PAY THE VALUATION OF A RICH MAN. BUT IT IS NOT SO WITH OFFERINGS. IF A MAN SAID: I TAKE UPON MYSELF THE OFFERING OF THIS LEPER, AND THE LEPER WAS POOR, HE BRINGS THE OFFERING OF A POOR MAN.<sup>10</sup> BUT IF THE LEPER WAS RICH, HE MUST BRING THE OFFERING OF A RICH MAN.<sup>11</sup> RABBI SAYS: I SAY THE SAME APPLIES WITH REGARD TO A VALUATION.<sup>12</sup> WHY IS A POOR MAN WHO EVALUATED A RICH MAN OBLIGED TO PAY ONLY THE VALUATION OF A POOR MAN? BECAUSE THE RICH MAN HAD NOT INCURRED ANY LIABILITY WHATSOEVER. BUT IF THE RICH MAN SAID: I EVALUATE MYSELF' AND THE POOR MAN, HEARING THAT, SAID: WHAT THIS MAN HAS SAID, I TAKE UPON MYSELF, THEN HE MUST PAY THE VALUATION OF A RICH MAN.

GEMARA. Surely 'sufficiency of means' is written only in connection with evaluation?<sup>13</sup> As it is written: According to the means of him that vowed shall the priest value him.<sup>14</sup> But is [payment according to] the years of his age with regard to one [whose worth has been] vowed, is it not only [stated] with regard to one who has been subject to valuation? — Since he [the Tanna] had spoken of 'sufficiency of means' in connection with 'one who vows', he speaks, touching the years, also of one who had been the subject of a vow.

AS TO SUFFICIENCY OF MEANS, THIS SHALL BE ACCORDING TO THE MAN WHO VOWS'. HOW IS THAT? IF A POOR MAN EVALUATED A RICH MAN HE SHALL PAY

ONLY THE VALUATION OF A POOR MAN. But why? Scripture said: ‘According to the means of him that vowed’, i.e., the Divine Law made it dependent upon him who ‘vowed’.

BUT IT IS NOT SO WITH OFFERINGS. IF A MAN SAID: I TAKE UPON MYSELF THE OFFERING OF THIS LEPER. AND THE LEPER WAS POOR, HE BRINGS THE OFFERING OF A POOR MAN. This means although he who vowed is rich! But did not the Divine Law say: And if he be poor,<sup>15</sup> and he [who vowed] is not poor? Said R. Isaac: This refers to the case where he who vowed [too] was poor. But perhaps the All Merciful spared only [the leper] himself, but not him who vowed, as it is written: [If] he [be too poor]?<sup>16</sup> — Said R. Adda b. Ahabah: ‘And his means suffice not’,<sup>17</sup> includes him who vows. But if he who vows were a rich man, would he indeed have to bring the offering of a rich man? If so, what means BUT IT IS NOT SO WITH OFFERINGS?<sup>18</sup> —

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(1) I Sam. XII, 7.

(2) Ps. XXIV, 6.

(3) The Prince, R. Judah II.

(4) Jer. XXVI, 1.

(5) The emphasis is on the phrase in the beginning used instead of simply ‘in the first year’, v. Sanh. Sonc. ed., p. 699 notes.

(6) The temperament of the leader, gentle or otherwise, depends upon the spirit of his time.

(7) V. Lev. XXVII, 8.

(8) Explained in Mishnah infra 18a.

(9) I.e., according to his means.

(10) Lev. XIV, 21-32.

(11) Ibid. 10.

(12) There are two views as to what Rabbi means: (i) Rabbi disagrees with the Tanna, for according to the former, a poor man would under all circumstances incur no liability beyond that of a poor man's valuation, i.e., according to his means; even though he heard the rich man vow his own valuation and thereupon he (the poor man) said: I take upon myself what this man has said. According to Rabbi, however, in such a case the poor man would be liable to pay the rich man's (i.e., the normal) valuation, since in saying: ‘I take upon myself what this man has said’ he deliberately assumes the full liability, and he would owe the sum until able to pay it. (ii) Maimonides interprets Rabbi's attitude to be in accord with the first Tanna's, opposing only the suggestion that it is not so with offerings’. because if the same conditions which prevail at the leper's vow prevailed in the case of a valuation, the same rules would apply, according to the view of the Tanna which Rabbi holds.

(13) Our Mishnah uses the term ‘vows’ instead of ‘evaluates’, whereas the rule of paying according to one's means applies not to the vower (of a man's market value), but to the valuations.

(14) The Torah uses in this particular case ‘vowing’ in its general meaning, which includes also the vowing of one's valuation, that is why the Mishnah, too, uses the same term, not in the stricter but in the general sense. (Lev. XXVII, 8).

(15) Lev. XIV, 21.

(16) The suggestion is that the Torah, out of pity for a poor leper, would allow him to bring the lesser sacrifice, but might not be willing to extend the same consideration to a healthy poor man, who without any compulsion assumed his liability.

(17) Ibid.

(18) When the same regulation applies to them too.

## **Talmud - Mas. Arachin 17b**

One refers to a poor leper. when the person who vowed [his sacrifice] was poor; the other to a rich leper when he who vows is poor.<sup>1</sup> One might have believed that since he was included, he was completely included,<sup>2</sup> therefore we are informed [that it is not so]. even as it was taught: Since we find in case of valuation that a poor man who evaluated a rich man need pay but the valuation of a poor man, one might have assumed that the same applied also to this [case], therefore the text states: And if he be poor’. But according to Rabbi who said: I SAY THE SAME APPLIES ALSO WITH

REGARD TO A VALUATION which shows that we are guided by the liability of the person,<sup>3</sup> so that no Scriptural verse is necessary to exclude,<sup>4</sup> what then does: '[If] he [be too poor]' exclude? — It excludes the case of a poor leper whilst he who vowed was rich. I might have assumed that since Rabbi said: We are guided by the liability of the person, we shall here too be guided by the liability of the person, therefore we are informed [that we are not so guided here].

MISHNAH. IF HE WAS POOR AND THEN BECAME RICH<sup>5</sup> OR RICH AND THEN BECAME POOR, HE MUST PAY THE VALUATION OF A RICH MAN. R. JUDAH SAYS: EVEN IF HE WAS POOR AND BECAME RICH AND THEN AGAIN BECAME POOR HE MUST PAY THE VALUATION OF A RICH MAN. BUT IT IS NOT SO WITH OFFERINGS. EVEN IF HIS FATHER WAS DYING [WHILST A MAN VOWED] AND LEFT HIM TEN THOUSAND, OR IF HE HAD A SHIP ON THE SEA AND IT BROUGHT TO HIM TEN THOUSAND, THE SANCTUARY HAS NO CLAIM AT ALL ON THEM.<sup>6</sup>

GEMARA. IF HE WAS POOR AND THEN BECAME RICH etc., [as it is written,] According to the means of him that vowed.<sup>7</sup> OR RICH AND THEN BECAME POOR [etc.]. [as it is written,] According to the means of him that vowed.<sup>7</sup>

R. JUDAH SAID: EVEN IF HE WAS POOR AND BECAME RICH AND THEN AGAIN BECAME POOR etc. What is the reason of R. Judah's view? — Scripture said: But if he be too poor for thy valuation,<sup>7</sup> i.e., only if he remains in his poor state from the beginning to the end. But if that be so [consider that]: 'If he be too poor'.<sup>8</sup> [Would you say] here, too, 'only if he remains poor from the beginning to the end'? And if you were to say, 'Indeed so'! Have we not learnt: If a leper offered up [part of] his offering as a poor man and became rich, or as a rich man and became poor, all should be guided by what the sin-offering was. These are the words of R. Simeon. R. Judah says: Everything should be guided by [what he was when he brought] the guilt-offering.<sup>9</sup> And it was taught: R. Eleazar b. Jacob says. All should be guided by what [he was when he brought] the birds?<sup>10</sup> — But surely it was said with regard thereto; R. Judah said in the name of Rab: All the three inferred it from one Scriptural verse: Whose means suffice not for that which pertaineth to his cleansing.<sup>11</sup> R. Simeon holds: [The reference is to] the thing that procures atonement, that is, the sin-offering. R. Judah holds: It is to the thing which renders him fit, that is, the guilt-offering.<sup>12</sup> R. Eleazar b. Jacob says: The thing which causes his cleansing, that is, the birds. But then why is it said: '[If] he [be too poor]'? According to Rabbi, as he explains it, and according to the Sages, as they explain it.<sup>13</sup>

But then,<sup>14</sup> [when it is written:] He being a witness,<sup>15</sup> would you here, too, say that he must be a fit [witness] from beginning to end? And if you will say: Indeed so! Surely it was taught: If a man knew testimony [to give] for another before he became his son-in-law, and then became his son-in-law; or if he then could hear and now became deaf; could see and now became blind; was of sound mind then and now became stupid, then he is disqualified [as witness]. But if he knew testimony [to give] for him before he became his son-in-law, then became his son-in-law,

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(1) In one respect it does apply, in the other it does not. It does not apply to the case of a poor man vowing a rich leper's sacrifice, therefore the remark, 'But it is not so with offerings', is justified. But it does apply to the case of a poor man vowing a poor leper's sacrifice.

(2) One might have assumed that since on the basis of the Scriptural 'And his means suffice not', we include the poor man vowing a poor leper's sacrifice in the consideration due to a poor man's dedicating a rich man, that therefore we might extend the same consideration even to a poor man vowing a rich leper's sacrifice, therefore we need the exclusive meaning of, 'If he be too poor', i.e., only a poor leper's sacrifice is reduced, but a rich leper's sacrifice, even if vowed by a poor man, is not reduced.

(3) Whose valuation has been vowed, not by the ability of the person who vows it.

(4) I.e., the case of a poor man who vows the offering due from a rich leper; since on Rabbi's view the law can be derived from valuations, we are guided by the liability of the leper and not by the means of him that vowed.

(5) If he became rich either before he had paid the valuation (Rashi); or (Tosaf. Yomtob) before he had been assessed by the priest as to his means.

(6) Again the meaning of the Mishnah is disputed. Rashi holds, 'But it is not so with offerings' refers to the difference between the rules governing them, and those governing valuations; the second part of the Mishnah, however, applies evenly to both. Maimonides, on the other hand, sees the two parts forming one whole. The difference between offering and valuation lies in this: with regard to the former, everything depends on the sufficiency of means of him from whom the offering is due at the moment when the offering is due, which, according to R. Simeon and the other Tannaim (v. infra) means the time when the sin- and guilt-offerings respectively are offered up. and according to R. Eliezer b. Jacob, the time when he brings the birds into the Sanctuary. If at that moment he is poor, then he need bring but the sacrifice of a poor leper, even though his father be dying. or his boat be on the way back and thus promising him an increase in his sufficiency of means. Tosaf. has valid objections to this interpretation. s.v. **אב**.

(7) Lev. XXVII, 8.

(8) With reference to a leper.

(9) [The leper had to bring a guilt-offering, a sin-offering and a whole-offering (Lev. XIV, 19, 22). the latter two varying according whether he be poor or rich. If his condition changed after having brought his sin-offering, the whole-offering which he subsequently brings must be a bird if the sin-offering he had brought as a poor man was a bird, or a he-lamb if the sin-offering he had brought as a rich man had been an ewe lamb].

(10) Lev. XIV, 4. He had to bring these birds alive into the Sanctuary.

(11) Lev. Xlv, 32.

(12) It is the guilt-offering which renders him fit to enter the Sanctuary and to eat of the holy meat, after the priest had applied the blood thereof on the tip of his right ear and great toe of his right foot and thumb of the right hand. Lev. XIV, 14.

(13) Supra p. 99, n. 6.

(14) In view of the interpretation of the verse 'If he be too poor'. taking the 'he' to denote that there has been no change of condition all the time.

(15) Lev. V, 1.

## **Talmud - Mas. Arachin 18a**

and after that his daughter [the father-in-law's. i.e., his wife] died; or if he could hear, became deaf, and now regained his hearing; or if he could see, lost his sight, and now recovered it; or was of sound mind, lost his mind, and now recovered it, then he is eligible [as witness]. This is the general rule: Whosoever was capable at the beginning and, again, at the end, is eligible?<sup>1</sup> — It is different there because Scripture says: If he do not utter it, then he shall bear his iniquity.<sup>2</sup> the Divine Law has made the matter dependent on seeing and hearing, and that is found here.<sup>3</sup> But then what is the need of: 'He being a witness'? — Because of what has been taught: If he saw a company of men standing, among whom are his witnesses, and he says: I adjure you that if you know a testimony on my behalf you come and testify for me, one might have assumed that they then are obliged [to do so], therefore the text states: 'He being a witness', whilst he has not singled out his witnesses. One might assume that [the same applies] even if he said: Whosoever [of you knows a fact to testify to. etc.], therefore the text states: 'He being a witness', and he has singled them out.<sup>4</sup>

**BUT IT IS NOT SO WITH OFFERINGS: IF HIS FATHER DIED AND LEFT HIM TEN THOUSAND** etc. But then he is a rich man? R. Abbuha said: Say, He was leaving him ten thousand.<sup>5</sup> But that is self-evident? — It means that his father lies in a dying condition. You might have said: Most of the people in a dying condition really die, therefore we are informed [that the Sanctuary has nevertheless no claim].

**IF HIS BOAT IS ON THE SEA RETURNING TO HIM WITH TEN THOUSAND.** But then he is a rich man? R. Hisda said: It refers to a case when he had rented out or hired it out to others. But there is the rent? — Rent is not payable before the end [of the contracted period]. But derive [his richness] from his boat alone? This is in accord with the view of R. Eliezer, for it was taught: If he

was a farmer, they must leave him his yoke of oxen, and if he was an ass-driver, they must leave him his ass.<sup>6</sup>

MISHNAH. 'AS FOR THE YEARS THIS SHALL BE [VALUED] ACCORDING TO [THE AGE OF] HIM WHO IS VOWED'? IF A CHILD EVALUATES AN OLD MAN. HE MUST PAY THE VALUATION OF AN OLD MAN. AND IF AN OLD MAN EVALUATES A CHILD. HE MUST PAY THE VALUATION OF A CHILD. AS FOR VALUATION: THIS SHALL BE ACCORDING TO HIM WHO IS THE SUBJECT OF THE VALUATION. HOW IS THAT? IF A MAN EVALUATED A WOMAN, HE MUST PAY THE VALUATION OF A WOMAN. AND IF A WOMAN EVALUATED A MAN, SHE MUST PAY THE VALUATION OF A MAN. 'AND THE VALUATION DEPENDS UPON THE TIME OF THE VALUATION'. HOW IS THAT? IF HE EVALUATED ONE WHO WAS LESS THAN FIVE YEARS OF AGE, AND HE BECAME [MEANTIME] OLDER THAN FIVE YEARS OF AGE; OR [HE EVALUATED ONE] WHO WAS LESS THAN TWENTY YEARS OF AGE AND HE BECAME TWENTY YEARS OLD. HE MUST PAY [ONLY] IN ACCORD WITH THE AGE AT THE TIME OF THE VALUATION.

GEMARA. Our Rabbis taught: You have compared vows [of market value] to valuations, both with regard to [the valuation of] pearls for the poor,<sup>7</sup> and to the rule that the value of a limb be judged in accord with its importance.<sup>8</sup> One might have assumed that we shall compare valuations with vows of market value also with regard to the rule that there, too, he shall have to pay its value according to the time of the payment,<sup>9</sup> therefore it is said: According to thy valuation it shall stand,<sup>10</sup> i.e., [in the case of valuation] he shall pay only as much as it was worth at the time of the valuation.

MISHNAH. THE THIRTIETH DAY IS ACCOUNTED UNDER THIS AGE. THE FIFTH YEAR OR TWENTIETH YEAR IS ACCOUNTED UNDER THIS AGE. FOR IT IS WRITTEN: AND IF IT BE FROM SIXTY YEARS OLD AND UPWARD.<sup>11</sup> WE LEARN THUS WITH REGARD TO ALL OTHERS FROM WHAT IS SAID ABOUT SIXTY YEARS: JUST AS THE SIXTIETH YEAR IS ACCOUNTED UNDER THIS AGE. SO ALSO THE FIFTH AND TWENTIETH YEARS ARE ACCOUNTED UNDER THIS AGE. WHAT! BECAUSE [THE TORAH] HAS RECKONED THE SIXTIETH YEAR TO BE UNDER THIS AGE, THEREBY BEING MORE STRINGENT, SHALL THE FIFTH OR THE TWENTIETH YEAR BE CONSIDERED UNDER THIS AGE. WHEREBY IT WOULD BE MORE LENIENT?<sup>12</sup> TO TEACH US THAT, IT IS SAID: 'YEARS', 'YEARS' TO SET FORTH THIS ANALOGY: JUST AS WITH THE SIXTIETH YEAR THE WORD 'YEARS' MEANS THAT IT BE RECKONED UNDER AGE, SO THE WORD 'YEARS' WITH THE FIFTH AND WITH THE TWENTIETH YEAR MEANS THAT IT IS TO BE RECKONED UNDER AGE, NO MATTER WHETHER IT BEARS LENIENTLY OR STRINGENTLY. R. ELEAZAR SAYS: [THIS RULE HOLDS GOOD] UNTIL THEY ARE A MONTH AND A DAY BEYOND THE YEARS CONCERNED.

GEMARA. Now this is superfluous,<sup>13</sup> for were that not the case, it could be refuted as we did. For [the fact is that] the words 'years', 'years' are written superfluously.

Shall we say that our Mishnah is not in accord with Rabbi; for if it were in accord with Rabbi, surely he said: 'Until' is meant to be inclusive. For it was taught: [It is written:] From the first day until the seventh day.<sup>14</sup> One might have assumed [this to mean]: 'From the first day on' but the first not included, and 'until the seventh day' but the seventh day not included,

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(1) Whereas above the condition was made that he must be of one quality or condition from the beginning to the end.

(2) Lev. V, 1.

(3) The Torah here insists that it is sufficient if he be fit at the time of seeing and telling, rendering his condition at any other time irrelevant.

(4) He must single out those whom he adjures to give testimony on his behalf, because the Biblical 'He being a witness'

indicates that a definite person must be involved. When the adjurer says: If someone among you knows etc., he speaks in general terms, hence does not affect those few who know among the majority who do not. But if he said: Whosoever of you knows, then he is addressing himself individually to each who does, hence he does oblige those who can give testimony on his behalf, to do so.

(5) He has not left him the money yet. He is still living, although in a dying condition. Yet, as long as he is alive, the Sanctuary has no claim whatsoever on the son, because the general experience that people in a dying condition die, does not, for the purpose of the law, assume that the person is dead, that the inheritance is available, but we say that the son now has no money yet.

(6) Just as the farmer's yoke of oxen are his 'tools' wherewith he earns his living; just as the ass-driver's ass for that reason may not be taken in pledge, so is this man's boat, a tool wherewith he earns his living and must not be taken either.

(7) If a poor man owned a pearl which in his place of residence, for lack of demand, is worth but thirty sela's, whereas in a large town where there are many buyers, it would be worth fifty-one must assume that it is worth only what the poor man can get for it now, in his place of residence. The poor man who vowed his own valuation would hence not have to pay fifty sela's (if he were between twenty and fifty years of age), although the pearl might fetch that price elsewhere. Now the same rule applies to the case of one who said: 'I take it upon myself to pay to the Sanctuary the value of this pearl'. Here, too since we compared valuation to vow of market-value, the vower would have to pay the lower price. The comparison, based on analogy of expression, is found supra 2a.

(8) V. supra 4b,

(9) When the worth of the person who is the subject of the vow is valued.

(10) Lev. XXVII, 17.

(11) Lev. XXVII, 7.

(12) The valuation from twenty to sixty is fifty shekels. From sixty up it is fifteen. From five to twenty, twenty shekels. Now the Torah in considering one of sixty years to be under age, imposes upon the vower the highest payment — a stringency. Would one stretch the analogy so far as to do just the opposite: to lower the payment by considering one of twenty to be nineteen, which would mean reducing the sum due from fifty shekels to twenty?

(13) 'Mufneh'; lit., 'free, empty, disengaged'. It means that the identical expression, the *gezerah shawah* (v. *Glos.*) occurring in two different texts, has not been engaged for any deduction or interpretation, thus is 'free' and legitimately a source of comparison for the case in question. The repetition of the word 'years'. which has no meaning in the context, and which suggests no other teaching. thereby justifies the inferences made here from the analogous expression.

(14) Ex. XII, 15.

## **Talmud - Mas. Arachin 18b**

, in the same manner as it is said: From his head even unto his feet,<sup>1</sup> where it means, '[from] his head [on]', but his head is not included; and '[unto his] feet', but his feet are not included;<sup>2</sup> therefore it is said: Until the one and twentieth day of the month at even.<sup>3</sup> — Rabbi said: This was not necessary: 'first' [itself] means the first inclusive, and 'seventh' the seventh inclusive! You might even say that our Mishnah is In accord with Rabbi. Here, however, the Scriptural verses are balanced. For it is written: From a month old even unto five years old,<sup>4</sup> why then [state] From five years old even unto twenty years old?<sup>5</sup> Therefore they are balanced.<sup>6</sup>

The Master has said: 'his head'. but his head is not included; 'his feet', but the feet are not included. Whence do we know that? — If you like, say: Because the signs [of leprosy] on the body are different from those on the head;<sup>7</sup> or, if you like, say: As far as appeareth to the priest.<sup>8</sup>

R. ELIEZER SAYS: [THIS RULE HOLDS GOOD] UNTIL THEY ARE A MONTH AND A DAY BEYOND THE YEARS CONCERNED. It was taught: R. Eliezer said, Here it is said, 'and upward', and there it is said, 'and upward';<sup>9</sup> just as there the meaning is 'from a month and one day', so here a month and one day. But say perhaps: Just as there 'one day' so here, too. 'one day'?<sup>10</sup> — Of what value would the analogy then be?

Our Rabbis taught: The year mentioned in connection with consecrated animals, the year stated in connection with dwelling houses in a walled city,<sup>11</sup> the two years in connection with the field of possession,<sup>12</sup> the six years of the Hebrew slave,<sup>13</sup> as well as those of a son or daughter,<sup>14</sup> are to be understood as from hour to hour.<sup>15</sup> Whence do we know that with regard to consecrated animals? — R. Aha b. Jacob said: Scripture said, A lamb ben shenato [of the first year],<sup>16</sup> i.e. of ‘its own first year’, not that of the calendar.<sup>17</sup> As to the year mentioned in connection with dwelling houses in a walled city. Scripture said: Within a whole year mimkaro [after it is sold],<sup>18</sup> i.e., of its [own year after the] sale, not of the calendar. With regard to the two years of the field of possession, it is written: According unto the number of years of the crops he shall sell unto thee,<sup>19</sup> implying that a man eats [the fruit of] three crops in two years. With regard to the six years of a Hebrew slave, Scripture said: Six years he shall serve, and in the seventh,<sup>20</sup> implying that at times in the seventh year, too, he may be working.<sup>21</sup> ‘As well as those of a son or daughter’, for what practical purpose is the rule? — R. Giddal in the name of Rab said: With regard to valuations.<sup>22</sup> R. Joseph said: With regard to [the subject of] the chapter on the foetus extracted by means of a caesarean section.<sup>23</sup>

Said Abaye to R. Joseph: Are you [two] of conflicting opinion? — He replied: No, I say one thing, and he said another. Thus also does it seem logical. For if you should think they are disputing, and he who said [the practical purpose] concerns valuations, should not hold it to be also with regard to the chapter about the foetus extracted by means of a caesarean section, has not Rab said that the decision was with regard to all [cases in that] chapter: that [the years] were to be understood as from hour to hour? Then why does he who said [the practical purpose] concerned valuations not say it concerns the chapter on a caesarean extraction? — Because it<sup>24</sup> is to be analogous to those [mentioned previously]:<sup>25</sup> Just as these are written [in the Torah], so does this refer to what is written [in the Torah].<sup>26</sup> And the other? — If you think [that the reference is to] what is written, then the expression ‘With a son or daughter’ — ought it not to state ‘with male or female’?<sup>27</sup>

(1) Lev. XIII, 12 in connection with the signs of leprosy.

(2) V. infra.

(3) Ex. XII, 18, the words ‘at even’, at the end of the day, include the seventh, and ‘at even’ is also written in connection with the first day in the same verse.

(4) Lev. XXVII, 6.

(5) Ibid. v. 5.

(6) The fifth year as well as the twentieth (vv. 3 and 5) could be counted as belonging to either of the periods. Therefore the verses are suspended in meaning, indeterminate, and it is only the inference from analogy of expression which establishes the correct meaning.

(7) The signs on the head are yellow thin hair, whereas the signs on the body are white hair, and spreading in the skin.

(8) Ibid. XIII, 12. The priest could not see the sign on the head because of the hair, nor between the toes, in one view, as required.

(9) Num. III, 43. with reference to the counting of the Levites. Any Levite of over one month old, even if it be but one day, was included in the counting.

(10) Since here the addition is but one day, perhaps it ought to be exactly alike with the years in the case of valuations.

(11) V. Lev. XXV, 30.

(12) V. infra 29b.

(13) Ex. XXI, 2.

(14) V. infra p. 112, n. 1.

(15) As lasting one year from the hour of its birth, or sale, or service, to the very same hour a year later on the very same day, independent of the calendar year. In a calendar year Tishri would commence the New Year.

(16) Lev. XII, 6. The text might have read: ben shanah, which would have suggested an ordinary year. ‘Ben shenato’, (lit., ‘an animal its year old’) suggests that it shall be its own year, from hour to hour.

(17) Lit., ‘world’.

(18) Lev. XXV, 29. Again the word ‘mimkaro’ suggests its own year. i.e., from hour to hour.

(19) Ibid. v. 15. the double plural ‘years of crops’ suggesting that the regular counting would not be satisfactory. There



may be more than two crops in two years.

(20) Ex. XXI, 2.

(21) The second part of the verse is taken here in conjunction with the first.

(22) I.e., with regard to the age which determines the rate of payment.

(23) In that chapter the age is discussed at which son and daughter are fit to vow. Nid. 45b.

(24) The reference to a son and daughter.

(25) I.e., the consecrated animals, etc.

(26) Viz., valuations.

(27) Just as the Torah in this connection (Lev. XXVII) speaks of 'male' and 'female'.

## Talmud - Mas. Arachin 19a

Why is a female, when she is old, valued only at one third, whereas a man at not even a third?<sup>1</sup> — Said Hezekiah: people say, An old man in the house is a burden in the house, an old woman in the house is a treasure in the house!<sup>2</sup>

### CHAPTER V

MISHNAH. IF A MAN SAID: I VOW MY WEIGHT, THEN HE MUST PAY HIS WEIGHT, IN SILVER [IF HE HAD SAID IN] SILVER, OR IN GOLD [IF HE HAD SAID IN] GOLD. IT HAPPENED WITH THE MOTHER OF YIRMATIA,<sup>3</sup> WHO HAD SAID, 'I VOW MY DAUGHTER'S WEIGHT': SHE WENT UP TO JERUSALEM AND WEIGHED HER AND THEN PAID HER WEIGHT IN GOLD. [IF A MAN SAID: I VOW] THE WEIGHT OF MY HAND, R. JUDAH SAYS: LET HIM FILL A BARREL WITH WATER AND PUT IT [HIS HAND] IN UP TO THE ELBOW. THEN LET HIM WEIGH THE FLESH, BONES AND SINEWS OF AN ASS AND PUT IT INTO THE BARREL UNTIL IT IS FILLED UP AGAIN. SAID R. JOSE: BUT HOW IS IT POSSIBLE TO ACCOUNT EXACTLY ONE KIND OF FLESH AGAINST ANOTHER KIND OF FLESH, AND ONE KIND OF BONES AGAINST ANOTHER KIND OF BONES? RATHER: ONE ESTIMATES WHAT THE HAND IS LIKELY TO WEIGH.

GEMARA. What does it mean IF SILVER, SILVER, IF GOLD, GOLD? — Rab Judah said: If he had said [my weight] in silver, then [he must pay it] in silver, if gold. gold. But that is self-evident? — This is what he is teaching us: The reason<sup>4</sup> is because he has mentioned expressly [the precious metal], but if he has not mentioned expressly, he can free himself of the obligation with anything;<sup>5</sup> in accord with Rehabah, for Rehabah said: In a place where [they sell] pitch by the weight, he can free himself even with pitch. But that is self-evident? — No, it is necessary to mention that for the case that some weigh and others measure it. You might say since not all [sell it] by weight [he may] not [free himself by paying his weight in pitch], therefore we are informed [that he may].

R. Papa said: In a place where [they sell] onions by the weight, he can acquit himself [of his vow] even with onions. But that is self-evident? — It is necessary to mention that because after weighing it [the seller] would add two or three. Therefore you might have said: thereby it should be excluded from the rule of things [sold] by weight. Therefore we are informed [that it is not so excluded].

IT HAPPENED WITH THE MOTHER OF YIRMATIA. An accident [is reported] to contradict [the law just stated]? — Something is missing here and thus it ought to read: 'But if it be a prominent person, then although he has not expressly stated, we estimate it in accordance with his dignity; and IT HAPPENED WITH THE MOTHER OF YIRMATIA WHO HAD SAID, 'I VOW MY DAUGHTER'S WEIGHT': SHE WENT UP TO JERUSALEM AND THEY WEIGHED HER, AND THEN SHE PAID HER WEIGHT IN GOLD'.<sup>6</sup>

Rab Judah said: If one says, I vow my stature, he must give a staff which cannot be bent. [If he said:] I vow my full stature, he may give a staff which can be bent.<sup>7</sup> They raised the following objection: [If one said:] ‘I vow my stature’, or [if he said, ‘I vow] my full stature’, he must give a staff which cannot be bent? He holds with R. Akiba, who pays close attention to redundant speech. For we learnt: Nor [has he thereby sold]<sup>8</sup> the cistern or the walled cellar, even though he wrote [in the document of sale], ‘the depth and the height’, but he [the seller] must acquire for himself a way thereto. These are the words of R. Akiba. The Rabbis taught: He does not need to do so. R. Akiba, however, agrees that if he had said, ‘With the exception of these’, he need not buy himself a way thereto.<sup>9</sup> Thus we see that since he did not have to say anything and nevertheless did make a statement, he meant to add something thereby; therefore here, too, since he did not have to say anything and he spoke nevertheless, he wanted to add something.<sup>10</sup>

The following question was raised [in the Academy]: If he said, ‘My stand’, what is [the law]?

- (1) A woman under sixty is to be valued at thirty, above sixty at ten, which is one third; a man under sixty at fifty, over sixty at fifteen, which is less than a third.
- (2) A woman is never too old to be useful in the house, whereas in popular opinion, an old man in the house may be termed ‘an obstacle’, ‘a burden’, ‘a weak vessel’.
- (3) Var. lec.: Domitia.
- (4) That he was to pay his weight in silver or gold.
- (5) However base a metal or material.
- (6) According to which one is bound only by express statement as to that metal is meant, whereas the mother of Yirmatia, on the basis of a general vow, is reported to have made a payment of the weight in gold.
- (7) In the first case the stature of the metal, whichever he mentioned, should be paid. In the second, he has stressed only the height, therefore a staff, however thin and easy to be bent, will redeem the pledge. In the first it must be solid, as his figure, in the second it must be high, but need not be of any minimum thickness.
- (8) I.e., if one who has sold a house.
- (9) V. B.B. 64a.
- (10) The seller should not have mentioned a self-evident clause: that cistern and cellar are not sold with the house. Having mentioned that, he must have added something to the contract not implicit therein, viz., the right to the cellar. In similar manner here, ‘full’ is a superfluous phrase, stature implies the full height. Hence the additional suggestion: It is only as to the full height that I assume obligation, but as to thickness, that may be as slender as possible.

## **Talmud - Mas. Arachin 19b**

‘My breadth, what is [the law]? ‘My sitting’, or ‘My thickness’, what is [the law]? ‘My circumference’, what is [the law]?’<sup>1</sup> — The questions remain unanswered.

I VOW THE WEIGHT OF MY HAND. Our Rabbis taught: [If one said:] ‘I vow the weight of my hand and the weight of my foot’, R. Judah says: Let him bring a barrel, fill it with water, place his hand therein up to the elbow, and his foot up to the knee; then let him weigh the flesh, bones and sinews of an ass and put it in [to the barrel] until it is filled up. And although there is no proof for it [in the Bible],<sup>2</sup> there is a mnemonical allusion: Whose flesh is as the flesh of asses.<sup>3</sup> R. Jose said to him: How is it possible to account exactly one kind of flesh as against another kind of flesh, one kind of bones as against another kind of bones, and one kind of sinews as against another kind of sinews? R. Judah answered him: They estimate [the weight of the flesh, bones and sinews].<sup>4</sup> Said R. Jose to him: If you must estimate, estimate the hand [itself]? And R. Judah? As far as possible we do it by weight.

‘The hand up to the elbow’? An objection was raised: The hands and feet in the Sanctuary were washed up to the joint [of the palm]? In [the language of] the Torah [hand means] up to the joint, but

with regard to vows, go after human parlance!

But according to the Torah [language, does it mean] up to the joint? What then of tefillin with regard to which thy hand<sup>5</sup> is written; and the School of Mennaseh taught: 'thy hand', that means on the biceps muscle? [Rather say thus,] In the Torah [it means] the whole biceps-muscle, but with regard to vows, go after human parlance, and as to washing the hands and feet in the Sanctuary. that<sup>6</sup> is a traditional teaching.

'The foot up to the knee'? But there is a contradiction against this. [It is written,] Feet,<sup>7</sup> that excludes people with wooden legs?<sup>8</sup> — With regard to vows, go after human parlance. But in the Torah does [the term] foot exclude people with wooden legs? What of halizah where it is written: his foot,<sup>9</sup> and yet it was taught if she drew off his shoe [that was strapped] from the knee below, her halizah [ceremony] is valid?<sup>10</sup> — It is different there, because Scripture says: From off his foot.<sup>9</sup> If that be so, then even if [the shoe was strapped] above the knee, it should also be [valid]? — It reads: from above', not 'from over above'.

R. Papa said: It is evident therefrom<sup>11</sup> that what is called istawira<sup>12</sup> goes down to the ground.<sup>13</sup> For if you should think it is divided [into two], then the istawira would be 'above the foot' and the thigh<sup>14</sup> 'over above' [the foot].<sup>15</sup> — R. Ashi said: You may even say that it is divided [into two], yet whatsoever is horizontally with the foot<sup>16</sup> is [like] the foot.

MISHNAH. [IF SOMEONE SAID] I VOW THE WORTH OF MY HAND, THEY ESTIMATE HIS WORTH WITH HIS HAND AND [WHAT IT WOULD BE] WITHOUT HIS HAND. IN THIS RESPECT VOWS OF WORTH ARE MORE STRINGENT THAN VALUATIONS.<sup>17</sup>

GEMARA. How do we estimate him? — Raba said: We estimate him as one estimates in the case of injury.<sup>18</sup> Said Abaye: Are the two cases alike? There the man is reduced in value, here he is in physical integrity! — Rather, said Abaye: They estimate how much a man would give for a slave who does his work with but one hand as against what he would give for a slave who does his work with both hands. [You say,] 'With one hand'? What does that imply? That the other is cut off? But that is the very case [of damage just mentioned]. Rather [say, How much a man would give . . . as against the case] where one of his hands is assigned to the first master.<sup>19</sup>

Raba asked: If they have estimated him in a case of injury and he said: 'I vow my worth', what is [the law]? Do we say, 'surely they have estimated him once already', or is an estimate by ten different from an estimate by three?<sup>20</sup> And if you find a reason for saying that the estimate by ten is different from one by three, what is [the law] if he said: I vow my worth and he was estimated, whereupon he said again. I vow my worth? Is it here definite since ten have estimated him, or perhaps he may have increased in value meantime!<sup>21</sup> [And if you were to say that he has increased in value meantime,] what is [the law] if he said: I vow my worth, and they did not estimate him, and then he again said: I vow my worth? [Do we say] in this case he is surely

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(1) 'My stand' may mean my height; 'my breadth' may mean a staff as long as I am broad, or a staff as broad as I am; 'my thickness', too, is ambiguous; 'my circumference' may imply a staff, crooked and of the same circumference as myself, or one as thick as my circumference.

(2) That the weight of flesh, bones and sinews of an ass correspond to those of men.

(3) Ezek. XXIII, 20.

(4) Probably the meaning is that the weighing demanded by R. Judah is but to serve as an aid to estimating the weight of the hand itself].

(5) Ex. XIII, 9.

(6) The limit of the joint of the palms.

(7) Ex. XXIII, 14.

- (8) Men with artificial feet are not obliged to go 'on foot', i.e., on pilgrimage to the Temple on the three festivals, v. Hag. 3a. This shows that the foot does not stretch to the knee.
- (9) Deut. XXV, 9.
- (10) V. Yeb. 101a.
- (11) Since a halizah performed with a shoe strapped below the knee is valid.
- (12) I.e., the ankle (in an anatomical sense).
- (13) I.e., the entire length of the foot from the ankle.
- (14) I.e., that part of the leg up to the knee joint from the ankle upward.
- (15) And consequently the halizah should be invalid.
- (16) I.e., the whole istawira is regarded as part of the foot.
- (17) Because one cannot vow the valuation of the hand or any other non-vital organ.
- (18) V. B.K. 83b. He is looked upon as if he were a slave to be sold in the market, and they assess how much he was worth (before the injury) and how much he is worth now.
- (19) He must not do work with it for the second master at all. He is therefore physically of full integrity and the analogy is warranted.
- (20) One who vows his market-value must be estimated by a body of ten with the case of our Mishnah, whereas one's assessment in the case of injuries can be determined by a court of three (v. Sanh. 2a).
- (21) And consequently he must be assessed anew.

## **Talmud - Mas. Arachin 20a**

to be estimated once [only],<sup>1</sup> or perhaps since he vowed one time after the other, he is [formally] to be estimated twice? And if you find a reason for saying that because he vowed one time after the other he is to be estimated twice, what is [the law] if he said, 'Twice my worth do I vow'? [Do we say] he has definitely vowed only once and hence he should be estimated only once, or perhaps since he said, 'Twice' it is to be as if he had vowed one time after the other? And if you find a reason for saying that since he said, 'Twice' it is to be as if he had vowed one time after the other, what is [the law] if they had estimated him incidentally?<sup>2</sup> Do we say. Behold he stands estimated, or do we require intention for an estimation [to be valid]? — Solve at least one [of these questions], for we learnt: [If one said,] 'I vow my worth' and died, the heirs need not give anything', because a dead man has no worth.<sup>3</sup> Now if you were to say that if they had estimated him incidentally the estimate would be considered valid, then he, too, stands estimated already; for is there a person who is not worth four zuz [at least]? — [No,] one estimated incidentally has been estimated at any rate, but one who merely said: 'I vow my worth', has not reached [the stage of] estimation at all.

MISHNAH. VALUATIONS ARE IN THE DIRECTION OF MORE STRINGENCY THAN VOWS OF WORTH. HOW IS THAT? IF ONE SAID: I VOW MY VALUATION AND THEN HE DIES. HIS HEIRS MUST PAY IT. [BUT IF HE SAID:] I VOW MY WORTH AND THEN HE DIES, THEN HIS HEIRS NEED NOT PAY ANYTHING BECAUSE DEAD PERSONS HAVE NO WORTH [MARKET-VALUE]. [IF HE SAID,] 'THE VALUATION OF MY HAND OR FOOT I VOW', HE HAS SAID NOTHING, [BUT IF HE SAID,] 'I VOW THE VALUATION OF MY HEAD OR OF MY LIVER', HE MUST PAY HIS WHOLE valuation. THIS IS THE GENERAL RULE: [WHENEVER HE VOWED THE VALUATION OF ANY] THING ON WHICH HIS LIFE DEPENDS. HE MUST PAY HIS VALUATION IN FULL. [IF HE SAID:] 'I VOW. HALF MY VALUATION', HE MUST PAY HALF HIS VALUATION, [BUT IF HE SAID,] 'THE VALUATION OF ONE HALF OF ME HE MUST PAY HIS WHOLE VALUATION. [IF HE SAID] 'HALF OF MY WORTH I VOW', HE MUST PAY HALF HIS WORTH. [IF HE SAID,] 'I VOW THE WORTH OF ONE HALF OF ME, HE MUST PAY HIS WHOLE WORTH. THIS IS THE GENERAL RULE: [IF HE VOWED] THE WORTH OF ANYTHING ON WHICH HIS LIFE DEPENDS, HE MUST PAY HIS WHOLE WORTH. IF HE SAID: I VOW THE VALUATION OF SO-AND-SO', AND BOTH THE VOWER AND THE SUBJECT OF THE VOW DIED, THEN THE HEIRS MUST PAY IT. [IF HE SAID,] 'THE WORTH OF SO-AND-SO I VOW', AND THE

VOWER DIED, THE HEIRS MUST PAY IT. BUT IF THE SUBJECT OF THE VOW DIED, THE HEIRS NEED NOT PAY ANYTHING BECAUSE DEAD PERSONS HAVE NO WORTH.

GEMARA. Our Rabbis taught: Vows of worth are in the direction of greater stringency than vows of valuations, for vows of worth apply to cattle, game and birds, and are not estimated according to sufficiency of means, whereas it is not so with valuations. Valuations are in the direction of greater stringency than vows of worth. How is that? If one said: 'I vow my valuation' and then died, his heirs must pay it; [but if he said,] 'I vow my worth' and then died, his heirs need not give anything, for dead persons have no worth [market-value].

'If he said: "I vow my valuation" and then died, his heirs must pay.' We infer therefrom that an oral debt may be collected from the heirs?<sup>4</sup> — It is different here because it is a debt arising from the law of the Torah. Then we may infer from here that a debt arising from the law of the Torah has the force of one acknowledged in a document of indebtedness? — Here we speak of the case where he stood before the court.<sup>5</sup> Then, in the same situation where he had said: 'I vow my worth', if he stood before the court, why should the heirs not have to pay? — Because in the case of where he says, 'I vow my worth', he still lacked estimate, whilst in the case where he had said, 'I vow my valuation', he lacked nothing.<sup>6</sup>

I VOW THE VALUATION OF MY HAND OR OF MY FOOT etc. R. Giddal in the name of Rab said: And he must pay its worth [market-value]. But it was said, He has said nothing? — He has said nothing according to the Rabbis, but he must pay according to R. Meir.<sup>7</sup> But he [R. Giddal] has said that once already, for R. Giddal had said in the name of Rab: [If someone said:] 'I vow the valuation of this vessel', he must pay its market-value?<sup>8</sup> You might have said: There [he must pay the market-value] because a man knows that a vessel is not subject to valuation, therefore he had made up his mind to [use the phrase meaning, however, its] worth. But here he was really mistaken, in that he believed that just as there is valuation to 'my hand or liver', there is one to 'my foot or hand', but he never meant the market-value; therefore he informs us [that he must pay the market-value nevertheless].

THE VALUATION OF MY HEAD OR MY LIVER', HE MUST PAY HIS WHOLE VALUATION. Why? — The Divine Law said: souls.<sup>9</sup>

THIS IS THE GENERAL RULE: [WHENEVER HE VOWED THE VALUATION OF] ANYTHING ON WHICH HIS LIFE DEPENDS, HE MUST PAY HIS VALUATION IN FULL. That includes [his saying: I vow the valuation of anything] from the knee upwards.<sup>10</sup>

HALF OF MY VALUATION etc.' Our Rabbis taught: [If a man said:] 'I vow half my valuation', he must pay half his valuation. R. Jose son of R. Judah says: He receives punishment and must pay his full valuation.<sup>11</sup> Why [should he be punished]? — Said R. Papa: He receives the punishment of having to pay the full valuation. What is the reason? — [It means,] We are stringent about the vow, 'Half of my valuation' because [of its possible confusion with] 'The valuation of one half of him', and the valuation of the half of oneself is tantamount to [the valuation of] something on which one's life depends.

HALF OF MY WORTH DO I VOW etc. [BUT IF HE SAID:] 'I VOW THE WORTH OF ONE HALF OF ME, HE MUST PAY THE WHOLE OF HIS WORTH. What is the reason? — Scripture said: A vow of persons [souls] according to thy valuation.<sup>12</sup> THIS IS THE GENERAL RULE: [WHENEVER HE VOWED THE VALUATION OF] ANYTHING ON WHICH LIFE DEPENDS, HE MUST PAY HIS WHOLE VALUATION. That includes his vowing the worth of anything from the knee upwards.<sup>13</sup>

Our Rabbis taught: If one vows half the valuation of a vessel, then R. Meir says he must pay its market-value, whereas the Sages say he need not pay anything. Rabbah was ill. Abaye and the Rabbis entered his home. They were sitting and saying: That is right according to R. Meir for he holds that 'no man utters his words in vain [without purpose]', there being no difference whether one half or the whole is concerned. But [the difficulty is with] the Rabbis. What is their view? If they hold a man does utter his words in vain, then he should be free from any obligation to pay even if he said, [I vow the valuation] of a whole vessel; and [if they hold] that a man does not utter his words in vain, then he ought to pay even though he vowed half of its valuation? — Rabbah answered them: The Rabbis here hold with R. Meir and with R. Simeon: They hold with R. Meir that no man utters his words in vain, and they agree with R. Simeon who said [that he<sup>14</sup> is exempt] because he did not make a freewill-offering in the manner proper to those that make freewill-offerings. Now it would make a full gift for one to vow a whole [vessel], but it is not usual to vow only half [a vessel].<sup>15</sup>

IF SOMEONE SAID: 'I VOW THE VALUATION OF SO-AND-SO AND THEN THE VOWER DIED etc. How is this [case] to be explained? presumably that he stood before the court?<sup>16</sup> But that is the same as the other?<sup>17</sup> — It is necessary [to state that] because of the second clause: [If he said,] 'I vow the worth of So-and-so'. and he who vowed died, then the heirs must pay it

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- (1) Making, of course, a twofold payment.
  - (2) I.e., not with any particular purpose in view.
  - (3) V. next Mishnah.
  - (4) And elsewhere it was left an undecided question.
  - (5) To have his payment enforced.
  - (6) The payment being determined according to age and sex by the law in Lev. XXVII.
  - (7) V. supra 5a.
  - (8) R. Giddal holds with R. Meir (supra 5a) that no man utters his words in vain, hence, whilst careless as to technical terms, he has something definite in mind. A vessel not being subject to valuation, he must have had in mind its market-value.
  - (9) Persons, souls (life), all members or parts of the body upon which life depends can be dedicated, their value being equal to the valuation of the whole person.
  - (10) The suggestion is that the removal of any part of the body above the knee would constitute a danger to life, hence would mean the valuation of the person. just as if somebody said: I 'vow my liver, or my heart'.
  - (11) 'Lakah', the term, tech. for the thirty-nine stripes, means literally to suffer', 'to be at a disadvantage'; hence R. Papa's interpretation. Cf. B.M. 43a.
  - (12) Lev. XXVII, 2. The some interpretation as to vitality of the organ concerned applies to both vows of worth and valuations.
  - (13) V. supra p. 118, n. 4.
  - (14) Who vowed to bring a meal-offering of barley. v. Men. 103a.
  - (15) Therefore, if he had evaluated a whole object on the principle that no man utters words in vain, he would have been considered liable. But an unusual gift made in the additionally abnormal form of half of an object must have been meant 'in vain', not seriously. hence the Rabbis decide that he need not pay anything at all.
  - (16) To be assessed.
  - (17) Above, exactly the same case was reported, and interpreted also as one in which he stood before the court. Why then this repetition?

## Talmud - Mas. Arachin 20b

. Now you might have said: Since there has been no estimate,<sup>1</sup> his possessions are not subject [to payment], therefore we are informed that since he stood before the court, his possessions have [automatically] become liable [for the vow], the estimating being a mere statement of fact [as to the monetary value].

MISHNAH. [IF SOMEONE SAID:] THIS OX SHALL BE A BURNT-OFFERING. OR THIS HOUSE SHALL BE AN OFFERING,<sup>2</sup> AND THE OX DIED OR THE HOUSE FELL DOWN, HE IS FREE FROM PAYING [THEIR WORTH]. [BUT IF HE SAID:] 'I VOW THIS OX AS A BURNT-OFFERING' OR 'THIS HOUSE AS AN OFFERING AND THE OX DIED, OR THE HOUSE FELL DOWN. THEN HE IS OBLIGED TO PAY [THEIR WORTH].<sup>3</sup>

GEMARA. R. Hiyya b. Rab said: This has been taught only for the case where he said: 'I vow<sup>4</sup> the worth of this ox for a burnt-offering', but if he said: 'I vow this ox as a burnt-offering', since he had said 'this' and [this one] died, he is not obliged [to make restitution for it], for he [merely] meant: '[I vow] to bring him'.<sup>5</sup>

An objection was raised: [If he said,] 'This ox shall be a burnt-offering', then the ox is sacred property and the law of sacrilege applies to it.<sup>6</sup> If it die or be stolen, he is not obliged to make restitution. [But if he said:] 'I vow this ox as a burnt-offering', the ox becomes sacred property and the law of sacrilege applies to it. If it died or is stolen, he is obliged to make restitution! — Is this [teaching] any stronger than our Mishnah? There we assumed it refers to the case where he said: 'I vow its worth', thus here too, the reference is to the case where he said: 'I vow its worth'. But since the second part speaks of the case where he said 'the worth', the first must needs speak of the case where he did not say 'the worth'! For the second part reads: [If he said:] The money of the ox shall be a burnt-offering, then the ox remains profane, and the law of sacrilege does not apply to it. If it die or be stolen, he is not obliged to make restitution. But he is obliged to make restitution for his money?<sup>7</sup> — Both the first and the second part speak of the case where he said: 'Its money value'; but in the first case he said: 'The ox be sanctified in respect of its money', in the second he said: 'The money thereof be sanctified when realized'. But how can a man sanctify a thing that is non-existent?<sup>8</sup> Said Rab Judah in the name of Rab, This is in accord with R. Meir who said: A man may sanctify a thing that is non-existent.

Some say. R. Papa said to Abaye (or, according to others, Rama b. Hama said to R. Hisda): According to whom will [this teaching be]? According to R. Meir, who holds a man may consecrate a thing that is non-existent? He replied: According to whom else [will it be]?

Some refer it to the following: If a man rents a house to his neighbour and it became leprous, then although the priest has declared it definitely leprous, he could say to him: Behold. before you lies your own!<sup>9</sup> If the priest has broken it down, he is obliged to place another one at his disposal;<sup>10</sup>

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(1) Sc. of the worth of the one who has been vowed.

(2) For the repair of the Sanctuary. v. Num. XXXI, 50. where such gifts, too, are called korban, 'offering'.

(3) Tosaf, interprets this Mishnah thus (s.v. אומר): If someone used the expression. 'this ox' or 'this house' shall be an offering. and the ox died or the house fell down, then he is not obliged to pay because he made the vow contingent upon these objects or upon their value when extant. But if he said: 'I vow (lit., "(I take) upon me") this ox or house', then he makes the payment depending on none but himself, and he must redeem his pledge independent of the condition or existence of the objects (referred to). Maimonides makes this distinction: The preceding Mishnah taught: Dead persons have no market-value. This applies only to human beings. Oxen, however, have value even when dead.

(4) V. supra p. 120, n. 5.

(5) I.e., if possible, to make every effort to do so. But his obligation extended only to this ox; he assumed no responsibility for any accident (like death) that would render his effort futile.

(6) V. Lev. V, 15ff.

(7) If it is sold and the money obtained as proceeds is lost.

(8) Lit., 'that has not come into the world'. How then can the consecration operate at all in the second clause?

(9) The owner can say to him who rented it: The house I rented to you is here. That it became leprous is your misfortune.

(10) If the priest broke down the house, then the rented house being no more available, the owner must provide a new house for the use of him who had rented it.

## Talmud - Mas. Arachin 21a

if he consecrated it, then he who dwells therein must pay rent to the Sanctuary. [It says,] 'If he consecrated it, then he who dwells therein must pay the rent to the Sanctuary'. But how could he have consecrated it; does not the Divine Law say. And when a man shall sanctify his house,<sup>1</sup> i.e., just as his house is in his possession, so [can he sanctify only] such things as are in his possession? — This is what it means: If he who leases it consecrates it, then he who dwells therein must pay rent to the Sanctuary. You say, 'If he who leases it consecrated it', but how could he dwell therein? Surely he is committing sacrilege? Furthermore [it says]: 'He must pay rent to the Sanctuary'? Once sacrilege has been committed its rent becomes profane? — It speaks of the case where he said: 'As soon as the rent comes in, it shall be sanctified'. But no man can sanctify anything that is non-existent? — That is in accord with R. Meir who said: A man may sanctify a thing that is non-existent.

Some say R. Papa said to Abaye (others, that it was Rama b. Hama said to R. Hisda). According to whom [will this teaching be]? According to R. Meir. who said. A man may sanctify a thing that is non-existent? — He replied: According to whom else [will it be]?

MISHNAH. A PLEDGE IS TO BE TAKEN FROM THOSE WHO OWE [MONEY DUE FROM] VALUATIONS, BUT NOT FROM THOSE WHO OWE SIN-OFFERINGS OR GUILT-OFFERINGS.<sup>2</sup> A PLEDGE MUST BE TAKEN FROM THOSE WHO OWE BURNT-OFFERINGS OR PEACE-OFFERINGS AND ALTHOUGH NO ATONEMENT IS OBTAINED FOR HIM UNTIL HE AGREES, AS IT IS SAID: LIRZONO, HE IS TO BE COERCED UNTIL HE SAYS: I AGREE.<sup>3</sup> THUS ALSO IS IT THE CASE WITH A DOCUMENT OF DIVORCE: THEY COERCE HIM UNTIL HE SAYS: I AGREE.

GEMARA. R. Papa said: It may happen that a pledge is taken from those who owe sin-offerings, and that none is taken from those who owe burnt-offerings. A pledge is taken of those who owe a sin-offering, that is in the case of a Nazirite. For since a Master said: If he shaved his hair after having offered one of the three sacrifices due,<sup>4</sup> he has fulfilled his duty, and if the blood of one of them has been sprinkled, he is permitted to drink wine and to defile himself with a dead person; therefore he might be negligent about it<sup>5</sup> and not bring it, [therefore one compels him to do so]. No pledge is taken from those who owe burnt-offerings: this refers to the burnt-offerings due from a woman who has given birth. Why is that? [presumably] because Scripture cites it first?<sup>6</sup> But did not Raba say: It is only in the reading [in the text] that Scripture has placed it first but not in respect of the offering itself? — Rather, it refers to the burnt-offering due from a leper, for it was taught: R. Johanan b. Beroka said: Just as his sin-offering and his guilt-offering are indispensable for [his becoming clean again]. so is his burnt-offering indispensable.

AND ALTHOUGH NO ATONEMENT IS OBTAINED FOR HIM UNTIL HE AGREES. Our Rabbis taught: He shall offer it,<sup>7</sup> that teaches that one forces him to do so. One might have thought, against his will? Therefore the text states: Lirzono.<sup>8</sup> How is that? He is coerced until he says. 'I will'. Samuel said: A burnt-offering requires his agreement, for it is said: 'Lirzono'. What is he teaching Us, we have learnt already: ALTHOUGH HE CANNOT OBTAIN ATONEMENT UNTIL HE AGREES, AS IT IS SAID: LIRZONO? — It is necessary [for Samuel to mention it] for the case where his fellow put one aside for him. You might have said: We need his agreement only in the case of an offering from his own [possession] but not from his fellow's, therefore we are informed that [it may happen] at times it may not please him to obtain atonement through something not of his own.

An objection was raised: [If he said,] 'I vow the sin-offering or guilt-offering due from So-and-so'



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(1) Lev. XXVII, 14.

(2) In the latter case the person will make every effort to obtain atonement through offering the sacrifice. In the former, where but the redemption of a pledge is involved, he might be negligently delaying it. The exceptions to each rule the Gemara mentions and explains.

(3) Lirzono, 'with his agreement' (E.V. that he may be accepted).

(4) Num. VI, 14. The Nazirite must offer up a burnt-offering, a sin-offering and a peace-offering. Thereupon he may (ibid. 18) shave his hair, at the end of his Naziriteship.

(5) I.e., the sin-offering, if he happened to have brought the others first.

(6) Lev. XII, 6. The woman shall bring a lamb . . . for a burnt-offering, . . . and a young pigeon for a sin-offering, implying that the burnt-offering is indispensable to her cleansing. Actually, however, the sin-offering is offered up first.

(7) Lev. I, 3.

(8) Lirzono, 'with his agreement' (E.V. that he may be accepted).

## Talmud - Mas. Arachin 21b

then if it is with the latter's [knowledge and] agreement, he has fulfilled his duty, but without his [knowledge and] agreement he has not fulfilled it. [If he said,] 'I vow the burnt-offering or peace-offering of So-and-so', then he has fulfilled his obligation, whether it was done with his knowledge or not?<sup>1</sup> — Samuel will answer you: This was taught with regard to the time of the [obtainment of] atonement,<sup>2</sup> he having agreed at the time the sacrifice was [designated] separated [for his purpose]; whereas I refer to [his agreement necessary] at the time of its being separated. Now this is in conflict with the view of 'Ulla; for 'Ulla said: They have made no distinction between burnt-offering and sin-offering except in this: the sin-offering requires the agreement [of the one who has to bring it] at the time of its designation, whereas the burnt-offering needs no such agreement. But as for the time of the atonement, in the case of either: If with his agreement he has fulfilled his duty, if not with his agreement, he has not fulfilled his duty.

An objection was raised: [If he says:] 'I vow the sin-offering, guilt-offering, burnt-offering, or peace-offering due from So-and-so' then [if they are offered] with the latter's agreement, he has fulfilled his obligation. without the latter's agreement. he has not done so? — Samuel refers this teaching to the time of the designation. 'Ulla to that of the atonement.

R. Papa said: The two Baraitas<sup>3</sup> do not contradict one another; one refers to the time of the atonement, the other to that of the designation. Nor do they contradict the Amoraim, Samuel interpreting the first as referring to the time of the atonement, and the second as dealing with the time of the designation; whereas 'Ulla interprets them inversely. The Amoraim, however, surely differ. But that is self-evident? You might have said: When Samuel says that he refers it to 'the time of the designation',<sup>4</sup> he means, 'Also to the time of the designation', although thereby the first Baraita would be contradicting him,<sup>5</sup> therefore we are informed [otherwise].<sup>6</sup>

THUS ALSO IS IT THE CASE WITH A DOCUMENT OF DIVORCE: ONE COERCES HIM etc. R. Shesheth said: If one utters a protest with regard to a document of divorce,<sup>7</sup> then his protest is valid. Is not that self-evident? — No. It is necessary to state that for the case where he was first coerced and then agreed thereto. You might have said he has [by his agreement] cancelled his protest, therefore we are informed his protest stands. For [if it were not so] let [the Mishnah] state: [One coerces him] 'Until he gives it'. What is the meaning of UNTIL HE SAYS? [Hence it means,] Until he cancels his protest [expressly].

## CHAPTER VI

MISHNAH. [THE PROPERTY] OF ORPHANS WHICH HAS BEEN VALUED<sup>8</sup> [MUST BE

PROCLAIMED FOR] THIRTY DAYS, AND [THE PROPERTY OF] THE SANCTUARY WHICH HAS BEEN VALUED [FOR] SIXTY DAYS; THE PROCLAMATION MUST BE MADE IN THE MORNING AND IN THE EVENING.

GEMARA. Why in the morning and in the evening? — Rab Judah said in the name of Rab: At the time when the labourers leave [work] and at the time when they enter [upon their work]. ‘At the time when the labourers leave’, for there may be someone desirous of buying, who would say to them: ‘Go and examine it for me’. ‘At the time when they enter [upon their work]’, so that he may remind himself of what he had told them and ask them. Thus was it also taught: [The property] of orphans which has been valued [must be proclaimed] for thirty days, that of the Sanctuary for sixty days, the proclamation to be made in the morning and in the evening, at the time when the labourers leave, and at the time when they enter. [The proclaimer] says, The field of So-and-so, of these characteristics and boundaries, is of such and such quality,<sup>9</sup> and is valued at so much. Let whosoever wants to buy it come and buy it for the purpose of paying a woman her kethubah<sup>10</sup> or a creditor his debt. Why is it necessary to state ‘for the purpose of paying a woman her kethubah or a creditor his debt’? Because there are some who would prefer dealing with a creditor who is lenient with regard to the coins,<sup>11</sup> while others prefer dealing with a woman, who will take it also in instalments.

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(1) Contra Samuel.

(2) I.e., the time of the actual sacrifice, through which atonement is being obtained.

(3) The one teaching that if one vowed the burnt-offering and peace-offering of someone else, the latter fulfilled his duty whether that offering had come with or without his knowledge; and the other teaching that in every case knowledge of him on whose behalf they were offered was indispensable.

(4) I.e., that at all times agreement of the person on whose behalf the burnt-offering is sacrificed is necessary.

(5) Which said that the person on whose behalf the burnt-offering was offered up fulfilled his duty whether he knew (and agreed) or not.

(6) I.e., that Samuel requires no agreement at the time of the atonement.

(7) To the effect that he does not give it out of his free will, but calls upon the people present to be his witnesses to the fact that he is forced to give it. Such a protest would invalidate the document.

(8) By the court, for the purpose of providing payment for the creditors, either the marriage settlement of the widow, or the debt contracted by the father.

(9) It produces so much crop.

(10) V. Glos.

(11) The merchant (creditor) will take even imperfect coins, which in the absence of base metal, would after some time become thin. Such would be looked upon with misgiving by the widow, but not by the merchant, who would know whether the depreciation is too serious for him to accept them. On the other hand, he will insist on full payment, whilst the widow, who uses the money for her own needs, rather than for investment in business enterprise, will be willing to accept payment by instalments, thus allowing the purchaser to use the capital for himself in the interval.

## Talmud - Mas. Arachin 22a

Our Rabbis taught: [The property] of orphans which has been valued [must be proclaimed for thirty days], and [that] of the Sanctuary which has been valued, for sixty days. This is the view of R. Meir. R. Judah says: [The property] of orphans that has been valued must be proclaimed for sixty days and [that] of the Sanctuary which has been valued for ninety days. But the Sages say: Both of them for sixty days. R. Hisda said in the name of Abimi: The halachah is: [The property] of orphans that has been valued must be proclaimed for sixty days. R. Hiyya b. Abin sat and reported this law. Said R. Nahman b. Isaac to him: Did you say ‘sixty’ or ‘thirty’? He replied: ‘Sixty’. ‘Of the orphans or of the Sanctuary?’ He answered: ‘Of the orphans’. ‘In accord with R. Meir or with R. Judah’? He replied: ‘With R. Meir’. ‘But R. Meir said "thirty days"?’ He answered: Thus did R. Hisda say: Many a beating did I receive from Abimi because of this [teaching]: If he is to proclaim on consecutive days, then [the period of proclamation] is thirty days; if on Mondays and Thursdays

alone, then it is sixty days.<sup>1</sup> And although if you, Sir, were to count the days [of actual proclamation] it will be only eighteen,<sup>2</sup> still, since the matter is drawn out [over sixty days], people hear about it.

Rab Judah said in the name of R. Assi: One must not distraint upon the property of orphans except if interest was consuming it. R. Johanan says: Either because of a document of indebtedness bearing interest, or because of the kethubah of a woman [so as to save from further payment] on account of her.<sup>3</sup> Why does not R. Assi say. 'Because of a woman's kethubah'? — Because the Rabbis have arranged for them<sup>4</sup> to receive the work of her hands.<sup>5</sup> And the other? — At times that may not be sufficient. We learnt: [THE PROPERTY] OF ORPHANS WHICH HAS BEEN VALUED [MUST BE PROCLAIMED FOR] THIRTY DAYS, AND [THE PROPERTY OF] THE SANCTUARY WHICH HAS BEEN VALUED [FOR] SIXTY DAYS; THE PROCLAMATION MUST BE MADE IN THE MORNING AND IN THE EVENING. What case are we dealing with? Would you say one with a heathen creditor? Would he agree [to wait]?<sup>6</sup> Hence it is self-evident that we are dealing with a case of an Israelite creditor. [But then] if he were to consume interest,<sup>7</sup> would we permit him to do so? — Rather must you say that he is not consuming interest, and yet it is taught: We distraint upon [the orphans' property]. Now this will be right in accord with R. Johanan who will interpret it as referring to the case of a woman's kethubah; but according to R. Assi it is a difficulty? — R. Assi will answer you: But even according to R. Johanan, is it in order? How do we continue to allow her the alimony,<sup>8</sup> which definitely causes them loss, and take up the proclamation, concerning which we do not know if it will show profit or not?<sup>9</sup> — This is no difficulty: the case speaks of one who demands her kethubah in court,<sup>10</sup> in accord with Rab Judah in the name of Samuel. For Rab Judah said in the name of Samuel: One who claims her kethubah before the court receives no more alimony. If so, we should not attend to her at all? — Since we attended to her at the beginning, we attend to her at the end as well.<sup>11</sup> But at any rate, on the view of R. Assi [our Mishnah] presents a difficulty? [No!] Indeed I can maintain that the case is one of a heathen creditor, but the reference is to one who accepted to have his case dealt with in accord with Israelite law.<sup>12</sup> If that is so, let him not take interest. He accepted [Jewish Law] in the one respect, but not in the other.<sup>13</sup>

Come and hear: One may not collect from the property of orphans except the worst land. What case are we dealing with here? Would you say that the creditor is a heathen, he surely would not agree to this!<sup>14</sup> Hence you must say it deals with an Israelite creditor. [But then] if he consumes interest, how could we permit him to do so? Hence you must say that he did not consume interest; and nevertheless we are taught that we distraint upon [the orphans' property]? It will be right for R. Johanan, for he will interpret it as referring to a woman's kethubah. But according to R. Assi, it will present a difficulty? — R. Assi will tell you: But even according to R. Johanan is it right? If it refers to a kethubah, why does he speak of [the property of] orphans, even if it were his own, it could be collected only from the worst land? — That is no difficulty. It will be in accord with R. Meir who holds that a woman's kethubah is collectable from a land of average quality, but if from orphans' property, only from worst land.<sup>15</sup> At any rate, according to R. Assi, the difficulty stands! [No,] indeed I can maintain that we deal with the case of a heathen creditor, but it refers to one who has accepted upon himself that the case be dealt with according to Jewish law. Then let him not take interest either? — The case is that he accepted [the law] in respect of the one thing, but not in respect of the other.

Come and hear: 'For the purpose of paying a woman her kethubah or a creditor his debt'. Now this will be right in the case of a creditor, whether according to one Master or to the other Master,<sup>16</sup> as we have answered it.<sup>17</sup> But as for the case of the kethubah, that will be right according to R. Johanan. but on the view of R. Assi it will present a difficulty! — [We speak here of the case] where the debtor<sup>18</sup> admitted [the debt]. Now that you have come to this [explanation], all the other [teachings]<sup>19</sup> may also be explained as referring to the case that the debtor admitted it.

Meramar collected the kethubah of a divorced woman from the orphans' property, whereupon

Rabina said to him: But Rab Judah has said in the name of R. Assi: One must not distraint upon the property of orphans, except if interest was consuming it. R. Johanan says: Either because of a document of indebtedness bearing interest, or because of the kethubah of a woman [so as to save from further payment] on account of her alimony. And even R. Johanan was including only [the case of] a widow, because her alimony causes them loss, but not in the case of a divorce?<sup>20</sup> — He replied: [The reason for] that ruling of R. Johanan<sup>21</sup> we explain to be ‘for favour's sake’.<sup>22</sup> R. Nahman said: At first I would not distraint upon the property of orphans. But when I heard the statement of our colleague, R. Huna in the name of Rab: As for orphans who enjoy what does not belong to them, let them follow him who left them! from that time on I distraint upon it. Why not at first? — R. Papa said: The paying of a debt is a commandment and [minor] orphans are not obliged to fulfil the commandment. R. Huna the son of R. Joshua said: We say he might have left bundles as security.<sup>23</sup> What is the [practical] difference between them?<sup>24</sup> — When he who owes admitted the debt, or if he was excommunicated and dies in the state of excommunication.<sup>25</sup> They sent from there [Palestine]: [The reference is]<sup>26</sup> to one excommunicated who died in the state of excommunication. And the law is in accord with R. Huna the son of R. Joshua.

We learnt:

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- (1) Until I learnt to understand its apparent contradictions. Abimi taught him that the property of orphans must be proclaimed on the view of R. Meir for sixty days. The disciple, however, knew the above cited Baraitha, that R. Meir limited it to thirty days and thus raised an objection against his Master's teaching. He had forgotten, however, the instruction offered by the same Master, according to which ‘thirty days’ referred to consecutive ones, whereas ‘sixty days’ were required if the proclamation took place only on Mondays and Thursdays. He could thus appreciate his colleague's bewilderment from his own experience of the difficulty.
  - (2) In sixty days there are eight weeks, containing together sixteen Mondays and Thursdays. If the first week started with a Monday, the four remaining days would include one Monday and Thursday again, which would together amount to the eighteen days, during which the news of such proclamation is made.
  - (3) Which likewise consumes the orphans’ property. As long as the widow does not collect her kethubah she receives her maintenance from the property of the orphans.
  - (4) [So R. Gershom. Cur. edd.: for him, i.e., the husband].
  - (5) So that the alimony does not constitute a loss, the earning of the widow making up for it.
  - (6) For the end of the period of the proclamation and forego in the meantime his charge of interest.
  - (7) I.e., he charged interest on the property.
  - (8) During the period.
  - (9) Whether it will fetch a higher price than that valued. Why not then sell the property immediately without waiting for the period of proclamation to expire?
  - (10) She loses her alimony on making such a claim, therefore the orphans suffer no loss during the period of waiting for the payment of her kethubah, due to the effort to sell their property through proclamation.
  - (11) It is but fair that since we took care to see that as a consequence of her having presented her claim for the kethubah, she loses her alimony, thus benefitting the orphans, we should also help her in obtaining her kethubah, because of the claim of which she lost the alimony.
  - (12) And consequently be willing to wait for the end of the proclamation period.
  - (13) I.e., in regard to the taking of interest.
  - (14) To collect his debt only from the worst property.
  - (15) V. supra 21b.
  - (16) I.e., R. Assi or R. Johanan.
  - (17) I.e., the reference is to a heathen creditor who charges interest. Therefore both agree that to protect the orphans we sell their property.
  - (18) The father of the orphans admitted the debt on his deathbed and charged the children to pay it.
  - (19) Cited above in objection to R. Assi.
  - (20) Who does not receive any alimony. so that the orphans suffer no loss.
  - (21) That the property of orphans is distrainted upon for the sake of the kethubah.

(22) I.e., to render men attractive to women, so that the latter will agree to marry them.

(23) The father gave the creditor bundles of valuables as security, whereof his orphans would not, or need not, know.

(24) I.e., whether we accept the reason of R. Papa or R. Huna's.

(25) The court excommunicated the orphans' father for failure to pay his debts, he died whilst still excommunicated. There is no reason for suspecting his having secured the creditor's debt with a bundle of valuables, for if he had been willing to pay he would rather have done it through the court in order to win cancellation of his excommunication. The orphans in this case would have to pay, though on the first reason they would still be exempt.

(26) In all the teachings cited above, the rule that the property of orphans is distrained upon.

## **Talmud - Mas. Arachin 22b**

[THE PROPERTY] OF ORPHANS WHICH HAS BEEN VALUED [MUST BE PROCLAIMED FOR] THIRTY DAYS, AND [THE PROPERTY OF] THE SANCTUARY WHICH HAS BEEN VALUED [FOR] SIXTY DAYS; THE PROCLAMATION MUST BE MADE IN THE MORNING AND IN THE EVENING. Now what case are we dealing with? Would you say with that of a heathen creditor; would he agree [to wait]? Hence it is obvious that it is with that of an Israelite creditor. This then will be in accord with the view of R. Huna the son of R. Joshua, for he will interpret it as referring to the case where he who admitted [the debt]. But according to R. Papa this will present a difficulty? — R. Papa will tell you: If you like, I can tell you the reference is to a kethubah, the reason being 'for favour's sake'! Or if you like, I can tell you the reference is to a heathen creditor who accepted upon himself to have his case dealt with in accord with Israelite law. But if he accepted that upon himself, let him agree to wait until they are of age? — He accepted the law in the one respect, but he did not accept it in the other respect.<sup>1</sup>

Come and hear: For the purpose of paying a woman her kethubah or a creditor his debt. Now what case are we dealing with? Would you say that of a heathen creditor, but would he agree? Hence it is evident that we deal with that of an Israelite creditor. That then will be right on the view of R. Huna the son of R. Joshua. for he will interpret it as referring to the case where the debtor admitted [his debt]. But according to R. Papa: Granted that in the case of a kethubah, where the reason may be 'for favour's sake', but the case of the creditor would present a difficulty? — [No,] [Indeed] I can maintain it deals with a heathen creditor, but in the case where he accepted upon himself to be judged in accord with the laws of Israel. But if he accepted that, let him accept to wait until they are of age? — He accepted upon himself the one thing, but not the other.

Raba said: [We do not distrain upon the orphans' property] because of [a possible] quittance.<sup>2</sup> R. Huna the son of R. Joshua said to Raba: But do we consider [the possibility of] a quittance? Did we not learn: If a woman<sup>3</sup> collects [her kethubah] in his absence, she can do so only by means of an oath. And R. Aha, Commander of the Fortress, said: A case came before R. Isaac the Smith in Antiochia, and he decided, We have learnt<sup>4</sup> that only in the case of a kethubah 'for favour's sake', but not in the case of a creditor. Raba, however, in the name of R. Nahman, said: Also in the case of a creditor.<sup>5</sup> Now, if we should consider the [possibility] of a quittance, let us consider it there too? — There the reason is as we have stated it: Lest anyone take his neighbour's possession and depart for maritime provinces.<sup>6</sup>

Raba said: The law is. We do not distrain upon the property of orphans, but if he [the father] said: 'Give', then we distrain upon it. If he said, '[Give] this field', or 'this mina', we distrain upon it without appointing a guardian.<sup>7</sup> But if he said, '[Give] a field', or 'a mina', we distrain upon it and appoint a guardian. The Nehardeans say: In each case we distrain upon it and appoint a guardian, except if it be found that the field does not belong to him,<sup>8</sup> for we do not assume that the witnesses<sup>9</sup> testified falsely. R. Ashi said: Therefore we do not distrain [upon the property of orphans];<sup>10</sup> for Raba said: The law is that we do not distrain upon [the property of orphans]. But where we distrain upon it, we appoint a guardian for the Nehardeans said. In every case<sup>11</sup> we distrain upon [the

property of orphans] and appoint a guardian. except in the case where it be found that the field does not belong to him, because we do not assume that the witnesses have testified falsely.

- (1) I.e., he agreed to wait till after the proclamation. but not till they would come of age.
- (2) The father may have obtained a quittance, of which the orphans do not know, stating that he had paid the debt.
- (3) To whom the husband had sent a divorce from 'a maritime province'.
- (4) We extend such consideration only to a woman because of the social implications of such benefit, but not in the purely commercial case of a creditor. Therefore the latter must await the debtor's return,
- (5) V. Keth. 88a.
- (6) Hence the rule of Raba.
- (7) To see that the interest of the orphans is taken care of, that the collection of debt is made from the worst land they hold at the proper price. etc.
- (8) In which case the field is forthwith taken away from the orphans without appointing first a guardian.
- (9) The witnesses who testify that a field believed to be his property in reality had been stolen or acquired by force.
- (10) Wherever there is the possibility of the father having given 'bundles' to the creditor (Tosaf.).
- (11) I.e., if he said, 'Give this field', or 'this mina' (Tosaf.).

### **Talmud - Mas. Arachin 23a**

MISHNAH. IF A MAN DEDICATES HIS POSSESSIONS TO THE SANCTUARY WHILST STILL LIABLE FOR HIS WIFE'S KETHUBAH, R. ELIEZER SAYS WHEN HE DIVORCES HER HE MUST VOW<sup>1</sup> THAT HE WILL NOT DERIVE ANY FURTHER BENEFIT FROM HER. R. JOSHUA SAYS, HE NEED NOT DO SO. LIKEWISE SAID RABBAN SIMEON B. GAMALIEL: ALSO IF ONE GUARANTEES A WOMAN'S KETHUBAH AND HER HUSBAND DIVORCES HER, THE HUSBAND MUST VOW TO DERIVE NO BENEFIT FROM HER. LEST HE MAKE A CONSPIRACY<sup>2</sup> AGAINST THE PROPERTY OF THAT MAN [THE GUARANTOR] AND TAKE HIS WIFE BACK AGAIN.<sup>3</sup> GEMARA. Wherein do they differ? R. Eliezer holds: A man will engage in a conspiracy against the Sanctuary. But R. Joshua holds that a man will not engage in a conspiracy against the Sanctuary. But what of the ruling of R. Huna: If a person dangerously ill dedicated all his possessions to the Sanctuary and said, I owe So-and-so a maneh, he is believed, because of the presumption that nobody will engage in a conspiracy against the Sanctuary. Shall we say that he gave a ruling concerning which Tannaim are conflicting? — No! They dispute only the case of a healthy person, but with regard to one dangerously ill all agree that he would not engage in a conspiracy against the Sanctuary. Why? Because no man will sin where he does not stand to benefit [thereby].

Some there are who say: With regard to a healthy person there is a general agreement that one [he] would engage in a conspiracy against the Sanctuary; but here they differ with regard to a vow made in the presence of many, one Master [R. Joshua] holding such a vow can be annulled,<sup>4</sup> while the other Master [R. Eliezer] holds it cannot be annulled. Or, if you like, say: All agree that a vow made in the presence of many can be remitted, and they differ here as to a vow made on the authority of many.<sup>5</sup> But then what of Amemar's statement that 'A vow made in the presence of many can be annulled. whereas one made on the authority of many cannot be annulled', are we to say that he made a statement concerning which Tannaim are of divided opinion? Furthermore how explain: R. JOSHUA SAYS: HE NEED NOT DO SO. He should have said: 'It would be useless'?<sup>6</sup> — Rather, they are disputing here on the principle as to whether absolution from consecration of an object may be obtained;<sup>7</sup> and thus it was taught: If a man dedicates his possessions to the Sanctuary whilst still liable for his wife's kethubah, R. Eliezer says. When he divorces her he must vow that he will not derive any further benefit from her, whilst R. Joshua says: He need not do so. And R. Eleazar b. Simeon said: These are [respectively] the very views of Beth Shammai and Beth Hillel, for Beth Shammai holds: A consecration [to the Sanctuary] made in error is [valid] consecration, whilst Beth Hillel holds it is not valid consecration.

LIKEWISE DID RABBAN SIMEON B. GAMALIEL SAY etc. Moses b. Azri was the guarantor for [the kethubah of] his daughter-in-law. Now R. Huna, his son, was a young scholar but in strait circumstances. Said Abaye: Is there no one to advise R. Huna to divorce his wife so that she might claim her kethubah from her father-in-law, and he [R. Huna] might then take her back? Said Raba to him: But we learnt: HE MUST VOW THAT HE WILL NOT DERIVE ANY FURTHER BENEFIT FROM HER? And Abaye?<sup>8</sup> — Does every one who divorces his wife do so before a court?<sup>9</sup> In the end it became known that he [R. Huna] was a priest.<sup>10</sup> Whereupon Abaye exclaimed: poverty pursues the poor!<sup>11</sup> But how could Abaye say thus?<sup>12</sup> Did not Abaye say: ‘Who is a cunningly wicked man? He who offers advice to sell property in accord with Rabban Simeon b. Gamaliel’?<sup>13</sup> — It is different in the case of one's son, and it is different also in the case of a young scholar.<sup>14</sup> But derive it from the fact that the guarantor for a kethubah is not held responsible?

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- (1) Lest the divorce was a collusion of husband and wife for the purpose of depriving the Sanctuary of certain property on which the kethubah had the first lien.
- (2) R. Joshua does not assume that a man would go to such lengths to defraud the Sanctuary.
- (3) After the kethubah had been paid out to her. Kinunia, the Greek Koinonia, ‘partnership’, then joint fraud, collusion.
- (4) Consequently the vow would be of no effect.
- (5) Lit., ‘by the knowledge’. ‘the will of’, i.e., they say to him: We administer his vow to you on our responsibility.
- (6) Because such a vow could always be revoked, thus rendering the precautionary measure unavailing.
- (7) R. Eliezer holds that no vow to the Treasury can be nullified by a plea of error, hence he might resort to a conspiracy by divorcing his wife. But R. Joshua holds that a plea of error would be admitted, whence there is no need for him to engage in a conspiracy wherefore he need not deny himself by vow the benefit of her company.
- (8) How did he meet this objection?
- (9) Only in court would such a vow be enforced. But the divorce could be given outside of court.
- (10) Who is forbidden to marry a divorcee, even his own divorced wife.
- (11) V. B.K. 92a.
- (12) I.e., offer such advice.
- (13) V. Keth. 95b. If some one said whilst dying. ‘My property (I give) to you, and after you, to So-and-so’, and the first went and sold or consumed it, then according to Rabban Simeon b. Gamaliel, the second may have only what the first left over. That kind of trick Abaye denounced, how then could he offer kindred advice?
- (14) A son would anyway inherit his father's possessions. And a young scholar's support is a mizwah (good deed, command, to enable to study), hence Abaye had two legitimate reasons for what otherwise would have been improper advice.

### **Talmud - Mas. Arachin 23b**

— He<sup>1</sup> was a kabbelan.<sup>2</sup> That will be right according to him who holds that a kabbelan is held responsible, although the debtor had no property [at the time of contracting the debt]. But what can be said on the view that he is held responsible only if the debtor had property, but if he has no property the kabbelan is not responsible?<sup>3</sup> If you like say: R. Huna had property,<sup>4</sup> but it was struck with blast; and if you like say: A father, where his son is concerned, will always hold himself responsible. For it was stated: As to a guarantor for a kethubah, all agree he is not held responsible; the kabbelan for a creditor, all agree is held responsible. [In the case however of] a guarantor for a creditor and a kabbelan for a kethubah, there is a dispute. There is one authority who holds that if the debtor had property he [the kabbelan] is held responsible, but if he had none he is not held responsible: whereas there is another authority who holds that even if the debtor had no property he is also held responsible. The law with regard to all cases is that though the debtor has no property the guarantor is responsible, with the exception of the guarantor for a kethubah who, even though [the husband] had property, is not held responsible. For what reason? He performed a mizwah,<sup>5</sup> and he caused her no loss.<sup>6</sup> There was a man who sold his possessions and divorced his wife. R. Joseph son of Raba sent her to R. Papa [with the following question]: We learnt [in our Mishnah] about A

GUARANTOR. about CONSECRATED PROPERTY, what about a purchaser?<sup>7</sup> — He replied: Shall the Tanna go on enumerating like a pedlar?<sup>8</sup> The Nehardeans said: What we learnt we learnt, and what we did not learn we did not learn!<sup>9</sup> Said R. Mesharshaya: What is the reason of the Nehardeans? — With regard to consecrated property the teaching is in order to safeguard the profit of the Sanctuary; also with regard to a guarantor, [the reason is] because he performed a mizwah and did not cause her any loss;<sup>10</sup> but as for a purchaser, since he must have known that upon everyone's possessions there is a kethubah as lien, why did he go and buy? It is he [the buyer] who caused damage to himself!

MISHNAH. IF A MAN DEDICATES HIS POSSESSIONS TO THE SANCTUARY WHILST STILL LIABLE FOR HIS [DIVORCED] WIFE'S KETHUBAH OR IN DEBT TO A CREDITOR,<sup>11</sup> THEN THE WIFE CANNOT COLLECT HER KETHUBAH FROM THE CONSECRATED PROPERTY,<sup>12</sup> NOR THE CREDITOR HIS DEBT, BUT HE WHO REDEEMS THEM MUST REDEEM FOR THE PURPOSE OF PAYING THE WIFE HER KETHUBAH OR THE CREDITOR HIS DEBT. IF HE HAD DEDICATED NINETY MINAS WORTH OF PROPERTY, WHILST OWING A HUNDRED MINAS. THEN HE<sup>13</sup> [THE CREDITOR] MUST ADD ONE DENAR MORE AND HE REDEEMS THE PROPERTY FOR THE PURPOSE OF PAYING THE KETHUBAH TO THE WIFE OR THE DEBT TO THE CREDITOR.

GEMARA. Why is it necessary to state: He who redeems must redeem?<sup>14</sup> — That is because of the teaching of R. Abbuha, for R. Abbuha said: Lest people say consecrated property goes out [of the Sanctuary] without any redemption.

Our Mishnah will not be in accord with R. Simeon b. Gamaliel, for it was taught: R. Simeon b. Gamaliel said, If his debt correspond, with [the value of] the consecrated property. then he redeems it, but if not, then he cannot redeem it.<sup>15</sup> And as for the Rabbis, to what extent [must the debt correspond to the consecrated property]? — R. Huna b. Judah in the name of R. Shesheth said: Up to one half.<sup>16</sup>

MISHNAH. ALTHOUGH IT WAS SAID: PLEDGES MUST BE TAKEN FROM THOSE WHO OWE VALUATIONS, ONE ALLOWS<sup>17</sup> HIM FOOD FOR THIRTY DAYS, GARMENTS FOR TWELVE MONTHS, BED AND BEDDING, SHOES AND TEFILLIN<sup>18</sup> FOR HIMSELF, BUT NOT FOR HIS WIFE AND CHILDREN. IF HE WAS A CRAFTSMAN, ONE LEAVES HIM TWO TOOLS OF EVERY KIND; IF HE WAS A CARPENTER, ONE LEAVES HIM TWO AXES AND TWO SAWS. R. ELIEZER SAYS, IF HE WAS A FARMER, ONE LEAVES HIM HIS YOKE [OF OXEN]. IF AN ASS-DRIVER, ONE LEAVES HIM HIS ASS. IF HE HAD MANY [TOOLS] OF ONE KIND, AND FEW OF ANOTHER KIND, ONE DOES NOT THEN TELL HIM TO SELL OF THE MANY AND BUY SOME OF THE FEW, BUT ONE LEAVES HIM TWO OF THE KIND OF WHICH HE HAS MANY AND ALL THAT HE HAS FROM THEM OF WHICH HE HAS FEW. IF ONE CONSECRATES [ALL] HIS POSSESSIONS TO THE SANCTUARY, THEN ONE VALUES<sup>19</sup> HIS TEFILLIN.

GEMARA. What is the reason?<sup>20</sup> — Scripture said:

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(1) R. Huna's father.

(2) 'An acceptor'. i.e., one who assumes another man's obligation unconditionally, even though the debtor has property.

(3) Since R. Huna was poor he could not have had any property, and his father consequently, though a kabbelan, could not have become liable for the payment of the kethubah.

(4) At the time his father undertook to be a kabbelan.

(5) v. Glos. To cause the two to get married and establish a house.

(6) The woman did not advance the husband any money on the strength of the guarantee. For fuller notes v. B.B.. Sonc. ed., pp. 769ff.



(7) Do we suspect that the purchaser may be victimized by similar conspiracy between husband and wife? Should we therefore similarly insist that if the wife wishes to collect her kethubah from the field bought by an outsider that here, too, the husband takes a vow that he will not in future derive any benefit from his wife, so as to prevent his receiving the kethubah from her, and thereupon remarrying her.

(8) Who, praising each piece of merchandise separately. enumerates every item. The Tanna, however, need not do that. He states a principle in one or several instances, allowing for application of the precedent to new situations. Thus the case of the purchaser is covered by the first two.

(9) The Nehardeans would not derive the latter from the former.

(10) As explained supra.

(11) This is a case where the divorce or the debt were effected before the consecration, so that the question of conspiracy does not arise.

(12) Without a formal redemption of the property with a small sum, v. infra.

(13) He, i.e., the creditor, lends the debtor another denar, since he had consecrated his whole possessions to the Sanctuary.

(14) Why should not the woman and creditor collect their dues from the Sanctuary without any redemption, seeing that they had a prior lien on the property?

(15) If the debt and the property consecrated are of the same value, then the owner can redeem it for a little sum, for the creditor had extended the loan with that property as security in his mind. But if the sum was larger than the value of the property, then obviously the creditor has not relied on that property but upon the character of the debtor. Therefore that property cannot be considered encumbered by the debt, and hence cannot be re-obtained from the Sanctuary.

(16) Rashi: If the value of the consecrated property be less than one half of the debt, the creditor receives nothing. because, as stated in n. 1, the security was the debtor's character, and he should await the latter's ability to repay the debt, but must not collect from the Sanctuary its rightful (because hitherto unencumbered) property. For another interpretation v. Tosaf.

(17) Lit., 'one gives him', i.e., of his own possessions; one permits him to retain these necessities or the means whereby to purchase them.

(18) V. Glos. This is the difference between vows of valuation and the case where one consecrates his possessions. In the former case his tefillin as his spiritual tools are left to him, in the latter not; v. infra.

(19) The meaning of 'ma'alin' is debated. It is either; put up to auction so that the Sanctuary obtains a maximum benefit (Rashi); or, 'remove' i.e., take away, as included in his dedication (R. Gershom). He must redeem them as one of his possessions which, in their totality, he had consecrated to the Sanctuary.

(20) For the allowance made in the Mishnah.

## **Talmud - Mas. Arachin 24a**

But if [me'erkeka] he be too poor from thy valuation,<sup>1</sup> implying, sustain him from thy valuation.<sup>2</sup>

**BUT NOT FOR HIS WIFE AND CHILDREN** etc. What is the reason? — 'He [must be sustained] from thy valuation', but his wife and children [are not sustained] 'from thy valuation'.

**R. ELIEZER SAYS: IF HE WAS A FARMER, ONE LEAVES HIM HIS YOKE [OF OXEN]** etc. And the Rabbis? — These are not his tools, but his possessions.

**IF HE HAD MANY OF ONE KIND** etc. But that is self-evident. Whatever has been enough until now, must be enough now as well? — You might have said: Until now, when he was in a position to lend [tools to others], others would have lent [tools] to him, too, but now since there is none to lend him, [these shall] not be [considered sufficient], therefore we are informed [that he is not told to sell the many and buy some more of the few].

**IF ONE DEDICATES [ALL] HIS POSSESSIONS, THEN ONE VALUES EVEN HIS TEFILLIN.** There was a man who sold all his possessions. He came before R. Yemar. He said to them: Take his tefillin away. What is he teaching us? It is [taught in] our Mishnah: **IF ONE**

DEDICATES HIS POSSESSIONS, THEN ONE VALUES HIS TEFILLIN? — You might have said: There he thought that he was fulfilling a religious act,<sup>3</sup> but in the case of a sale [you might say] no one sells that wherewith he performs a personal commandment, therefore he teaches us [otherwise].

MISHNAH. IT IS ALL ONE WHETHER A MAN CONSECRATES HIS GOODS OR EVALUATES HIMSELF. HE<sup>4</sup> HAS NO CLAIM TO HIS WIFE'S GARMENT OR HIS CHILDREN'S GARMENT, NOR TO THE DYED CLOTHES<sup>5</sup> WHICH HE HAD DYED FOR THEIR USE. NOR TO THE NEW SANDALS WHICH HE HAS BOUGHT FOR THEIR USE. ALTHOUGH IT WAS SAID: 'SLAVES SHOULD BE SOLD WITH THEIR GARMENTS TO INCREASE THEIR VALUE', BECAUSE WHEN A GARMENT FOR THIRTY DENARS IS BOUGHT FOR HIM HIS VALUE IS INCREASED BY A MINA. [LIKEWISE WITH A COW, IF IT BE KEPT WAITING TO THE MARKET-DAY<sup>6</sup> IT INCREASES IN VALUE, AS ALSO A PEARL, IF BROUGHT TO A BIG CITY INCREASES IN VALUE]. BUT THE SANCTUARY CAN CLAIM THE VALUE OF ANYTHING ONLY IN ITS OWN PLACE AND AT ITS OWN TIME.<sup>7</sup> GEMARA. Our Rabbis taught: And he shall give thy valuation in that day,<sup>8</sup> that means, one should not delay [the sale] of a pearl for poor people. As a holy thing<sup>9</sup> unto the Lord:<sup>8</sup> i.e., general [unspecified] consecration belongs to the [fund for] repairs of the Sanctuary.

## CHAPTER VII

MISHNAH. ONE MAY NOT CONSECRATE [THE FIELD OF HIS POSSESSION]<sup>10</sup> LESS THAN TWO YEARS BEFORE THE YEAR OF JUBILEE,<sup>11</sup> NOR REDEEM IT LESS THAN ONE YEAR AFTER THE YEAR OF JUBILEE.<sup>12</sup> ONE MAY NOT RECKON ANY MONTHS TO [THE DISADVANTAGE OF] THE SANCTUARY,<sup>13</sup> BUT THE SANCTUARY MAY RECKON MONTHS<sup>14</sup> [TO ITS OWN ADVANTAGE].<sup>12</sup>

GEMARA. The following contradiction was raised: One may consecrate both before or after the year of Jubilee, but in the year of Jubilee itself one should not consecrate. And if one consecrated, it is not consecrated! — Rab and Samuel both say: [This is what our Mishnah means]. One cannot consecrate and then redeem at a deduction less than two years [before the year of Jubilee], and since one cannot consecrate to redeem at any reduction within less than two years, let a man be careful with his possessions and let him not consecrate anything within less than two years [of the Jubilee year].

It was stated: If one consecrates his field in the year of Jubilee itself, said Rab, It is consecrated and he must pay fifty [shekels].<sup>15</sup> But Samuel said: It has not acquired any sanctity whatsoever. To this R. Joseph demurred: It is right that Samuel conflicts with Rab in matters of a sale, for there is an argument a fortiori: If [a field] that had been sold returns now to its former owner,<sup>16</sup> how much more so that one that had not been sold yet should not be saleable now. But, here,<sup>17</sup> what argument a fortiori can be made? Surely we learnt, If the Jubilee year has arrived and it was not yet redeemed, the priests enter into possession of it and they pay its value. So R. Judah?<sup>18</sup> — Samuel holds with R. Simeon who said: They enter into possession but they do not pay [anything].

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(1) So literally. Lev. XXVII, 8.

(2) The mem of me'erkeka here is interpreted as having its own meaning: If he be too poor, leave him something to live on 'from' your valuation of his possessions.

(3) In consecrating all his possessions to the Sanctuary, therefore he includes all of them in his vow.

(4) The consecrator, in paying his vow or redeeming what he had dedicated. Aliter: It, viz., the treasurer of the Sanctuary (R. Gershom).

(5) The garments of wife or children cannot be touched by any consecration. He would not, according to the previous Mishnah, be allowed funds for buying them new ones, but those which they have are regarded as their own.

- (6) A cow will fetch a higher price on market-day, when the demand is greater, just as the pearl will find more buyers in a metropolis than in a village.
- (7) I.e., the value at the time it comes into the Sanctuary's possession and in the place of dedication.
- (8) Lev. XXVII, 23.
- (9) If a poor man had vowed his own valuation and he possesses a pearl, then the Sanctuary's treasurer may not tell him: Take it to a big city and then pay according to the price fetched there, but it should be valued now and accordingly the Sanctuary should be paid, and no matter how high the ultimate price obtained, the Sanctuary receives no more than the price obtainable here, i.e., at the place where the pearl is at the time of the dedication, and at the price it fetches now, at the moment of dedication.
- (10) Lev. XXVII, 16ff.
- (11) If someone would redeem a field which he had consecrated to the Sanctuary immediately after the year of Jubilee, then he must redeem it by paying fifty shekels for every piece of a field sufficient for the sowing of a homer of barley, for every year of the next forty-nine years. If he fails to redeem it by then, the priests will possess it. Every year this sum is diminished by one forty-ninth of the fifty shekels, exactly one shekel and one pondion (the latter being the forty-eighth part of a shekel), the remaining pondions being considered the exchange fee as the pondions are changed into shekels. The sum of redemption, then, consists of as many shekels and pondions as the number of years up to the next year of Jubilee. But there must be at least two years before the next year of Jubilee, because Scripture said: According to the years which remain unto the year of Jubilee, the minimum of 'years' being two. Hence, if there be not at least two years before that of jubilee, the sum whereby the field is redeemed cannot be deducted from at all, and the owner must then pay the complete fifty shekels for every piece of field sufficient for the sowing of a homer of barley. which sum is very much more than the field's crop, until the year of Jubilee, will be worth.
- (12) This will be explained in the Gemara.
- (13) E.g., two years and three months may not be reckoned as two years to the disadvantage of the Temple treasury.
- (14) E.g., one year and eleven months before the Jubilee is not reckoned as two full years and the redemption price must be the full fifty shekels, v. n. 2.
- (15) A shekel for every piece of field sufficient for the sowing of a homer of barley.
- (16) In the year of Jubilee.
- (17) Here one cannot analogously argue: If a field, already consecrated before the Jubilee year, goes back in the year of Jubilee, how much less could not one consecrate in that year, for in truth a field consecrated before the Jubilee year, if not redeemed by the owners, must be redeemed by the priests.
- (18) V. supra 25b.

## **Talmud - Mas. Arachin 24b**

Rab, however, holds,<sup>1</sup> at any rate, it does eventually not return to the owners, it is to the priests that it goes, and the priests obtain it from the table of the Most High.

What is the reason of Rab's view? — Scripture said: If from the year of Jubilee [he shall sanctify his field],<sup>2</sup> the year of Jubilee being included. And Samuel? — Is it written: If in the year of Jubilee? It is written: If from the year of Jubilee, i.e., from the year after the year of Jubilee. It is all well according to Rab, hence it is written: 'If from the year of Jubilee', [and also], 'and if after the Jubilee';<sup>3</sup> but according to Samuel what means: 'and if after the Jubilee'?<sup>4</sup> — It means, After after.<sup>5</sup>

An objection was raised: One may consecrate [a field] both before and after the year of Jubilee. But in the year of Jubilee itself one should not consecrate, and if one has consecrated, no sanctity attaches [to the field].<sup>6</sup> Rab will tell you: [It means] it acquires no sanctity so as to be redeemable at a deduction, but it is consecrated and one must pay the full fifty shekels [for the redemption]. This implies that [if one consecrates] before the Jubilee year it would be sanctified and redeemable at a deduction; but have not Rab and Samuel both declared: One cannot consecrate to redeem at a deduction less than two years before the Jubilee? — Rab will tell you: This is the view of the Rabbis, but I hold with Rabbi, who said: The first<sup>7</sup> [day] includes the first day; the seventh [day]<sup>7</sup> includes the seventh day.<sup>8</sup> So here, too, 'from the year' [of Jubilee] includes the year of Jubilee.<sup>9</sup> But if [this

is the view of] Rabbi, where does the pondion come in?<sup>10</sup> And if you were to say, he ignored the pondion: surely we learnt: If a man consecrated two or three years before the Jubilee. said Rabbi: I hold that he must pay a sela' [shekel] and a pondion? — Rabbi is of the view of R. Judah who said: The fiftieth year is counted both ways.<sup>11</sup>

Shall we say then that Samuel<sup>12</sup> holds Rabbi to be in accord with the Rabbis?<sup>13</sup> For if his [Rabbi's] view were in accord with that of R. Judah, it should read: 'one sela' and two pondions'!<sup>14</sup> Hence we must say that on the view of Samuel, Rabbi<sup>15</sup> agrees with the Rabbis.

Come and hear: NOR REDEEM IT LESS THAN ONE YEAR AFTER THE YEAR OF JUBILEE. This will be right for Samuel's view,<sup>16</sup> for one cannot indeed redeem it less than one year after the year of Jubilee;<sup>17</sup> but according to Rab, what means 'Not less than a year after the Jubilee'? — Do you think that 'after the year of Jubilee' is to be taken literally? [No]. 'After the year of Jubilee' means in the midst of the Jubilee

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(1) Even on the view of R. Simeon.

(2) Lev. XXVII, 17.

(3) Ibid. 18. [The former verse indicating that if the consecration took place on Jubilee year the redemption price must be the full fifty shekels, and the second verse teaches the redemption at a reduction where the consecration took place after the Jubilee.]

(4) [Since the former verse also refers to a consecration after the Jubilee year.]

(5) [I.e., two or three years after the Jubilee, when there the redemption is at a reduction, whereas if the consecration took place earlier the redemption price must be the full fifty shekels.]

(6) Contra Rab!

(7) Ex. XII, 15.

(8) V. supra 18a q.v. notes.

(9) [Whilst the cited Baraita must certainly be explained that no consecration is effective in the Jubilee year, Rab does not stand refuted in view of Rabbi's support of his interpretation of the verse.]

(10) If Scripture refers to the second year after the Jubilee, so that fifty shekels are payable for forty-eight years. the redeemer must add one pondion to each shekel (v. supra p. 142 n. 2); but according to Rabbi, Scripture speaks of the year of Jubilee itself, so that fifty shekels are payable for fifty years, i.e., just a sela' per year; how then does the pondion come in?

(11) The year of Jubilee is the last of the last cycle and the first of the new one, so that there are forty-nine years for each of which a shekel and a pondion are due from the redeemer.

(12) [Who holds that the redemption at a reduction can only begin with the year after the Jubilee.]

(13) That the Jubilee year is not included in the cycle of forty-nine years, so that there are full forty-nine years between one Jubilee and another apart from the Jubilee year itself.

(14) For on the view of R. Judah there are only forty-eight years between one Jubilee and another, which would make the payment per year amount to one shekel and two pondions.

(15) Who speaks of 'one pondion'.

(16) Who said that if one consecrated property in the year of Jubilee, it is not consecrated.

(17) Since any consecration in the year of Jubilee is not valid.

## **Talmud - Mas. Arachin 25a**

for as long as a year is not complete it cannot be deducted.<sup>1</sup> What is he teaching us? That one does not reckon months to the disadvantage of the Sanctuary? But that was [expressly] taught [in the Mishnah]: ONE MAY NOT RECKON ANY MONTHS TO THE [DISADVANTAGE OF] THE SANCTUARY? — He gives the reason: Why is it ruled: NOR REDEEM IT LESS THAN ONE YEAR AFTER THE YEAR OF JUBILEE? Because one does not reckon the months to [the disadvantage] of the Sanctuary.

Our Rabbis taught: Whence do we know that one does not reckon months to the [disadvantage of] the Sanctuary? The text states: Then the Priest shall reckon unto him the money according to the years that remain,<sup>2</sup> i.e., you may reckon years but not months. Whence do we know that if you desire to add the months [so as] to consider them one year, you can do so; as e.g., if he consecrated [the field] in the middle of the forty-eighth year?<sup>3</sup> Therefore the text states: Then the priest shall reckon unto him, in any case.<sup>4</sup>

MISHNAH. IF A MAN CONSECRATED HIS FIELD AT THE TIME WHEN THE LAW OF THE JUBILEE IS IN FORCE,<sup>5</sup> HE MUST PAY FIFTY SHEKELS FOR [EVERY PIECE OF FIELD SUFFICIENT FOR] THE SOWING OF A HOMER OF BARLEY. IF THE FIELD CONTAINED RAVINES TEN HANDBREADTHS DEEP OR ROCKS TEN HANDBREADTHS HIGH, THEY ARE NOT INCLUDED IN THE MEASURE. BUT IF LESS THAN THIS, THEY ARE INCLUDED. IF HE CONSECRATED IT TWO OR THREE YEARS BEFORE THE JUBILEE, THEN HE MUST PAY ONE SELA' [SHEKEL] AND ONE PONDION FOR EACH YEAR. IF HE SAYS: 'I SHALL PAY FOR EACH YEAR AS IT COMES ONE DOES NOT LISTEN TO HIM, BUT HE MUST PAY FOR ALL THE YEARS TOGETHER. IT IS ALL THE SAME WHETHER THE OWNER OR ANYONE ELSE [REDEEMS THE FIELD]. WHEREIN THEN DOES THE OWNER DIFFER FROM ANY OTHER MAN? IN THAT THE OWNER MUST ADD ONE FIFTH, WHEREAS ANY OTHER MAN NEED NOT ADD ONE FIFTH.

GEMARA. A Tanna taught: [A field requiring] one kor<sup>6</sup> seed, but not one [yielding] a kor crop. Strewn with the hand, not with oxen!<sup>7</sup> Levi taught: Neither too thick, nor too thin, but in average manner!

IF THE FIELD CONTAINS RAVINES etc. But let them be treated as if they had been consecrated separately? And if you were to say that since they are not sufficient for [the sowing of] a kor, they cannot become consecrated; surely it was taught: Field.<sup>8</sup> What does that mean to teach? Because it is said: the sowing of a homer of barley shall be valued at fifty shekels of silver;<sup>8</sup> from this I know only [the law] if he consecrated it in this manner. Whence [do I know] to include also a lethek, half a lethek, a se'ah, or half a se'ah, a tarkab, or half a tarkab?<sup>9</sup> Therefore Scripture says 'Field', of any size! Mar Ukba b. Hama replied: Here the reference is to ravines full of water which cannot be sown. Infer that also [from the fact] that [the clefts] were mentioned in an analogous position to that of rocks.<sup>10</sup> This proves it. But then also smaller [areas than ten handbreadths] too [ought not to be included]? — Those are called small 'clefts of the earth' or 'spines of the earth'.<sup>11</sup>

IF HE CONSECRATED IT TWO OR THREE YEARS etc. Our Rabbis taught: And an abatement shall be made from thy valuation,<sup>12</sup> also from the Sanctuary; so that if the Sanctuary enjoyed the property for two or three years, or even if it did not enjoy it, but had it in its possession, one may deduct one sela' and one pondion for each year.

IF HE SAYS: I SHALL PAY EACH YEAR etc. Our Rabbis taught: Whence do we know, that if the owner said, 'I shall pay for each year as it comes' that we do not listen to him? Therefore the text says: 'Then the priest shall reckon unto him the money', i.e., until the whole sum is together. It is all the same whether it be the owner or someone else, except that the owner must add one fifth, whereas any other man need not add the fifth.

MISHNAH. IF A MAN CONSECRATED [HIS FIELD] AND THEN REDEEMED IT, IT DOES NOT GO OUT OF HIS POSSESSION IN THE JUBILEE.<sup>13</sup> IF HIS SON REDEEMED IT, IT REVERTS TO HIS FATHER IN THE JUBILEE. IF ANOTHER, OR A RELATIVE REDEEMED IT, AND HE<sup>14</sup> REDEEMED IT FROM HIS HAND, IT GOES OUT TO THE PRIESTS.<sup>15</sup> IF ONE OF THE PRIESTS REDEEMED IT,<sup>16</sup> AND IT WAS STILL IN HIS POSSESSION,<sup>17</sup> THEN HE CANNOT SAY: 'SINCE IT GOES OUT TO THE PRIESTS IN THE YEAR OF JUBILEE, AND

SINCE IT IS NOW IN MY POSSESSION, THEREFORE IT BELONGS TO ME', BUT IT GOES OUT OF HIS POSSESSION TO BE DISTRIBUTED AMONG ALL HIS BRETHREN THE PRIESTS.<sup>18</sup>

(1) From the total of remaining years to the next Jubilee, and he who redeems must pay for the incomplete year a full shekel with its pondion, The Mishnah thus means that after the Jubilee all redemptions must be made on the basis of complete years.

(2) Lev. XXVII, 18.

(3) And by adding the months that have already elapsed to the preceding years, there are left less than two years to the Jubilee, in which case the redemption price is the full fifty shekels.

(4) I.e., the priest must always so reckon as it should be to the advantage of the Sanctuary.

(5) V. infra 32b, when the law of Jubilee is not in force the redemption price is fixed according to the value of the field,

(6) A homer.

(7) We assess the value of the field by the quantity of the seed required (not by the yield of the crop) when strewn with the hand, but not when strewn from a perforated bag or wagon drawn by oxen.

(8) Lev. XXVII, 16.

(9) Two letheks are one kor; one kor is thirty se'ahs; one se'ah is six kabs. Tirkab. lit., 'two kabs', has come later on to be used as the term. tech. for three kabs.

(10) In which sowing is impossible.

(11) And treated as part of the field.

(12) Lev. XXVII, 18. Just as when he consecrated a field in, for example, the tenth year after the Jubilee and came to redeem it in the twentieth, he would deduct the ten years during which he had it, so if the Sanctuary had had the benefit of the field for a number of years he would deduct from the sum wherewith he redeems the field all the years the Sanctuary owned, or derived benefit from it.

(13) As would be the case if another man had redeemed it, when it would go out on Jubilee to the priests; v. Lev. XXVII, 19.

(14) The original owner.

(15) The printed edd. of the separate Mishnah read: ' . . . it does not go out of his possession in the year of Jubilee'; v. Maim. Mishnah Commentary.

(16) From the treasurer of the Sanctuary.

(17) At the commencement of the year of Jubilee. His argument would be: If another (i.e., not the owner) Israelite had redeemed it, I and my colleagues would have received it anyhow in the year of Jubilee; now that I have it in my possession, I have the best claim to it.

(18) I.e., to the group officiating as the year of Jubilee commences.

## Talmud - Mas. Arachin 25b

GEMARA. Our Rabbis taught: And if he will not redeem the field,<sup>1</sup> i.e., the owner. Or if he have sold the field,<sup>1</sup> i.e., the treasurer [of the Sanctuary]. To another man,<sup>1</sup> I.e., to another man but not to his son.<sup>2</sup> You say, 'to another man' [means] not to his son! But perhaps, 'to another man' [means] not to his brother? Since Scripture says, 'man', the brother is included, hence how explain [the word] 'other', [it means to] exclude the son. Why do you choose to include the son and exclude the brother? — I include the son because he arises in his father's place, for the purpose of 'designation',<sup>3</sup> and in regard to a Hebrew slave.<sup>4</sup> On the contrary! I would include the brother because he arises in his brother's place in regard to the levirate duty?<sup>5</sup> [This is no argument.] For is there any levirate duty in any condition but where there be no son? Surely if there is a son, no levirate duty is involved.<sup>6</sup> But infer it from the fact that here [in the son's case] there are two points [in his favour], whereas there [in the brother's case] there is only one! — [The preference for a son in the case of] a Hebrew slave is similarly inferred from the same refutation: Is there any levirate duty in any other condition but where there be no son?<sup>7</sup>

Rabbah b. Abbuha asked: Could a daughter preserve a field for her father? [Shall I say,] Since

with regard to the levirate obligation, both son and daughter alike effect exemption,<sup>8</sup> she therefore can preserve [the field], or perhaps, since in respect of inheritance the daughter, where there is a son, is considered an outsider,<sup>9</sup> she cannot preserve [the field]? — Come and hear, for the School of R. Ishmael taught: ‘Whosoever is considered an outsider where there is a son cannot preserve [the field]’, and she, too, is considered an outsider where there is a son.

R. Zeirah asked: Who can preserve the field for a woman? [Shall I say,] The husband can preserve it for her, since he inherits here, or perhaps the son can preserve it for her, because he takes of what is coming due [to the estate] as he does of what is held in actual possession?<sup>10</sup> — The question remains unanswered.

Rama b. Hama asked of R. Hisda: If one dedicates [his field] less than two years before the year of Jubilee, does it go out to the priests?<sup>11</sup> He replied: What do you think? Because: ‘An abatement shall be made from thy valuation . . . but the field when it goeth out in the Jubilee’<sup>12</sup> [from which you would infer] that [the law<sup>13</sup> applies] only to [a field] subject to the law of deduction, but not to one which is not subject to the law of deduction? On the contrary! [Scripture says:] And if he will not redeem the field . . . the field, when it goeth out in the Jubilee, etc.,<sup>14</sup> and this field too is subject to redemption.

IF ONE OF THE PRIESTS REDEEMED IT. Our Rabbis taught: The possession thereof shall be the priest's,<sup>15</sup> what does that come to teach? [The following:] Whence do we know that if a field is to go out on Jubilee to the priests and one of the priests redeems it, that he cannot say: Since it would go out to a priest [anyway] and it is in my possession now, let it belong to me, on an argument ad majus: ‘If I can acquire title to something belonging to others, how much more to something belonging to myself’, therefore the text reads: ‘[his] possession’;<sup>16</sup> a possession which is his, but this one is not his. How then [do we deal with such a field]? It goes out of his hand and is distributed among his brethren the priests.

MISHNAH. IF THE YEAR OF JUBILEE ARRIVED AND IT WAS NOT YET REDEEMED THEN THE PRIESTS ENTER INTO POSSESSION THEREOF AND PAY ITS VALUE.<sup>17</sup> THESE ARE THE WORDS OF R. JUDAH. R. SIMEON SAYS: THEY ENTER [INTO POSSESSION] BUT THEY DO NOT PAY [ITS VALUE]. R. ELIEZER SAYS: THEY NEITHER ENTER [INTO POSSESSION] NOR PAY [ITS VALUE]. BUT IT IS CALLED AN ABANDONED FIELD UNTIL THE SECOND JUBILEE. IF THE SECOND JUBILEE HAS ARRIVED AND IT WAS NOT YET REDEEMED, IT IS CALLED A ‘TWICE ABANDONED FIELD’<sup>18</sup> UNTIL THE THIRD JUBILEE. THE PRIESTS NEVER ENTER INTO POSSESSION THEREOF UNTIL SOMEONE ELSE HAD REDEEMED IT.<sup>19</sup>

GEMARA. What is the reason of R. Judah's view? — He derives it from [the analogous]: ‘holy’, ‘holy’ [written] with the consecration of a house.<sup>20</sup> Just as there [a redemption is impossible without] payment of money, so here also payment of money [is mandatory]. And R. Simeon? — He derives it from [the analogous]: ‘holy’, ‘holy’ [written] with the lambs of the Feast of Weeks.<sup>21</sup> Just as there [the priest obtains them] without money, so here, too, without money. But let R. Judah, too, infer it from the lambs of the Feast of Weeks? — One may make inference for objects consecrated to repairs of the Sanctuary

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(1) Lev. XXVII, 20.

(2) If the son redeems it, the field reverts to his father at Jubilee.

(3) Ex. XXI, 9. The designation i.e., betrothal of a Hebrew handmaid to her master. There the son automatically enters into his father's rights.

(4) In the case of a Hebrew slave, whose master dies, the son is entitled to the remaining ones of the six years' service due to his father.

- (5) Deut. XXV, 5 If brethren dwell together and one of them die and have no child, the wife of the dead shall not be married abroad unto one not of his kin. Her husband's brother shall go in unto her, and take her to him to wife.
- (6) Any child, son or daughter, of the dead brother renders the levirate duty impossible, and indeed prohibits it as incestuous. Hence the brother plays a role only when there is no son.
- (7) The preference for a son in the case of a Hebrew slave is not based on the Biblical text, but is inferred from this very argument, v. Kid. 17b; therefore in reality there is but one point in the son's favour, so that the balance between brother and son is restored, each of them having but one point in his favour.
- (8) Just as in the case of her father's death, the daughter like the son, cancels the possibility of the levirate obligation, so should she be able to preserve the field for her father by redeeming it so that in the year of Jubilee it would revert to her father.
- (9) Lit., 'another' since she cannot inherit.
- (10) The son inherits from his mother property which will be due after her death, as well as such already in her possession, whereas the husband does not obtain those still due, as he does those in her possession already. V. B.B. 113a.
- (11) If another man redeems as is required, not at a deduction but with the payment of the full fifty shekels.
- (12) Lev. XXVII, 18 and 21.
- (13) That the field on Jubilee goes out to the priests.
- (14) Ibid. 20, 21.
- (15) Ibid. 21. Unless he redeems it, the field will go out to the priests.
- (16) 'His' is here interpreted as suggesting only that the priest's own field of possession, i.e., that inherited from his father, may belong exclusively to him, but not someone else's field of possession.
- (17) Fifty shekels for each piece of the field sufficient for the sowing of a homer of barley, payable to the treasurer of the Sanctuary; thereupon the field becomes their field of possession.
- (18) This designation serves at the same time as a notice to the would-be buyers, who for practical or sentimental reasons might redeem the field for its original owner.
- (19) When the next Jubilee arrives, the priests enter into possession of the field without the obligation of paying its value to the Sanctuary, for the latter has already received such value from the person who redeemed the field.
- (20) Lev. XXVII, 14 uses the term in referring' to the consecration of a house, and v. 23 to that of a field of possession.
- (21) V. Lev, XXIII, 20.

## **Talmud - Mas. Arachin 26a**

from other objects dedicated to repairs of the Sanctuary, but one may make no inference for objects dedicated to Temple repairs from such as are dedicated to the altar. But let R. Simeon, too, derive it from 'one who consecrated his house'? — One may make inference for things given as a gift to the priests from others which are a gift unto priests, but one may not make inference for things which are a gift to the priests from others which are not a gift to the priests.<sup>1</sup>

R. ELIEZER SAYS: THEY NEITHER ENTER [INTO POSSESSION] NOR PAY [ITS VALUE]. Rabbah said: What is the reason for R. Eliezer's view? Scripture said: And if he will not redeem the field . . . it shall not be redeemed any more . . . or if he have sold the field to another man [then] . . . the field, when it goeth out in the Jubilee.<sup>2</sup> Said Abaye: A sharp knife to cut Scriptural verses [to pieces]! Rather, said Abaye, this is the reason for R. Eliezer's view, as it was taught: 'It shall not be, redeemed any more'. One might have assumed that [means]: It shall not be redeemed [by the owners], i.e., even to be considered [to him] a field acquired by purchase,<sup>3</sup> therefore Scripture says, 'any more', which means: it cannot be redeemed so as to be considered [again] what it was before [a field of possession]<sup>4</sup> but it can be redeemed to become to him like a field acquired by purchase.<sup>5</sup> Now to when does this refer? Will you say, To the first Jubilee? Why can it not be redeemed? It is still a field of possession. Hence is it obviously to the second Jubilee [that we refer]. But according to whom [is this teaching]? Would you say according to either R. Judah or R. Simeon; surely it goes out to the priests [at the first Jubilee]!<sup>6</sup> You must hence say it is in accord with R. Eliezer, which proves that R. Eliezer infers his reason from here.<sup>7</sup> But is that how you think? How then do R. Judah



and R. Simeon interpret that ‘any more’. Rather we speak here of a field [of possession] that went out to the priests [at Jubilee],<sup>8</sup> and which the priests thereupon consecrated,<sup>9</sup> and now the [original] owner comes to redeem it. You might have assumed that it cannot be redeemed [by the owner]<sup>10</sup> not even to be regarded as a field acquired by purchase, therefore the text states ‘any more’; [meaning] it cannot be redeemed so as to be considered as before [a field of possession], but it can be redeemed to be considered a field acquired by purchase. And then indeed was it taught: In the year of Jubilee the field shall return unto him of whom it was bought.<sup>11</sup> One might have assumed that it shall go back to the treasurer from whom he bought it, therefore the text states: Even to him to whom the possession of the land belongeth.<sup>11</sup> Now Scripture should [only] have said: ‘Even to him to whom the possession of the land belongeth’ For what purpose does it say: ‘Unto him of whom it was bought’? [It refers to the case of] a field that had gone out to the priests, whereupon the priest sold it and the purchaser consecrated it, and another person came and redeemed it. One might have assumed that it shall revert to the original owners, therefore it is said: ‘Unto him of whom it was bought’.<sup>12</sup> And it was necessary to state: ‘Unto him of whom it was bought’ and it was necessary to state: ‘It shall not be redeemed any more’. For if the Divine Law had written [only]: ‘It shall not be redeemed any more’ [one would have said that this applied only to the former case] where it does not come back at all [to the one who consecrated it],<sup>13</sup> but here where it reverts [to the one who consecrated it],<sup>14</sup> [I might have said,] it shall revert to the owner; therefore the Divine Law wrote: ‘Unto him of whom it was bought’. And if the Divine Law had written [only]: ‘Unto him of whom it was bought’ [one would have said that this applies to the latter case] where the owner does not pay its value,<sup>15</sup> but here [in the former case] where he pays its value, [I might say] it shall be placed in his possession, therefore the Divine Law wrote: ‘It shall not be redeemed’. And if the Divine Law had written: ‘It shall not be redeemed’, but had not written, ‘any more’, I would have thought: It cannot be redeemed at all, therefore the Divine Law said, ‘any more’, i.e., it cannot revert to its original status again, but it can be so redeemed as to be regarded a field acquired by purchase. Now what of it?<sup>16</sup> — Raba said: Scripture said, ‘But the field when it goeth out in the Jubilee [etc.]’, [implying] when it goeth out [on Jubilee] of the hand [possession] of another.<sup>17</sup>

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(1) The field of possession as well as the lambs of the Feast of Weeks both are a gift to the priest (v. Lev. XXIII, 20 and XXVII, 21); that is not the case with the consecration of a house, the value of which goes to the fund for Temple repairs.

(2) V. Lev. XXVII, 20-21. The two verses are combined to mean thus: If he does not redeem it, it shall not be redeemed any more, but if he (the treasurer of the Sanctuary) sells it, then the field goes out on Jubilee to the priests. This implies that if the treasurer does not sell it the priests do not enter into possession of the field.

(3) I.e., the owner can no longer redeem it to have the use of the field at least to the next Jubilee.

(4) I.e., to be his permanently after the redemption.

(5) This laborious combination of verses for a forced ad hoc elicits Abaye's merited reproach.

(6) As stated in our Mishnah.

(7) R. Eliezer holds that after the first Jubilee year the field if unredeemed belongs to the Sanctuary and not the priests, and consequently the field can still be redeemed, hence the exposition of the cited verse.

(8) Because it had been redeemed by another man.

(9) Who received it on Jubilee.

(10) Since he did not redeem it on the first Jubilee year.

(11) Lev. XXVII, 24 with reference to a field of purchase.

(12) One might have assumed that it reverts to the man who originally consecrated it, therefore the Scriptural verse comes to teach us that since it was not bought from him but was acquired from the Sanctuary it reverts to the priest, from whom the purchaser had acquired it before consecrating the field. And similarly in the case of a field of possession, once another redeems it and it gets into the possession of the priest at Jubilee, the owner can no longer redeem it as his field of possession.

(13) I.e., when the priest consecrated it after having received it on Jubilee, the owner having failed to redeem it. In this case the field on the next Jubilee goes out to all the priests and not to the priest who consecrated it, and similarly the original owner cannot claim it as a field of possession.

(14) I.e., where the priest sold and the purchaser consecrated it, in which case it is a field acquired by purchase, which if

someone redeems it from the Sanctuary does not go out to the priests on Jubilee, but reverts to the consecrator.

(15) Since another redeemed it.

(16) We do not yet know the reason for R. Eliezer's view that the priests cannot enter into possession until someone has redeemed it.

(17) I.e., when it goes out of the possession of another who had redeemed it from the treasurer before the year of Jubilee, then shall it go out to the priests as their field of possession.

## **Talmud - Mas. Arachin 26b**

The question was asked: Is the owner in the second Jubilee cycle considered like someone else or not?<sup>1</sup> — Come and hear: 'It shall not be redeemed any more'. One might have assumed it shall not be redeemed [by the owners] even to be considered before him like a field acquired by purchase, therefore it is said: 'Any more, i.e., it cannot be redeemed so as to be considered again what it was before, but it can be redeemed so as to become to him like a field acquired by purchase. Now to what does this refer? Will you say to the first Jubilee? Why should it not be redeemed? It is still regarded a field of possession! Hence the reference is obviously to the second Jubilee. But according to whose view [is this teaching]? If according to R. Judah or R. Simeon, surely it goes out to the priests [at the first Jubilee]? one must rather say therefore, it is in accord with R. Eliezer, which proves that [according to him]<sup>2</sup> the owner in the second Jubilee is considered as if he were another person. But do you think so? How then would R. Judah and R. Simeon interpret 'any more'? — Rather do we deal here with the case of a field [of possession] that went out [at Jubilee] to the priests, and which the priest consecrated, and now the original owner comes to redeem it. You might have thought: It cannot be redeemed [by the owner] so as to become like a field acquired by purchase, therefore it is said: 'any more', I.e., it cannot be redeemed so as to be considered what it was before, but it can be redeemed so as to become to him a field acquired by purchase. Thus also was it taught: 'The field shall return unto him of whom it was bought'. One might have assumed it shall return to the treasurer from whom he had bought it, therefore the text states: 'Even to him unto whom the possession of the land belongeth'. Now Scripture should have said: 'Unto whom the possession of the land belongeth'. For what purpose does it say: 'Unto him of whom the field was bought'? It refers to a field that had gone out to the priests and a priest sold it, whereupon the purchaser consecrated it and another person came and redeemed it. One might have assumed that it shall revert to the original owner, therefore it is said: 'Unto him of whom it was bought'. And it was necessary to write: 'It shall not be redeemed any more', as it was necessary to write: 'Unto him of whom it was bought'. For had the Divine Law written [only], 'It shall not be redeemed any more', [one would have said that applies only in the former case] where it does not come back at all, [to the one who consecrated it], but here where it does revert [to him], I might have said it shall revert to the owner, therefore the Divine Law wrote: 'Unto him of whom it was bought'. And if the Divine Law had written [only]: 'Unto him of whom it was bought' [one would have said this applies to the latter case] where the owner does not pay its money-value, but here [in the former case] where he pays its money-value, it shall be placed in his possession, therefore the Divine Law wrote: 'It shall not be redeemed'. And if the Divine Law had written [only]: 'It shall not be redeemed', but had not written any more', I might have said that it cannot be redeemed at all, therefore the Divine Law wrote 'any more'; i.e., it cannot revert any more to its original status [as a field of possession], but it can be redeemed so as to be considered a field acquired by purchase. Now what of it?<sup>3</sup> — Come and hear: R. Eliezer said, If the owner redeemed it in the second Jubilee [cycle] it goes out to the priest in the [next] Jubilee.<sup>4</sup> Said Rabina to R. Ashi: But did we not learn thus: R. ELIEZER SAID, THE PRIESTS NEVER ENTER INTO POSSESSION THEREOF UNTIL SOMEONE ELSE HAS REDEEMED IT? — He replied: The owner is considered as someone else in the second Jubilee [cycle]. Others say, R. Eliezer said: If he [the owner] redeems it during the second Jubilee [cycle], it does not go out to the priests at the Jubilee. Whereupon Rabina said to R. Ashi: We also learnt likewise: R. ELIEZER SAID, THE PRIESTS NEVER ENTER INTO POSSESSION THEREOF UNTIL SOMEONE ELSE HAS REDEEMED IT. — He replied: If we [knew it only] from our

Mishnah, I might have assumed that the owner during the second Jubilee [cycle] is considered like someone else, therefore we are informed [otherwise].<sup>5</sup>

MISHNAH. IF ONE BOUGHT A FIELD FROM HIS FATHER,<sup>6</sup> AND HIS FATHER DIED AND AFTERWARDS HE CONSECRATED IT, IT IS CONSIDERED A FIELD OF POSSESSION.<sup>7</sup> IF HE CONSECRATED IT AND AFTERWARDS HIS FATHER DIED, THEN IT IS CONSIDERED A FIELD ACQUIRED BY PURCHASE.<sup>8</sup> THESE ARE THE WORDS OF R. MEIR. R. JUDAH AND R. SIMEON SAY: [EVEN IN THE LATTER CASE] IT IS CONSIDERED A FIELD OF POSSESSION, AS IT IS SAID: ‘AND IF A FIELD WHICH HE HATH BOUGHT, WHICH IS NOT A FIELD OF HIS POSSESSION, I.E., A FIELD WHICH IS NOT CAPABLE OF BECOMING A FIELD OF HIS POSSESSION, THUS EXCLUDING A FIELD WHICH IS CAPABLE OF BECOMING A FIELD OF POSSESSION.<sup>9</sup> A FIELD ACQUIRED BY PURCHASE DOES NOT GO OUT TO THE PRIESTS IN THE YEAR OF JUBILEE, FOR NO MAN CAN CONSECRATE AN OBJECT NOT BELONGING TO HIM.<sup>10</sup> PRIESTS AND LEVITES MAY CONSECRATE [THEIR FIELDS] AT ANY TIME AND REDEEM AT ANY TIME, BOTH BEFORE AND AFTER THE JUBILEE.

GEMARA. Our Rabbis taught: Whence do we know that if one bought a field from his father and consecrated it, and thereupon his father died, that it is to be considered his field of possession? Therefore it is said: ‘A field which he hath bought, which is not a field of his possession’, i.e., field which is not capable of becoming a field of his possessions excluding this, which is capable of becoming a field of his possession. These are the words of R. Judah and R. Simeon. R. Meir says: Whence do we know that if one bought a field from his father and his father died, and he thereupon consecrated it, that it be considered to him a field of his possession? Therefore it is said: ‘A field which he hath bought which is not a field of his possession’, i.e., a field which is not a field of his possession, excluding this, which is a field of his possession. Shall we say that they are conflicting about this [principle], R. Meir holding that the acquisition of usufruct is like the acquisition of the capital itself, whereas R. Judah and R. Simeon hold that the acquisition of usufruct is not like the acquisition of the soil itself?<sup>11</sup> — Said R. Nahman b. Isaac: As a rule R. Simeon and R. Judah hold that the acquisition of usufruct is like the acquisition of the soil itself

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(1) According to R. Eliezer who says that in the second Jubilee cycle, too, the field can be redeemed, the question is asked: Is the owner in the second cycle considered like someone else, so that when he redeems it the field will in the third Jubilee go out to the priests; or is he still considered the owner so that in the third Jubilee the field will revert to him, as it would have reverted to him had he redeemed it before the end of the first Jubilee.

(2) .

(3) The question propounded above.

(4) Which proves that the owner, during the second Jubilee cycle, is considered like someone else, the field in the Jubilee reverting to the priests.

(5) That the owner is not considered another, during the second Jubilee cycle, and if he redeems it the field remains with him at Jubilee.

(6) If he consecrated it after it had become, through his father's death, his field of possession. it remains in the status of a field of his possession. But if he consecrated it whilst his father was alive, it had not yet become his field of possession and remains therefore his field acquired by purchase. The difference is that a field acquired by purchase must be redeemed at its full value (instead of the fifty shekels for each piece of field sufficient for the sowing of a homer of barley. due in the case of a field of his possession); and, if he who consecrated it has not redeemed it, then when the year of Jubilee arrives, it does not go out to the priests but reverts then to its original owner. In our case It would revert to the father, and since he died, to his heirs.

(7) V. Lev. XXVII, 16.

(8) Lev. XXVII, 22.

(9) Even if it was not yet a field of his possession at the time he consecrated it, but was (one of) ‘from’ the fields of his (potential) possession, it is considered his field of possession. But when he comes to redeem it, it must be his field of

possession already, or else it will be regarded as a field acquired by purchase. 'A field acquired by purchase' is the term. techn. for any property acquired in any manner, as long as it was not inherited by its present owner.

(10) If someone buys a field, he has bought only the usufruct up to the year of Jubilee, in that year it reverts automatically. without any fee payable, to its original owner. Hence its purchase could not legally consecrate it, consecration being unlimited in time, whereas his limited rights are also limited by the year of Jubilee. Hence that field will not go out to the priests, but will revert to the original owner, whose field of possession it was, by inheritance.

(11) As long as his father lived the son had but the usufruct of the field he had purchased from the former. He did not really own the soil, because in the year of Jubilee the soil would have reverted to his father, the original owner. R. Meir, however, would hold that the acquisition of the usufruct is like the acquisition of the soil itself. Therefore when he consecrated it in his father's lifetime, it was to be regarded as a field acquired by purchase, the soil belonging to him with the usufruct, whence it could no more acquire the status of a field of possession, with the rules relevant thereto. R. Judah and R. Simeon, on the other hand, hold that the acquisition of usufruct is not like the acquisition of the soil, hence it could become a field of possession only if the father died before the son consecrated it. This being a very obvious rule, no Scriptural law was necessary to teach what applies here. What required the Scriptural guidance was the case of his having consecrated the field before his father died to teach that although at the time of its consecration the field was one acquired by purchase, nevertheless since the father died before its being redeemed, it is considered a field of his possession. For the original purchase did not include the field, only the usufruct.

### **Talmud - Mas. Arachin 27a**

, but here they found a Scriptural verse which they interpreted [as follows]:<sup>1</sup> The Divine Law should have said: 'If from the field acquired by purchase which is not his field of possession', or 'which is not a field of possession', what does 'from the field of his possession'<sup>2</sup> mean? [It means] a field incapable of becoming a field of possession, [thus] excluding this which is capable of becoming a field of possession.

PRIESTS AND LEVITES MAY CONSECRATE AT ANY TIME. Granted that it is necessary [to teach that the priests may] REDEEM to exclude Israelites who may redeem only up to the year of Jubilee. That is why we are informed [that priests and Levites] MAY REDEEM AT ANY TIME. But as regards [their ability to] CONSECRATE, why teach about priests and Levites since Israelites may do the same?<sup>3</sup> And if you were to say it refers to the year of Jubilee itself, that would be right only on the view of Samuel who says: In the year of Jubilee itself it [the consecrated object] acquires no sacred character,<sup>4</sup> therefore the information [in our Mishnah] that priests and Levites, however, may consecrate at any time. But on the view of Rab, why speak about priests and Levites? Israelites, too, may [consecrate at any time, even in the year of Jubilee]? — But according to your own opinion, for what purpose does he teach: BOTH BEFORE AND AFTER THE JUBILEE?<sup>5</sup> — Rather [must we explain]: Because he taught in the first part 'Before the Jubilee' . . . and 'after the Jubilee',<sup>6</sup> therefore he taught in the second part too, BOTH BEFORE AND AFTER THE YEAR OF JUBILEE. And since he taught in the first part, 'They may neither consecrate . . . nor redeem', he teaches also in the second part: [PRIESTS] MAY CONSECRATED . . . AND REDEEM.

### **CHAPTER VIII**

MISHNAH. IF ONE CONSECRATED HIS FIELD AT A TIME WHEN THE [LAW OF THE] JUBILEE WAS NO LONGER VALID,<sup>7</sup> THEY SAY TO HIM: MAKE THOU THE FIRST BEGINNING!' BECAUSE THE OWNER MUST PAY AN ADDED FIFTH WHEREAS NO OTHER PERSON NEED PAY AN ADDITIONAL FIFTH.<sup>8</sup> IT HAPPENED THAT ONE CONSECRATED HIS FIELD BECAUSE IT WAS BAD. THEY SAID TO HIM: MAKE THOU THE FIRST BEGINNING!' HE SAID: 'I WILL ACQUIRE IT FOR AN ISSAR'.<sup>9</sup> R. JOSE SAID: HE DID NOT SPEAK THUS, BUT 'FOR AN EGG', BECAUSE CONSECRATED OBJECTS MAY BE REDEEMED BY EITHER MONEY OR MONEY'S WORTH.<sup>10</sup> HE SAID TO HIM: IT HAS BECOME THINE.<sup>11</sup> THUS HE WAS FOUND TO HAVE LOST AN ISSAR AND THE

FIELD WAS HIS AGAIN.

GEMARA. IF ONE CONSECRATED HIS FIELD AT A TIME WHEN etc. THEY SAY: but was it not taught. 'They compel him'? — What THEY SAY means is 'they compel him'. Or, if you like say, At first, they speak to him. If he obeys, he obeys. If not, they compel him.

FOR THE OWNER MUST PAY AN ADDED FIFTH. Why argue from the fact that the owner is obliged to pay an added fifth, infer it from the fact that since it is dear to him he will pay more to redeem it? And furthermore, the obligation to redeem it rests upon the owner?<sup>12</sup> — He gives one reason and then another. One reason, that since it is dear to him he will pay more to redeem it; and another, that the obligation to redeem it rests upon the owner, and furthermore, the owner is obliged to pay an added fifth.

IT HAPPENED THAT ONE CONSECRATED HIS FIELD etc. Shall we say they are disputing this principle: R. Jose holds that money's worth is like money, whilst the Rabbis are of the opinion that money's worth is not like money? But then we have an established principle that money's worth is like money!<sup>13</sup> — [No.] All agree that money's worth is like money, but here they are disputing whether one may redeem by an object the fifth of which is not worth one perutah; the first Tanna holding only with an issar, the fifth of which is worth one perutah, may one redeem [but not by less],<sup>14</sup> whilst R. Jose holds with an egg too one may redeem.

HE SAID TO HIM: IT HAS BECOME THINE! THUS HE WAS FOUND TO HAVE LOST AN ISSAR AND THE FIELD WAS HIS AGAIN. This anonymous statement is in accord with the view of the Rabbis.<sup>15</sup>

MISHNAH. IF ONE SAID: 'I WILL ACQUIRE IT FOR TEN SELA'S, AND ANOTHER '[FOR] TWENTY', AND ANOTHER 'FOR THIRTY', AND ANOTHER 'FOR FORTY', AND ANOTHER 'FOR FIFTY', AND HE [THAT BID] FIFTY RECANTED, THEY TAKE PLEDGES FROM HIS PROPERTY UP TO TEN SELA'S.<sup>16</sup> IF HE [THAT BID] FORTY<sup>17</sup> RECANTED, THEY TAKE PLEDGES FROM HIS POSSESSION UP TO TEN SELA'S. IF HE [THAT BID] THIRTY RECANTED, THEY TAKE PLEDGES FROM HIS POSSESSIONS UP TO TEN SELA'S. IF HE THAT BID TWENTY RECANTED THEY TAKE PLEDGES FROM HIS POSSESSION UP TO TEN SELA'S. IF HE THAT BID TEN RECANTED THEY SELL [THE FIELD] FOR WHAT IT IS WORTH, AND COLLECT WHAT REMAINS FROM HIM WHO BID TEN.<sup>18</sup> IF THE OWNER BID TWENTY AND ANY OTHER MAN BID TWENTY,<sup>19</sup> THEN THE OWNER COMES FIRST, BECAUSE HE MUST ADD ONE FIFTH. IF ONE SAID 'I WILL ACQUIRE IT FOR TWENTY-ONE SELA'S'

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(1) As excluding the field under question, quite independent of the discussion as to whether acquisition of usufruct is like acquisition of the soil itself.

(2) מִשְׁרָה 'men privativum'. For further notes v. B.B. Sonc. ed., pp. 285ff.

(3) V. supra 24a.

(4) V. ibid.

(5) In which Israelites may not consecrate.

(6) V. supra 24a.

(7) The law of the year of Jubilee was valid only as long as all Israel lived in the Holy Land, with the tribes inhabiting the portions of the land allocated to them by Joshua, v. infra 32b.

(8) For as long as it was valid, the price to be paid was fixed (fifty shekels for every piece of the field sufficient for the sowing of a homer of barley) and did not depend upon any offer of the owner. But after the validity of the Jubilee was lost, the field of possession, too, had to be redeemed at its value, hence the question here.

(9) The expense was greater than its produce.

(10) Eight perutahs.

(11) The treasurer said to the owner: It is yours.

(12) V. Lev. XXVII, 23.

(13) V. B.K. 7a.

(14) The disagreement is in detail, not on principle, both holding that redemption may be achieved by either money or money's worth. An issar is the smallest coin containing five perutahs.

(15) Which speaks of his losing an issar.

(16) Through his recanting the Sanctuary lost ten sela's, the difference between his bid and that of the next lower bidder. As a rule, some definite act is necessary before any purchase is legally binding, but with regard to any transaction touching the Sanctuary an oral undertaking has the force of a legal act.

(17) This is explained in the Gemara.

(18) The difference between what he bid (ten sela's) and what after his retraction was actually paid by the lowest bidder.

(19) After the owner offered twenty.

## **Talmud - Mas. Arachin 27b**

THEN THE OWNER MUST PAY TWENTY-SIX. [IF ONE BID] TWENTY-TWO, THE OWNER MUST PAY TWENTY-SEVEN. IF TWENTY-THREE, THE OWNER MUST PAY TWENTY-EIGHT. IF TWENTY-FOUR, THE OWNER MUST PAY TWENTY-NINE. IF TWENTY-FIVE, THE OWNER MUST PAY THIRTY, FOR THEY NEED NOT ADD ONE FIFTH TO WHAT THE OTHER BIDS MORE. IF ONE SAID: 'I WILL ACQUIRE IT FOR TWENTY-SIX',<sup>1</sup> AND IF THE OWNER WAS WILLING TO PAY THIRTY-ONE AND ONE DENAR IN ADDITION,<sup>2</sup> THE OWNER COMES FIRST. AND IF NOT, WE SAY TO THE OTHER: 'IT HAS BECOME THINE.

GEMARA. R. Hisda said: This<sup>3</sup> was taught only if he who bid forty stands by his bid, but if he who bid forty does not stand by his bid, then we divide it among them.<sup>4</sup> We learnt: IF HE THAT BID FORTY RECANTED, THEY TAKE PLEDGES FROM HIS POSSESSIONS UP TO TEN SELA'S. But why so? Let him who bid fifty pay with [alike] him [the ten sela's which he outbid]? — It refers to the case where there was no one who bid fifty. IF HE WHO BID THIRTY RECANTED, THEY TAKE PLEDGES FROM HIS POSSESSIONS UP TO TEN SELA'S. But why so? Let him who bid forty pay together with him [the ten sela's which he outbid]? — It refers to the case where there was no one who bid forty. IF HE WHO BID TWENTY RECANTED, THEY TAKE PLEDGES FROM HIS POSSESSIONS UP TO TEN SELA'S. But why so? Let him who bid thirty pay with him? — It refers to the case where there was no one who bid thirty. But if that be so, read the last part: IF HE THAT BID TEN RECANTED THEY SELL IT FOR WHAT IT IS WORTH, AND COLLECT WHAT REMAINS FROM HIM WHO BID TEN. But let him who bid twenty pay with him [the ten sela's]? And if you would say. Here, too, it refers to the case where there was no one who bid ten, then instead of teaching AND COLLECT WHAT REMAINS FROM HIM WHO BID TEN, it should state: 'And collect from him'?<sup>5</sup> — Rather, said R. Hisda, this is no difficulty. One case refers to their recanting simultaneously, the other, if they do so one after the other.<sup>6</sup> Thus was it also taught: If all of them recanted simultaneously, one distributed it among them. But we were taught: THEY TAKE PLEDGES FROM HIS POSSESSION UP TO TEN SELA'S? Hence it is evident therefrom that the explanation is like R. Hisda. That is evident. Some put it in the form of a contradiction. We learnt: IF HE WHO BID TEN RECANTED, THEY SELL IT FOR WHAT IT IS WORTH, AND COLLECT WHAT REMAINS FROM HIM WHO BID TEN. But it was taught: 'We divide it among them'? — R. Hisda said: This is no contradiction, one case speaks of their recanting simultaneously, the other, if they do so one after the other.

IF THE OWNER BID TWENTY AND ANY OTHER MAN BID TWENTY etc. Shall we say that the added fifth has preference? But I will point out a contradiction. 'If a householder<sup>7</sup> bid a sela' and another bid a sela' and an issar, he who bid a sela' and an issar has preference, since he adds to the principal value'? — Here where the fifth is the profit of the Sanctuary, the fifth has preference, but

there, where the fifth is the profit<sup>8</sup> of the householder, a goodly capital sum is preferable [for redemption], but the fifth does not concern us.

IF ONE SAID: I WILL ACQUIRE IT FOR etc. IF TWENTY-FIVE, THE OWNER MUST PAY THIRTY. But let the owner say: A man has come in our stead'?<sup>9</sup> — Said Ze'ira:<sup>10</sup> It speaks of the case where the owner had bid one denar [over twenty].<sup>11</sup> Then let [the Mishnah] mention that denar? — He [the Tanna] was not particular to mention [a mere denar]. But [yet] it teaches: If the owner was willing to pay thirty-one sela's and one denar, the owner has preference? — Rather, said Raba, it was a case where the owner bid an additional perutah and [the Tanna] was not particular [to mention it].

FOR THEY NEED NOT ADD ONE FIFTH TO WHAT THE OTHER BIDS MORE. R. Hisda said: This was taught only [for the case] where the consecrated object was not yet valued by three,<sup>12</sup> but if the consecrated object was valued by three, he must add [the fifth]. It was also taught thus: Beth Shammai say: They<sup>13</sup> must add, whilst Beth Hillel Say: They need not add. Now how shall we imagine this case? If it [the consecrated object] has not yet been valued, what is the reason for the view of Beth Shammai? Rather must we take it that it has been valued. Shall we, then, assume that R. Hisda is of the view of Beth Shammai?<sup>14</sup> In reality [assume] that it has not been valued, but Beth Shammai are nevertheless stringent. Or if you like, say: Indeed, it was valued and [the Baraita] is to be reversed: Beth Shammai say. They need not add [etc.]. But then let it be taught among the cases in which Beth Shammai are less stringent and Beth Hillel are more stringent?<sup>15</sup> — Rather, Indeed it was not valued, but Beth Shammai are nevertheless stringent.

IF ONE SAID: I WILL ACQUIRE IT FOR TWENTY-SIX etc. If he [the owner] is willing, good, if not, [we do] not compel him, for he can say: 'A man has come in my stead'. What is the function of the [one] denar?<sup>16</sup> — R. Shesheth said: This is what it means. If the owner originally wanted to give a sum amounting [with the extra addition of the last bid] to thirty-one [sela's] and one denar

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- (1) Thereby outbidding the owner's original bid plus the added fifth.
  - (2) One sela' contains four denars, so that the full fifth of twenty-six is thirty-one sela's and one denar.
  - (3) That if the bidder of fifty recanted they take pledges from his property up to (no more than) ten sela's.
  - (4) The loss divided among the bidders of fifty and forty, the former becoming responsible for fifteen (sharing the loss in the difference between forty and thirty), the latter for five sela's.
  - (5) Since the text reads: 'From him who bid ten', the inference is justified that there is one who bid twenty too, yet we are not taught that the sum lost is to be collected from both. This is a refutation of R. Hisda's view.
  - (6) When all recanted simultaneously the charge is distributed among them, but if one after the other recants, one imposes upon each the difference between his bid and the next highest bid.
  - (7) With reference to the second tithe which can be converted into money to be taken to Jerusalem there to be expended on food. V. Lev. XXVII, 31.
  - (8) In the case of the second tithe, both the original sum and the added fifth remain the possession of the householder, the only restriction upon him being the obligation to consume the whole sum in Jerusalem, after having redeemed the second tithe in the country. In that case we allow the preference to a bidder who goes, by even one issar, above the bid of the householder, even though the householder adds one fifth, since that fifth as well as the whole sum, remains his private property the Sanctuary's interest not being involved at all. But when the consecrated field is to be redeemed, the fifth added by the owner is the profit of the Sanctuary, both the original amount and the addition being received by its treasurer, therefore the preference is with him who offered the additional fifth.
  - (9) Who is willing to make a payment that includes the sum plus the added fifth from the owner. Hence no loss will be sustained by the Sanctuary. Why compel him then to give thirty?
  - (10) Inserted with Sh. Mek.
  - (11) Which, with the added fifth, would make his offer amount to more than twenty-five.
  - (12) On the basis of the last bid. Although, as a rule, valuations for the Sanctuary require the presence of ten (Sanh. 2a). here an exception is de facto recognized.

(13) The owners.

(14) The ultimate decision in a matter of conflict between Beth Shammai and Beth Hillel is, as a general rule, in accord with the latter. How then could R. Hisda, an Amora, adhere to the view of Beth Shammai?

(15) These are recorded in 'Ed. and assumed to be all the rare cases in which the Schools reverse their usual role, the Hillelites being more stringent, and the Shammaites more liberal. The fact that the Mishnah in 'Ed. does not include this case indicates that the report here of such an additional unusual decision must be erroneous.

(16) Since the Mishnah stated: They need not add one fifth to what the other bid.

## Talmud - Mas. Arachin 28a

. And how is this to be imagined? If he offered twenty-one;<sup>1</sup> then the owner has the preference. If not [the treasurer] says to him [the bidder]: 'It is yours'.

MISHNAH. A MAN MAY DEVOTE<sup>2</sup> [PART] OF HIS FLOCK OR OF HIS HERD, OF HIS CANAANITE MANSERVANTS OR MAID SERVANTS OR OF HIS FIELD OF POSSESSION. BUT IF HE DEVOTED THE WHOLE OF THEM, THEY ARE NOT CONSIDERED [VALIDLY] DEVOTED. THIS IS THE VIEW OF R. ELIEZER. R. ELEAZAR B. AZARYAH SAID: IF, EVEN TO THE HIGHEST, NO ONE IS PERMITTED TO DEVOTE ALL HIS POSSESSIONS, HOW MUCH MORE SHOULD ONE BE [CAREFUL ABOUT] SPARING IN REGARD TO ONE'S POSSESSIONS.

GEMARA. Whence do we know these things? — Because our Rabbis taught: Of all that he hath,<sup>3</sup> i.e., but not 'all that he has'; of man,<sup>3</sup> but not 'all man'; or [of] beast,' but not 'all beast'; of the field of his possession,<sup>3</sup> but not 'all the field of his possession'. One might have assumed that he may not at the outset devote [the whole], but if he had done so, it should be [considered validly] devoted, therefore it is said: Notwithstanding.<sup>3</sup> These are the words of R. Eliezer. R. Eleazar b. Azaryah said: If, even to the highest, no one is permitted to devote all his possessions, how much more should one be sparing in regard to his possessions! And all [the details] are necessary. For if the Divine Law had but written: 'Of all that he hath', I might have said: He may not devote all that he has but of one kind he may devote all [objects]. Therefore the Divine Law said: 'Of man', i.e., but not 'all man'. And if the Divine Law had but written: 'of man', [I would have said]: Because without labour none can manage,<sup>4</sup> but [in the case of] a field he can still make a living by working as a serf, [therefore it stated: 'of the field of his possession']. And if [the Divine Law] had taught us about these two, [I would have said: The reason in both these cases] is that each is vitally necessary, but as for movable property, let him be allowed to devote it all,' therefore it was necessary [to teach about that as well]. Why was 'or beast' necessary? — In accordance with what was taught: One might have assumed that a man may devote his son or daughter, his Hebrew manservant or his field or purchase, therefore it is said: 'or beast', i.e., just as the beast is something he may sell, so [may he devote] only such things as he is permitted to sell. But as he is permitted to sell his minor daughter, I might therefore think that he can devote her as well, therefore it is said: 'or beast', i.e., just as a beast is something which he may sell for ever, [so can he devote only such objects] as he is permitted to sell for ever.<sup>5</sup>

R. ELEAZAR B. AZARYAH SAID: IF EVEN TO THE HIGHEST NO ONE IS PERMITTED etc. But that is exactly what the first Tanna has said? — The difference between them is implied in what R. Ela said; for R. Ela said: In Usha they ordained that one who would distribute [his possessions] must not go beyond one fifth [of them].<sup>6</sup> It happened that one wanted to distribute more than one fifth, and his colleagues would not permit him to do so. Who was that? R. Yeshebab. Some say, it was R. Yeshebab who [wanted to distribute it] and his colleagues would not let him do so. Who was [chief among them]? — R. Akiba.

MISHNAH. IF ONE DEVOTES HIS SON OR HIS DAUGHTER<sup>7</sup>, OR HIS HEBREW MANSERVANT OR MAIDSERVANT, OR THE FIELD WHICH HE ACQUIRED BY



PURCHASE, THEY ARE NOT CONSIDERED [VALIDLY] DEVOTED, FOR NONE CAN DEVOTE A THING WHICH DOES NOT BELONG TO HIM. PRIESTS AND LEVITES CANNOT DEVOTE [THEIR BELONGINGS]. THESE ARE THE WORDS OF R. JUDAH. R. SIMEON SAYS: THE PRIESTS CANNOT DEVOTE, BECAUSE THINGS DEVOTED BELONG TO THEM. BUT LEVITES CAN DEVOTE, BECAUSE THINGS DEVOTED DO NOT FALL TO THEM. RABBI SAYS: THE WORDS OF R. JUDAH ARE ACCEPTABLE IN CASES OF IMMOVABLE PROPERTY AS IT IS SAID: FOR THAT IS THEIR PERPETUAL POSSESSION,<sup>8</sup> AND THE WORDS OF R. SIMEON IN CASES OF MOVABLE PROPERTY, SINCE THINGS DEVOTED DO NOT FALL TO THEM.

GEMARA. According to R. Judah, it is quite right that priests cannot devote, because all objects devoted fall to them. But, touching Levites, granted they cannot devote immovable property, because it is written: 'For that is their perpetual possession but let them devote movable property? — Scripture said: 'Of all that he hath . . . or of the field of his possession', thus comparing movable property on the same level with immovable property. Now according to R. Simeon it is quite right [what he rules] about the priests, as we have [just] said. But touching the Levites, granted they can devote movable property, because he does not draw the [above] analogy; but why should they be able to devote immovable property; Surely it is written: 'For that is their perpetual possession'? What he means when he says LEVITES CAN DEVOTE is [that they can devote] movables. But surely the last part [of this Mishnah] reads: RABBI SAYS: THE WORDS OF R. JUDAH ARE ACCEPTABLE IN CASES OF IMMOVABLE PROPERTY, AND THE WORDS OF R. SIMEON IN CASES OF MOVABLE PROPERTY; it follows that R. Simeon refers to immovable property too? — This is what he means: Rabbi said, The words of R. Judah are acceptable to R. Simeon in cases of immovable property, for R. Simeon disputes his view only in cases of movable property, but in cases of immovable property he consents.

R. Hiyya b. Abin said: If one had devoted movable property he may give it to any priest he pleases, as it is said: Everything devoted in Israel

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(1) Which with the extra fifth amounts to twenty-six sela's and one denar (approximately).

(2) V. Lev. XXVII, 28. Whatever was devoted was considered most holy, whilst still in the owner's house, but became profane as soon as it reached the priests. Anything devoted could be neither redeemed nor sold. Ibid. 29.

(3) V. p. 165, n. 5.

(4) Without servants, who do one's work, one cannot live. But one may rent out fields for labour, with part of the crop belonging to the tiller thereof.

(5) Excluding his daughter, whom he may sell only whilst she is a minor.

(6) V. Keth. 50a.

(7) The minor children could be sold by their father only whilst they are minors. The Hebrew slave, manservant or maidservant, are the property of their owner only during a limited number of years. The field acquired by purchase, too, can be held only for a limited time, reverting, as it does to its original owner, in the year of Jubilee. Hence all these things or persons cannot be devoted, devotion implying in perpetuity.

(8) Lev. XXV, 34.

### **Talmud - Mas. Arachin 28b**

shall be thine.<sup>1</sup> If he devoted his field he must give it to a priest of the then officiating guard,<sup>2</sup> as it is said: As a field devoted,' the possession thereof shall be the priest's,<sup>3</sup> making the inference from the analogy of [the term] 'the priest's, sin case of robbery of a stranger. And whence do we know it for that case? For it was taught: The Lord's, even the priest's,<sup>4</sup> i.e., the Lord acquired it and gave it to the priest in that guard. You say, To the priest in that [particular] guard; but perhaps it means to any priest it pleases him [to give it to]? When it says, Besides the ram of the atonement, whereby atonement shall be made for him,<sup>4</sup> hence Scripture speaks of the priests in that guard.<sup>5</sup> The field

which goes out to the priests in the year of Jubilee is [also] given to the priests of that [particular] guard.

The following question was raised: How if it<sup>6</sup> fell on a Sabbath? — R. Hiyya b. Ammi in the name of Hulfana said: It is to be given to the departing guard.<sup>7</sup> R. Nahman b. Isaac said: Thus was it also taught: It is to be found,<sup>8</sup> then, that both the year of Jubilee and the seventh year effect [respectively] the release [of debts and land] at the same time, except that the year of Jubilee [effects it] in its beginning and the seventh year at its end.<sup>9</sup> On the contrary! It was just because of this! — Say: Because the year of Jubilee, etc. Granted that the seventh year [effects release] at the end, as it is written: At the end of every seven years, thou shalt make a release,<sup>10</sup> but how does the year of Jubilee [effect release] at the beginning? That takes place on the Day of Atonement, as it is written: In the day of atonement shall ye make proclamation with the horn throughout all your land.<sup>11</sup> This is the view of R. Ishmael, the son of R. Johanan b. Beroka, who said that the year of Jubilee commenced from the New Year already.

Hezekiah son of Biloti heard it,<sup>12</sup> and he went and reported it to R. Abbahu. [The latter asked:] But let him compare movable property to immovable property? — But is it not a matter of dispute among Tannaim, there being some who compare the one to the other,<sup>13</sup> whilst some there are who do not?<sup>14</sup> And he [R. Hiyya b. Abin] holds with the view that we do not make that comparison.

MISHNAH. THINGS DEVOTED FOR [THE USE OF] THE PRIESTS CANNOT BE REDEEMED BUT ARE TO BE GIVEN TO THE PRIESTS. EVEN AS TERUMAH.<sup>15</sup> R. JUDAH B. BATHYRA SAYS: THINGS DEVOTED GENERALLY<sup>16</sup> FALL TO [THE FUND FOR] TEMPLE REPAIRS, AS IT WAS SAID: EVERY DEVOTED THING IS MOST HOLY UNTO THE LORD.<sup>17</sup> BUT THE SAGES SAY: THINGS DEVOTED GENERALLY FALL TO THE PRIESTS, AS IT IS SAID: AS A FIELD DEVOTED: THE POSSESSION THEREOF SHALL BE THE PRIEST'S.<sup>18</sup> IF SO, WHY IS IT SAID: 'EVERY DEVOTED THING IS MOST HOLY UNTO THE LORD'? [THAT IS TO TEACH] THAT IS APPLIES TO THE MOST HOLY AND THE LESS HOLY THINGS.

A MAN MAY DEVOTE WHAT HE HAS ALREADY CONSECRATED, WHETHER THEY BE MOST HOLY THINGS OR LESS HOLY THINGS. IF [THEY HAD BEEN] CONSECRATED AS A VOW, HE MUST GIVE THEIR VALUE,<sup>19</sup> IF AS A FREEWILL-OFFERING, HE MUST GIVE WHAT IT IS WORTH TO HIM.<sup>20</sup> [IF, E.G., HE SAID:] LET THIS OX BE A BURNT-OFFERING, ONE ESTIMATES HOW MUCH A MAN WOULD PAY FOR THE OX TO OFFER IT AS A BURNT-OFFERING, WHICH HE WAS NOT OBLIGED [TO OFFER]. A FIRSTLING, WHETHER UNBLEMISHED OR BLEMISHED, MAY BE DEVOTED. AND HOW CAN IT BE REDEEMED? THEY [WHO REDEEM IT] ESTIMATE WHAT A MAN WOULD GIVE FOR THIS FIRSTLING IN ORDER TO GIVE IT TO THE SON OF HIS DAUGHTER OR TO THE SON OF HIS SISTER.<sup>21</sup>

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(1) Num. XVIII, 14.

(2) Mishmar, v. Glos.

(3) Lev. XXVII, 21. (5) Num. V, 8. There being no heir to this stranger, his property falls to the priests. As in Lev. XXVII, 21 the words 'The possession thereof shall be the priest's' occur here. Hence the inference from analogy of expression.

(4) V. p. 168, n. 5.

(5) The sense of the verse being that the priest who offers the atoning sacrifice for him shall receive the capital and extra fifth.

(6) If the year of Jubilee fell on the Sabbath day on which the guards are changed, to which, the incoming or the outgoing guard, shall the field etc. be given?

(7) The Jubilee started on the eve before the Day of Atonement. Therefore the outgoing guard is entitled to the privilege.

- (8) Since the end of the seventh year (the 49th year in the cycle) coincides with the beginning of the Jubilee.
- (9) The wording is incorrect. It is because the end of the seventh year coincides with the beginning of the Jubilee that both effect the release at the same time. What meaning is there then to the 'except that'.
- (10) Deut. XV, 1.
- (11) Lev. XXV, 9. And the Day of Atonement is the tenth day after the beginning of the New Year.
- (12) The teaching of R. Hiyya b. Abin.
- (13) R. Judah supra.
- (14) R. Simeon.
- (15) V. Glos.
- (16) I.e., without any specification.
- (17) Lev. XXVII, 28.
- (18) Ibid. 21.
- (19) If he vowed to bring an offering and after designating an animal for the purpose he devoted it, since if that animal died or was stolen he would be liable to replace it, the animal is still regarded as being in his possession and the animal is devoted. As, however, an animal once designated as an offering may never be used for any other purpose, the devoter must pay its full value to the priest, whilst the animal itself is to be sacrificed for the purpose to which it originally had been designated by its owner. The same would apply if the sacrifice in question had not been vowed but obligatory.
- (20) If without vow or earlier liability he designated an animal as a freewill-offering, then he must pay the amount at which he valued his satisfaction with the fact that he was able to bring this offering.
- (21) A firstling, by reason of being a firstling, is a sacrifice due, which the owner is obliged to hand to the priest. And if the owner, before bringing this animal to the priest had devoted it, he can redeem it by estimating how much a man would give to him to have that firstling given to his relatives, who are priests. A priest must not pay to an Israelite with the view of being favoured as to the latter's priestly gifts. V. Bek. 27a.

## Talmud - Mas. Arachin 29a

GEMARA. Our Rabbis taught: Things devoted to the priests cannot be redeemed, but must be given to the priests. Things devoted, as long as they are in the house of their owners, are in every respect as objects consecrated, as it is said: 'Every devoted thing [in Israel] is most holy unto the Lord'. Once given to the priests, they are in every respect profane, as it is said: 'Every devoted thing in Israel shall be thine.'<sup>1</sup>

R. JUDAH B. BATHYRA SAID: THINGS DEVOTED GENERALLY FALL TO [THE FUND FOR] TEMPLE REPAIRS. It is all right as to the Rabbis, for they have explained their own reason as well as [the verse] adduced by R. Judah b. Bathyra. But what does R. Judah b. Bathyra do with 'as a field devoted'? — He needs it for what has been taught: 'As a field devoted, the possession thereof shall be the priest's'. What does that teach us? Whence do we know that if a priest consecrates his field which he derived from 'devotion',<sup>2</sup> he may not say: Since it falls to the priests [at Jubilee] and is now in my possession, it shall remain mine; and it is arguable a minori: If I acquire title to what belongs to others, how much more [can I do so] with what belongs to me! Therefore it is written: 'As a field devoted, the possession thereof shall be the priest's'. What, now, is it that we learn from 'a field devoted'? This comes to throw light and it itself illumined: His field which he derived from 'devotion' is compared with an Israelite's field of possession: just as an Israelite's field of possession goes out of his hand and is distributed among the priests [at Jubilee], thus also his field which he derived from 'devotion' goes out of his hands and is distributed among his brethren the priests. And the other?<sup>3</sup> [They derive this from the fact that instead of] 'devoting thing' [is written] the devoted thing.<sup>4</sup> And the other? — [The argument from] 'devoted', 'the devoted' does not convey [any inference] to him. Whence does R. Judah b. Bathyra know that it applies to the most holy and to less holy things?<sup>5</sup> — He holds as does R. Ishmael.<sup>6</sup>

Rab said: The halachah is like R. Judah b. Bathyra. But will Rab leave aside the Rabbis and act in accord with R. Judah b. Bathyra? — A Baraita teaches the reverse.<sup>7</sup> But will he leave aside a

Mishnah and act in accord with a Baraitha? — Rab teaches also our Mishnah in the reverse manner. Why do you find it right to teach to reverse our Mishnah in view of the Baraitha? Why not reverse the Baraitha in view of our Mishnah? — Rab had a tradition [on this matter]. If that be the case,<sup>8</sup> why does he say: [the halachah is like] R. Judah b. Bathyra? He should rather say, ‘Like the Rabbis’? — This is what he means: Given your teaching in the reverse manner, the halachah is like R. Judah b. Bathyra.

There was a man who devoted his possessions in Pumbeditha. He came before Rab Judah, who said to him: Take four zuz, redeem them thereby, throw them into the river, and then they will be allowed to you. This shows that he holds that things devoted generally go to [the fund for] Temple repairs. In accord with whom will that be? In accord with Samuel, who said: If one re deemed an object worth a mina with an object worth a perutah, it is redeemed. But R. Samuel said that only for the case where he had already done so, but did he at all say one may do so at the outset? — That [reservation] applied only to the time when the Sanctuary was still standing, because of the loss of consecrated property, but now one may do so even at the outset. If so, a perutah ought to do as well?<sup>9</sup> — It is necessary in order to make the matter public.<sup>10</sup> ‘Ulla said: ‘If I had been there,<sup>11</sup> I would have given all to the priests’. This shows that ‘Ulla holds that things devoted generally fall to the priests.

An objection was raised: The law of the Hebrew slave applies only as long as the Jubilee applies, as it is said: He shall serve with thee unto the year of Jubilee.<sup>12</sup> Neither does the law concerning a devoted field apply except at the time when the law of the Jubilee applies, as it is said: And in the Jubilee it shall go out, and he shall return unto his possessions.<sup>13</sup> The law touching houses in walled cities applies only as long as the law of the Jubilee applies, as it is said: It shall not go out in the Jubilee.<sup>14</sup> R. Simeon b. Yohai said: The law concerning a devoted field applies only at the time in which the law of the Jubilee applies, as it is said: But the field, when it goeth out in the Jubilee, shall be holy unto the Lord, as a field devoted.<sup>15</sup> R. Simeon b. Eleazar said: The law concerning the resident alien<sup>16</sup> applies only at the time when the law of the Jubilee applies. Said Bibi, what is the reason? Because it is inferred from the analogous ‘well’, ‘well’. Here it is written: Because he fareth well with thee,<sup>17</sup> and there it is written: Where it liketh him well, thou shalt not wrong him.<sup>18</sup> — This is no difficulty: the one refers to immovable property,<sup>19</sup> the other to movable property. But the case of Pumbeditha referred also to immovable property? — Immovable property outside the Land is like movable property in the land of Israel.<sup>20</sup> MISHNAH. R. ISHMAEL SAID: ONE VERSE SAYS, [ALL THE FIRSTLING MALES] THOU SHALT SANCTIFY,<sup>21</sup> AND ANOTHER VERSE SAYS: [THE FIRSTLINGS AMONGST BEASTS] NO MAN SHALL SANCTIFY.<sup>22</sup> IT IS NOT POSSIBLE TO SAY: THOU SHALT SANCTIFY’, SINCE IT WAS SAID ALREADY: NO MAN SHALL SANCTIFY’. AND IT IS NOT POSSIBLE TO SAY: ONE SHALL NOT SANCTIFY’, SINCE IT IS ALSO WRITTEN: THOU SHALT SANCTIFY’? HOW THEN? YOU MAY SANCTIFY IT BY CONSECRATING ITS VALUE [TO THE OWNER], BUT YOU MAY NOT SANCTIFY IT BY CONSECRATING ITSELF TO THE ALTAR.<sup>23</sup>

GEMARA: And the Rabbis?<sup>24</sup> ‘No man shall sanctify’ is required to [render such consecration for the altar transgression of a] prohibition; ‘thou shalt sanctify’ is necessary in accord with what was taught: Whence do we know that if one had a firstling born to him among his flock, that he is commanded [formally] to sanctify it? Because it is said: ‘The firstling thou shalt sanctify’. And R. Ishmael? — If he did not sanctify it, would it not be sacred? It is sacred from his dam's womb! Since, therefore, it is holy even if it be not [specially] sanctified, there is no need to sanctify it. [

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(1) Num. XVIII, 14.

(2) I.e., a field which an Israelite devoted.

(3) The Rabbis.

(4) ‘Devoted’ would have conveyed the required meaning; ‘the’ devoted is redundant, and the Sages make the said

inference therefrom.

(5) Since he applies the verse 'Every' devoted thins' to another purpose.

(6) V. next Mishnah.

(7) I.e., reverses the views of R. Judah b. Bathyra and the Sages recorded in our Mishnah.

(8) That he taught it in reverse manner.

(9) Why did he have to take four zuz?

(10) That it had been redeemed.

(11) When this cited case happened.

(12) Lev. XXV, 40.

(13) Ibid. 28.

(14) Ibid. 30.

(15) Ibid. XXVII, 21.

(16) I.e., a stranger who renounced idolatry, thereby acquiring a kind of limited citizenship in Palestine.

(17) Deut. XV, 16.

(18) Ibid. XXIII, 17.

(19) Lev. XXV, 28 refers to immovable property.

(20) Here, then, is evidence that the law concerning devoted property applies only as long as the law of the Jubilee is in force.

(21) Deut. XV, 19.

(22) Lev. XXVII, 26.

(23) The Sanctuary may receive the value which the satisfaction of having offered up such a sacrifice has for the owner (v. previous Mishnah), but the firstling may never be deprived of its primary character as a firstling, so as to be offered up in any other capacity, as any other animal consecrated to the altar.

(24) Who do not use these verses for the inferences which R. Ishmael derives from them, to what purpose are they using them?

## **Talmud - Mas. Arachin 29b**

### CHAPTER IX

MISHNAH. IF ONE SOLD HIS FIELD [OF POSSESSION] AT THE TIME WHEN THE LAW OF THE JUBILEE WAS IN FORCE, HE MAY NOT REDEEM IT UNTIL AFTER [A TIME OF LESS THAN] TWO YEARS, AS IT IS WRITTEN: ACCORDING TO THE NUMBER OF THE YEARS OF THE CROPS HE SHALL SELL UNTO THEE.<sup>1</sup> IF [AMONG THE TWO] THERE WAS A YEAR OF BLIGHT OR MILDEW, OR A SEVENTH YEAR, IT IS NOT INCLUDED IN THE RECKONING. IF HE ONLY BROKE THE GROUND [WITHOUT PLANTING] OR LEFT IT FALLOW [FOR A YEAR], THAT YEAR IS INCLUDED IN THE RECKONING. R. ELEAZAR SAYS: IF HE SOLD IT TO HIM BEFORE THE NEW YEAR, WHILST IT WAS STILL FULL OF FRUIT, HE ENJOYS THREE CROPS IN TWO YEARS.

GEMARA. IF ONE SOLD HIS FIELD AT THE TIME WHEN THE LAW OF THE JUBILEE WAS IN FORCE, etc. It does not state: He cannot redeem,<sup>2</sup> but 'he may not redeem'; this shows that it is even prohibited. so that it is forbidden even to clapper zuz to him [to rouse his love of money]. And it is not necessary [to state] that the seller [in redeeming it] acts against a positive command, as it is written: 'According to the number of the years of the crops he shall sell unto thee',<sup>1</sup> but even the purchaser transgresses a positive commandment, as we require: [According to the number of] the years thou shalt buy,<sup>1</sup> which was not done here.<sup>3</sup>

It was stated: If one sells his field in the year of Jubilee itself, Rab said, It is sold but goes out [immediately]. whilst Samuel said, It is not sold at all. What is the reason of Samuel's view? It is an argument a minori. If [a field] that was already sold goes out [in the Jubilee] it is not logical that one which is not sold yet cannot be sold [now]! — But according to Rab, do we not argue a minori in

such a case? Was it not taught: One might have assumed that a man can sell his daughter when she is a na'arah<sup>4</sup> lass, therefore one argues a minori: If she who was sold already goes out [free],<sup>5</sup> is it not logical that if not sold yet, she cannot be sold now? — There she cannot be sold again, but here it [the field] can be sold again.<sup>6</sup>

An objection was raised: Years after the Jubilee thou shalt buy,<sup>7</sup> that teaches that one may sell immediately after the year of the Jubilee. Whence [do we know] that one may sell [at a period] removed from the year of Jubilee? Therefore it is said: According to the multitude of the years . . . and according to the fewness of the years.<sup>8</sup> In the year of Jubilee itself one may not sell, and if he has sold [a field], it is not [validly] sold!<sup>9</sup> Rab will answer you: [It means,] It is not sold 'according unto the number of the years of the crops', but it is sold and goes out [immediately]. But if it is legally sold, let it remain in his possession until after the year of the Jubilee, and after the Jubilee let him enjoy the [two] years of the crops, and thereupon return it; for was it not taught: If he enjoyed it one year before the Jubilee, one lets him complete [the two years by] one year after the Jubilee? — There he has started<sup>10</sup> enjoying it, but here he has not started to enjoy it.<sup>11</sup>

R. 'Anan said: I heard from Mar Samuel two things; one in relation to this point, and the other in relation to the statement: If one sells his slave to an idolater or outside the Land [of Israel], he goes out free. In one case [he said] the purchase money is returned,<sup>12</sup> and in the other it is not returned, and I do not know which is which. Said R. Joseph: Let us see. It was taught in a Baraita: If one sells his slave outside the Land [of Israel], he goes out free, and he requires a document of manumission from his second master. Now since he refers to the second as his master, it is evident that the purchase money is not returned, and it is therefore here that Samuel said it is not sold and the purchase money is returned.

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(1) Lev. XXV, 15.

(2) I.e., against the wish of the buyer.

(3) He did not fulfil the obligation to buy them for a minimum period of two years. thus disregarding the positive commandment to that effect.

(4) V. Glos.

(5) V. Kid. 4a.

(6) After the daughter has once been sold for servitude, she cannot be sold for servitude again, but the field could be sold after the year of Jubilee.

(7) Lev. XXV, 15.

(8) Lev. XXV, 16.

(9) Contra Rab.

(10) Lit., 'he descended (into the field)'.  
(11) Having started before the Jubilee, lawfully.

(12) To the purchaser.

## Talmud - Mas. Arachin 30a

And R. 'Anan?<sup>1</sup> — As to the Baraita, he had not heard it and as far as Samuel's [teaching] is concerned, whence [the evidence that it means] that it is not sold and the money is returned? Perhaps [it means]: 'It is not sold and the money is [to be considered] a gift'; just as is the case of one who betroths his sister; for it was stated: If one betroths his sister, Rab said the [betrothal] money is to be returned, and Samuel holds that the money is regarded as a gift!<sup>2</sup>

Abaye said to R. Joseph: Why do you find it proper that we penalize the purchaser. let us penalize the seller!<sup>3</sup> — He answered: 'Not the mouse has stolen, the hole has stolen. But if there were no mouse, whence would the hole [have its theft]? — It is reasonable that we penalize him with whom the forbidden stuff is [found].<sup>4</sup>

IF THERE WAS A YEAR OF BLIGHT, etc. If it is included in the reckoning even when he left it fallow [for a year], is it necessary to state that [it is included] if he broke the ground?<sup>5</sup> — It is necessary. For you might have thought: We say to him,<sup>6</sup> pay him the money [which the breaking of the ground cost] and he will go;<sup>7</sup> therefore we are informed [that we do not say so].

R. ELEAZAR SAID: IF HE SOLD IT TO HIM, etc. It was taught: R. Eleazar said, Whence do we know that if he sold him [the field] before the New Year whilst it was full of fruit, that he cannot say to him: 'Leave it before me as I have left it before you',<sup>8</sup> therefore it is said: 'According to the number of years of the crops he shall sell unto thee', i.e., it may happen that a man enjoys three crops in two years.<sup>9</sup>

MISHNAH. IF HE SOLD IT TO THE FIRST FOR ONE HUNDRED [DENARS]. AND THE FIRST SOLD IT TO THE SECOND FOR TWO HUNDRED, THEN HE NEED RECKON ONLY WITH THE FIRST,<sup>10</sup> FOR IT IS WRITTEN: [THEN LET HIM COUNT THE SALE THEREOF] . . . UNTO THE MAN TO WHOM HE SOLD IT.<sup>11</sup> IF HE SOLD IT TO THE FIRST FOR TWO HUNDRED, AND THE FIRST SOLD IT TO THE SECOND FOR A HUNDRED, THEN HE NEED RECKON ONLY WITH THE SECOND, FOR IT IS SAID: THEN LET HIM COUNT THE YEARS OF THE SALE THEREOF AND RESTORE THE OVERPLUS UNTO THE MAN TO WHOM HE SOLD IT.<sup>11</sup> I.E., UNTO THE MAN WHO IS IN POSSESSION THEREOF.<sup>12</sup> ONE MAY NOT SELL A DISTANT FIELD IN ORDER TO REDEEM A NEARER ONE, NOR REDEEM A POOR FIELD IN ORDER TO REDEEM ONE THAT IS GOOD. NOR BORROW [MONEY] IN ORDER TO REDEEM IT, NOR REDEEM IT BY HALVES, BUT IN THE CASE OF OBJECTS CONSECRATED ALL THESE THINGS ARE PERMITTED. IN THIS RESPECT MORE STRINGENCY ATTACHES TO COMMON PROPERTY THAN TO CONSECRATED OBJECTS.

GEMARA. Our Rabbis taught: If he sold it to the first one for one hundred, and the first sold it to the second for two hundred, whence do we know that he need reckon but With the first? There fore it is said: 'Unto the man to whom he sold it'. If he sold it to the first for two hundred, and the first sold it to the second for a hundred, whence do we know that he need reckon but with the second? Therefore it is said: 'Unto the man' in whose possession it is. These are the words of Rabbi. R. Dosethai b. Judah said: If he sold it to him for one hundred and he improved it so that it[s value] amounted now to two hundred, whence, do we know that he need reckon it only as worth one hundred? Therefore it is said: 'Let him restore the overplus', i.e., the overplus which is left in his hand. If he sold it to him for two hundred and it depreciated and is worth now only one hundred, whence do we know that he need reckon it only as worth one hundred? Therefore it is said, 'Let him restore the overplus', i.e., the overplus that is in the soil.<sup>13</sup> What is the practical difference between these two [authorities]?<sup>14</sup> — If it was more valuable, then became less valuable, then more valuable again.<sup>15</sup> But whence do we know that [the counting] is in the direction of leniency.<sup>16</sup> Perhaps it is to be on the side of stringency? — Do not think so! For we infer it from 'redemption' [written here]<sup>17</sup> and 'redemption' [written] in connection with the Hebrew slave.<sup>18</sup> But whence do we know it there? For it was taught: If he was sold for a hundred and appreciated in value and stood at two hundred, whence do we know that he is assessed only at one hundred?<sup>19</sup> Therefore it is said: [He shall give back the price of his redemption] out of the money that he was bought for.<sup>20</sup> If he was sold for two hundred and depreciated and stood at a hundred, whence do we know that he is assessed only at a hundred? Therefore it is said: According unto his years shall he give back the price of his redemption.<sup>21</sup> Now I know only for the case of a slave sold to an idolater that since he may be redeemed [by his own kinsmen] his [the slave's] hand is uppermost. Whence do I know it for the case of one who is sold to an Israelite? Therefore it is said: 'A hired servant', 'a hired servant',<sup>22</sup> for the purpose of a gezerah shawah.

Abaye said:

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- (1) What was his doubt?
- (2) Everyone knows that he cannot betroth his sister, hence his form of betrothal was a humorous manner of giving her a gift. V. Kid. 46b.
- (3) The question refers to the case of a man who sold his slave outside Palestine. Why punish the purchaser? Why not punish the seller by decreeing that he should return the money to the would-be purchaser and imposing upon the seller the duty of manumitting him?
- (4) The penalty is inflicted where the *corpus delicti*, here the unlawfully sold slave, is to be found.
- (5) Where he made some use of the land.
- (6) To the seller.
- (7) Return you the field.
- (8) When I sold it to you.
- (9) 'Years of crops' suggests years with all their crops, no matter how many. If two crops' only were intended, Scripture would have chosen another expression, such as 'number of years' or 'number of crops'.
- (10) The field is at present in the possession of the second, from whom its original owner desires to redeem it. The latter need reckon only according to the purchase money he himself received from the first buyer. From that sum he would deduct the amounts due for the years during which the field was in the buyer's possession.
- (11) Lev. XXV, 27.
- (12) 'Ish' here is interpreted as *ba'al*, 'owner', 'master', i.e., whosoever is now in possession. 'To whom he sold it' means then to whom the first purchaser sold it. These interpretations in both instances favour the owner.
- (13) We interpret the law in a manner favourable to the owner who wishes to redeem it.
- (14) Since both Rabbi and R. Judah favour the redeeming owner.
- (15) Where it was first sold, say, for two hundred and then resold for one hundred and it appreciated again to two hundred in the possession of the second buyer. According to Rabbi the reckoning is on the basis of one hundred, the price paid by the second buyer, who is the man who is in possession. But on the view of R. Dosethai, the reckoning is on the basis of two hundred.
- (16) I.e., more favourable to the owner who wishes to redeem it.
- (17) Lev. XXV, 26.
- (18) Ibid. 51.
- (19) For the purpose of redemption.
- (20) Ibid. 51.
- (21) Lev. XXV. 52.
- (22) Ibid. 40 (with reference to a slave sold to a Jew), and *ibid.* 50 with reference to one sold to a heathen.

### Talmud - Mas. Arachin 30b

Behold I am like Ben 'Azzai in the streets of Tiberias!<sup>1</sup> One of the Rabbis said to Abaye: Since these verses may be interpreted both leniently and stringently. Why do you interpret them leniently, perhaps say they should be interpreted stringently?<sup>2</sup> — Let not that enter your mind, since the All Merciful was lenient to him. For it was taught: Because he fareth well with thee,<sup>3</sup> i.e., he must be with [like] thee in food, with thee in drink, that thou shouldst not eat fine bread and he coarse bread, thou drink old wine and he drink new wine, thou sleep on a soft bed and he on straw. Hence it was said: Whosoever buys a Hebrew slave almost buys a master of himself. But on the contrary, let us deal more stringently with him, in accordance with what R. Jose b. Hanina said. For R. Jose b. Hanina said: Come and see how hard is the very dust<sup>4</sup> of [violating the laws of] the seventh year. For a man who sells and buys the produce of the seventh year ultimately must sell his movable property, as it is said: In this year of Jubilee ye shall return every man unto his possession;<sup>5</sup> and it is said: And if thou sell aught unto thy neighbour. or buy of thy neighbour's hand,<sup>6</sup> i.e., something which is acquired from hand to hand.<sup>7</sup> If he does not perceive this,<sup>8</sup> he eventually must sell his fields, as it is said: If thy brother be waxen poor, and sell some of his possessions.<sup>9</sup> He has no opportunity [of amending his ways]<sup>10</sup> until he sells his house, as is added: And if a man sell a dwelling-house in a



walled city.<sup>11</sup> Why state there: 'If he does not perceive'. and here 'He has no opportunity'? — This is in accord 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', how could you think so? Say, rather, it becomes as permitted to him.<sup>12</sup> It is not brought home to him<sup>10</sup> until he sells his daughter, as it is said: And if a man sell his daughter to be a maidservant,<sup>13</sup> and although the [sale of] the daughter is not mentioned in this section, he teaches us that a man should rather sell his daughter than borrow on usury; for in the former case she goes on making deductions [and goes out free], whereas here [the debt] becomes ever larger.<sup>14</sup>

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 sell himself to thee.<sup>15</sup> And not even 'unto thee', but unto a proselyte, as it is said: Unto the proselyte,<sup>16</sup> and not even to a proselyte of righteousness, but to a resident alien, as it is said: Or unto the resident alien.<sup>17</sup> 'A prose lyte's family', i.e., an idolater. When it is said, 'to the stock', it means one who sells himself to become a servant to an idol itself! — He replied: But Scripture restores him [to his brethren's regard]. For the School of R. Ishmael taught: Since this one went and sold himself to the service of idol worship, [I might have said] let us cast a stone after the fallen?<sup>18</sup> Therefore it is said: After that he is sold, he shall be redeemed, one of his brethren shall redeem him.<sup>19</sup> But perhaps 'he shall be redeemed' means, he shall not be absorbed by the idolaters, but as far as redemption is concerned, we should indeed deal stringently with him? — Said R. Nahman b. Isaac: It is written, If there be yet increases in the years,<sup>20</sup> and if there remain but little in the years:<sup>21</sup> are there then prolonged years and shortened years?<sup>22</sup> But [the meaning is this]. If his value increased, [then his redemption shall be paid] Out of the money that he was bought for;<sup>23</sup> and if his value decreased [the basis of the redemption shall be] According unto his [remaining] years! But perhaps [the meaning is this]: If he served two years, with four remaining, let him repay him for four years 'out of the money that he was bought for'; while if he served four years, with two remaining, let him repay two years 'according unto his years'?<sup>24</sup> — If that were the meaning. let Scripture write: 'If there be yet [shanim] many years'. Why 'in years [he-shanim]'? [It means:] If his value increased [in these] years [then his redemption shall be paid] 'out of the money that he was bought for'; and if his value decreased, in [these] years [the basis of the redemption shall be] 'according unto his [remaining] years'. R. Joseph said: R. Nahman interpreted these verses [with authority] as of Sinai.

HE MAY NOT SELL A DISTANT FIELD etc. Whence do we know these things? For our Rabbis taught: And his hand shall reach,<sup>25</sup> i.e., his own hand, [implying] that he must not borrow to redeem; 'and find' excludes that which he possessed already. He must not sell a remote [field] to redeem a nearer one; nor a bad one to redeem a good one; 'sufficient means to redeem it', i.e., he may redeem it [wholly], but not by halves. Shall we say that [the phrase] 'and he find' means that which is here already? Against this I will raise a contradiction: 'and findeth',<sup>26</sup> that excludes the case where he [the victim] brought himself [within the range of the missile]. Hence R. Eliezer said: If after the stone had left his hand the other put out his head and received it [the blow], he [the former] is free.<sup>27</sup> This shows that 'he find' refers to something that had been [here already before]? — Raba replied: [Here] in our case [we consider] the context of Scripture, and there, too, [we consider] the context of Scripture. Here it corresponds to 'and his hand reaches'; just as 'his hand reaches' means only now, thus also 'and find' means just now. And there, too, 'and findeth' corresponds to 'the forest': just as the forest was here before, so does 'and findeth' means that he [the neighbour] was here already before.

IN THE CASE OF OBJECTS CONSECRATED, etc. Whence do we know these things? — Because our Rabbis taught: And if he [that sanctified the field] will indeed redeem it:<sup>28</sup> that teaches that he can borrow and redeem and redeem by halves. Said R. Simeon: What is the reason? Because we find in the case of one who sells a field of possession that [since] his privilege is strengthened in that if the Jubilee arrives and it has not been redeemed it reverts to the owner, his rights are weakened in [so far] that he cannot borrow and redeem, or redeem by halves, whereas he who

consecrates a field of possession, since his rights are weakened in that if the Jubilee comes and it is not redeemed, it goes out to the priests, therefore his privilege is strengthened, in [so far] that he may borrow and redeem as well as redeem by halves.

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(1) In an expansive mood he challenged all comers. Ben 'Azzai was famous for his scholarship. and for his eagerness to be challenged on any point of Jewish law. Abaye does not suggest that he is as complacent in his judgment on all other Sages as Ben 'Azzai, but that like the latter he is eager to hear questions and to answer them. Cf. Bek. 58a.

(2) The verses referring to the redemption of the Hebrew slave. Instead of applying v. 52 to depreciation and v. 51 to appreciation in value, so that the slave is always assessed on his higher value.

(3) Deut. XV, 16.

(4) The very dust, as it were the scent. A real transgression of the law of the seventh year would consist of his storing up fruit for speculation; 'dust' suggests 'shade', something akin to, here, an occupation indirectly related to those forbidden in the seventh year. Selling its produce is such indirect transgression. nevertheless the consequences are as serious as described (R. Gershom).

(5) Lev. XXV. 13.

(6) Lev. XXV, 14. The juxtaposition of these two verses imply that the one is a punishment for transgressing the other.

(7) I.e., movables.

(8) That this is punishment inflicted for his transgression.

(9) Lev. XXV, 25. 'Possessions (used esp. for the field inherited) indicates 'immovable property'.

(10) Lit., 'it does not come to his hand'.

(11) Ibid. 29.

(12) The effect of repeated transgression upon the transgressor lies in his becoming insensitive to wrong so that wrong habit hardens and develops into wrong character.

(13) Ex. XXI, 7.

(14) The sum paid for the daughter diminishes as the daughter performs the labour implied in her servitude, so that if she be redeemed after some years, it may be small indeed, but a debt contracted upon usurious terms increases from year to year. Whereas there is no reference to the daughter in that section, usury is mentioned therein, and the suggestion is made that he had sold his daughter already. in accord with the advice given.

(15) Lev. XXV, 39.

(16) Ibid. 47. E.V. 'stranger'.

(17) The difference between the proselyte of righteousness and the resident alien (Ger Toshab) lies in the fact that the former, for the sake of the faith, accepts upon himself all the laws of the Torah, whereas the resident alien, in order to acquire a limited citizenship. renounces idolatry but does not accept the rest of the law.

(18) Performing menial service for the pay, without in any manner being identified with idolatry. Now since this is the foretold and effected punishment of one who even indirectly transgressed the laws of the seventh year, why deal leniently with him?

(19) Lev. XXV, 48.

(20) Ibid. 51.

(21) Ibid. 52. The translation here would seem to indicate the meaning of the verses as understood by R. Nahman.

(22) All years are of the same duration.

(23) The meaning is, if his value increased in the years of his service, etc.

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

(25) Lev. XXV, 26. E.V. 'And he be waxen rich'.

(26) Deut. XIX, 5. E.V. 'lighteth'.

(27) V. Mak. 8a.

(28) Lev. XXVII, 19. Indeed endeavours to express the intensive in Heb: And if redeeming, he will redeem. The redundancy is here interpreted also to suggest that he may redeem any way, i.e., by borrowing, or by halves as long as he redeems.

## **Talmud - Mas. Arachin 31a**

One [Baraita] taught: 'He may not borrow and redeem. and may not redeem by halves'? — This is

no difficulty: one is in accord with the Rabbis. the other with R. Simeon.<sup>1</sup>

MISHNAH. IF ONE SOLD A HOUSE AMONG THE HOUSES IN A WALLED CITY. HE MAY REDEEM IT AT ONCE AND AT ANY TIME DURING TWELVE MONTHS.<sup>2</sup> IT IS A KIND OF [RECEIVING] INTEREST, AND YET NOT INTEREST.<sup>3</sup> IF THE SELLER DIED, HIS SON MAY REDEEM IT. IF THE PURCHASER DIED, IT MAY BE REDEEMED FROM HIS SON. ONE CAN RECKON THE YEAR ONLY FROM THE TIME THAT HE SOLD IT, AS IT IS SAID: WITHIN THE SPACE OF A . . . YEAR.<sup>4</sup> SINCE IT SAYS: A 'FULL' [YEAR] THE INTERCALARY MONTH IS INCLUDED THEREIN.<sup>5</sup> RABBI SAYS: HE IS ALLOWED A YEAR AND ITS INTERCALARY [DAYS].<sup>6</sup> IF THE [LAST] DAY OF THE TWELVE MONTHS HAS ARRIVED AND IT WAS NOT REDEEMED. IT BECOMES HIS ABIDING [POSSESSION], NO MATTER WHETHER HE BOUGHT IT OR RECEIVED IT AS A GIFT, AS IT IS SAID: IN PERPETUITY.<sup>7</sup>

GEMARA. Our Mishnah will not be in accord with Rabbi, for it was taught: Rabbi said, Yamim<sup>8</sup> [days] that means no less than two days! How do the Rabbis explain 'yamim'? — They need it for [the indication]: From the day to the day.<sup>9</sup> And whence does Rabbi know the rule 'from the day to the day'? — He derives it from: 'Within a whole year after it is sold'. And the Rabbis? — This [verse] is needed to teach that one considers only the year after his sale and not the universal [calendar] year, and the word yamim indicates that twenty-four astronomical hours are meant.<sup>10</sup> For if [we had only] 'within a whole year after it is sold' [to go by], one might have assumed that it must be [a full year] from day to day, but need not be from [exact] hour to [exact] hour, therefore the Divine Law wrote: 'Yamim'. Whence does Rabbi know that it must be from 'hour to hour'? — He derives that from 'full' [year]. And the Rabbis? — That is necessary for [the inclusion of] its intercalary [days]. But Rabbi, too, requires that for its intercalary [days]? — That indeed is so, but that [the year must be full] from day to day and from hour to hour he derives from: 'Within a whole year after it is sold'.

IT IS A KIND OF INTEREST, etc. But was it not taught: This is real interest, except that the Torah has permitted it [in this case]? — R. Johanan said: This is no difficulty: One [teaching] is in accord with R. Judah, the other with the Sages. For it was taught: If one had a creditor's claim of one maneh against his neighbour and the latter pledged unto him the sale of his field,<sup>11</sup> then, if the seller has the usufruct, it is permitted, but if the purchaser has the usufruct, it is forbidden.<sup>12</sup> R. Judah says: Even if the purchaser has the usufruct, it is permitted.<sup>13</sup> Said R. Judah; It happened with Boethus b. Zunin that with the approval of R. Eleazar b. Azaryah he pledged his field's sale, and the purchaser had the usufruct. They said to him, [Would you adduce] evidence from there? The seller had the usufruct, not the purchaser. Wherein do they differ? — They differ with respect to one-sided usury.<sup>14</sup> The first Tanna holds one-sided usury to be forbidden, whilst R. Judah is of the opinion that one-sided usury is permitted

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(1) R. Simeon holds that any impairment of rights of any person in one direction must have as its compensating aspect a strengthening of his rights in another direction. He finds this principle verified not only in the case of him who sells his field of possession, or his field acquired by purchase, but also in the case of one who sells a house in the walled city (v. Tosaf.). The Rabbis, however, dispute his view. V. Kid. Sonc. ed., p. 97 n. 3.

(2) By paying to the purchaser the full sum of the sale, Lev. XXV, 29.

(3) Since the purchaser may inhabit the house free of rent. For, on redelivering it, the owner must refund the exact sum of the purchase without any deduction for rent. Yet it is not interest, for if the owner does not exercise his right of redemption, the buyer has inhabited what is his house in perpetuity.

(4) Lev. XXV, 30.

(5) I.e., he need not redeem before thirteen months.

(6) The first Tanna holds 'a full year' to mean a complete calendar year up to the very same day of the year to come, hence the intercalary month is included. Rabbi, however, holds 'a full year' to be the solar year, consisting of 365 days,

which is composed of the 354 days of the lunar year of the Jewish calendar, plus the eleven days difference between the lunar and the solar year.

(7) Lev. XXV, 30. The present owner acquires it in perpetuity, independent of the way he acquired it.

(8) Ibid. 29. 'Yamim', lit., 'days'. (E.V. 'a full year'). On Rabbi's view the purchaser would have had it for at least two days before the seller could redeem it. Our Mishnah, however, taught that redemption is permitted without any delay.

(9) From e.g., the tenth of Adar to the tenth of Adar next year, and not as one might have thought, from the tenth of Adar to the end of the calendar year. It is the whole year after the purchase that the Torah stipulates.

(10) Not only the day, but the hour. It would allow the seller, who had sold it at 5 p.m. on Adar 10th to re-purchase it up to that very hour, the hour included.

(11) Saying, 'If I do not repay a certain date the field is sold unto you'.

(12) Because if he repays the debt, the usufruct would rank as interest for the money advanced.

(13) Because it is not certain that the field will be redeemed, in which case there is no usury. Hence it is regarded as none-sided interest which is permitted.

(14) V. previous note.

### **Talmud - Mas. Arachin 31b**

. Raba said: All agree that one-sided usury is forbidden, here they are disputing [the principle of] usury [received] on condition that it shall be returned,<sup>1</sup> one holding it to be forbidden, the other to be permitted.

IF THE SELLER DIED, HIS SON MAY REDEEM IT. But that is self-evident? — You might have said: The Divine Law said, And if a man sell a dwelling house,<sup>2</sup> and this one [the son] did not sell it, therefore we are informed, then he may redeem it,<sup>2</sup> which means any way.

IF THE PURCHASER DIED, IT MAY BE REDEEMED FROM [THE HAND OF] HIS SON. But that is self-evident? — You might have said: The Divine Law said, To him that bought it,<sup>3</sup> but this one did not buy it, therefore we are informed, 'then he may redeem it', which means anyway.

ONE CAN RECKON THE YEAR ONLY FROM THE TIME THAT HE SOLD IT, etc. Our Rabbis taught: [It Is written:] 'year';<sup>4</sup> I would not know whether this year is to be counted to the first or the second [purchaser], but as it says, 'with the space of a full year',<sup>5</sup> it must mean to the first. Whose abiding [possession] does it become? — R. Eleazar said: It becomes the abiding possession of the first one. R. Johanan said: It becomes the abiding possession of the second. This is quite right according to R. Eleazar, since we reckon also according to him, but what is the reason for R. Johanan's view? — R. Abba b. Memel said: What did the first sell to the second? All the rights that may accrue to him therefrom.

R. Abba b. Memel said: If one sold two houses in a walled city, one on the fifteenth day of the first Adar, and the other on the first day of the second Adar, then as soon as the first day of Adar in the next year has arrived, the year is complete for the sale of the first day of the second Adar, but for the sale of the fifteenth of Adar the year does not become complete before the fifteenth Adar in the next year. Rabina demurred: But could he not say unto him: I lighted a fire before you!<sup>6</sup> — [That would not be effective] because he could reply: You have chosen the intercalated month!<sup>7</sup>

Furthermore said R. Abba b. Memel: If two lambs were born to one,<sup>8</sup> one on the fifteenth of the first Adar, and the other on the first of the second Adar, then the one born on the first of the second Adar has its year completed as soon as the first day of Adar of the next year has arrived, whereas to the one born on the fifteenth day of the first Adar the year is not complete before the fifteenth day of Adar in the next year. Rabina demurred: But [the first] could say to the [second] other: I have eaten grass before you! [That would not be effective] because it could reply: You have come down [to life] in the intercalated month, I have not arrived in the intercalated month! For what purpose was that

second [case] taught? Is it not identical with the first? — You might have said: There [the reason for the change] is that it is written: ‘a full [year]’, but here, in connection with which ‘full’ is not written, it does not apply; therefore we are informed that there is an inference from the analogous ‘year’, ‘year’.<sup>9</sup>

SINCE IT SAYS A ‘FULL’ [YEAR], etc. RABBI SAYS, HE IS ALLOWED A YEAR AND ITS INTERCALARY [DAYS]. Our Rabbis taught: [It is written], ‘a full year’: Rabbi Says. He counts three hundred and sixty-five days according to the number of days in the solar year; but the Sages say: He counts twelve months from day to day, and if the year is intercalated it is intercalated to his advantage!

IF THE [LAST] DAY OF THE TWELVE MONTHS HAS ARRIVED AND IT WAS NOT REDEEMED, etc. Our Rabbis taught: ‘La-zemithuth’,<sup>10</sup> i.e., permanently. Another explanation: La-zemithuth’ that includes the gift. What is the reason? — [Since instead of] zamith [it says] zemithuth.<sup>11</sup> — The scholars said before R. Papa: According to whom is this? [Evidently] not in accord with R. Meir; for if according to R. Meir, surely he said: ‘A gift is not treated like a sale’!<sup>12</sup> — R. Papa answered: You may even say that it is in accord with R. Meir, but here it is different. because the Divine Law, in saying ‘la-zemithuth’ has included [the field by gift]. The scholars said to R. Papa, or as some say. R. Huna the son of R. Joshua said to R. Papa: But in connection with the Jubilee touching which it is said: Ye shall return<sup>13</sup> includes the gift. yet R. Meir does not include [a gift]?<sup>14</sup> — Hence indeed it is not in accord with R. Meir.

Our Rabbis taught: If one consecrated a house among the houses In a walled city, he may redeem it at once, and redeem it any time in the future. If someone else redeemed it from the Sanctuary. and the [last] day of the twelve months<sup>15</sup> has arrived and the [original owner] did not redeem it [from him who redeemed it] then it is his in perpetuity. Whence do we know this? — Said Samuel: Because Scripture said: To him that bought it, i.e., even out of the possession of the Sanctuary. But let it become the permanent possession of the Sanctuary? — Scripture said: Throughout his generations;<sup>16</sup> that excludes the Sanctuary which has no generations.<sup>17</sup> Why [is it written]: It shall not go out in the Jubilee?<sup>18</sup> — Said R. Safra: That was necessary only for the case of one who sold a house among the houses in a walled city, and the Jubilee arrived within the [first] year. One might have assumed: It shall go out on the Jubilee, therefore we were taught: ‘It shall not go out in the Jubilee’.

MISHNAH. BEFORETIME HE [THE BUYER] USED TO HIDE HIMSELF ON THE LAST DAY OF THE TWELVE MONTHS, SO THAT [THE HOUSE] MIGHT BECOME HIS PERMANENT [POSSESSION]. BUT HILLEL ORDAINED THAT HE [THAT SOLD IT] COULD DEPOSIT HIS MONEY IN A CHAMBER<sup>19</sup> AND BREAK DOWN THE DOOR AND ENTER, AND THAT THE OTHER, WHENEVER HE WANTED, MIGHT COME AND TAKE HIS MONEY.

GEMARA. Raba said: [One may deduce] from the ordinance of Hillel that [if a husband said to his wife]: Here is thy bill of divorce on condition that you give me two hundred zuz, and she gave it to him, then she is divorced if she did so with his consent; but if against his will, she is not divorced.

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(1) The case is one in which the purchaser undertakes that if the seller redeems the field within three years, he would return to him the value of the usufruct. The Rabbis hold even this is forbidden, for when he enjoys the usufruct it is actually interest on money lent, whilst R. Judah said: Since by this arrangement the infringement of usury is precluded. V. B.M. Sonc. ed., p. 376. n. 9.

(2) Lev. XXV, 29.

(3) Ibid. 30.

(4) Ibid. 29.

- (5) Lit., 'until a full year has been completed for him'.
- (6) I.e., I have kindled fire and used the house before you! Why should it become your abiding possession before the one I used became mine?
- (7) Having chosen that month, you indicated that you are satisfied to abide by the regulations of the intercalated year. hence your year is completed later.
- (8) These lambs, being firstlings, must be offered up before they are one year old.
- (9) Lev. XXV. 30. (with reference to a dwelling house) and Deut. XV, 20 (with reference to firstlings).
- (10) E.V. 'In perpetuity'. Lev. XXV, 30.
- (11) The shorter form would have been sufficient. The redundancy of the longer form includes something, hence possession by gift, to which the same rule applies as does to possession by purchase.
- (12) V. Bek. 52b.
- (13) Lev. XXV, 10.
- (14) In the law of the Jubilee.
- (15) After redeeming it from the Sanctuary.
- (16) Lev. XXV, 30.
- (17) I.e., offspring.
- (18) Ibid. This is apparently superfluous in view of the preceding 'in perpetuity'.
- (19) What chamber? Not, as most commentators have it, in the Sanctuary. No house in Jerusalem could fall to the purchaser, and for an inhabitant of the province the procedure of bringing that money to Jerusalem on the particular day might be very burdensome. R. Gershom suggests it was a chamber constructed ad hoc, in any court of justice, in the city wherein the case arose.

## Talmud - Mas. Arachin 32a

For, since it was necessary for Hillel to ordain that [in this case] giving against [the recipient's will] is considered valid giving, the inference is that elsewhere such giving is not considered valid giving. To this R. Papa, or as others say, R. Shimi b. Ashi, demurred: But perhaps Hillel had to ordain this only in his absence, but in his presence it would be considered a valid gift both with his consent or without it? Others reported: Raba said, From the ordinance of Hillel [one can infer that if a husband said]: Here is your bill of divorce on condition that you give me two hundred zuz, and she thereupon gave them to him, whether that was given with his consent or against his will, it is a valid gift. For Hillel's ordinance was necessary in the case of the recipient's absence; but where he was present, whether [given] with his consent or against his will, the gift is valid. To this R. Papa, or as some say, R. Shimi b. Ashi, demurred: But perhaps whether it was in his presence or absence, it is [valid] only [if it was given] with his consent, but not if without his consent, and as to Hillel, he ordained what was required [by the circumstances of the case].<sup>1</sup>

MISHNAH. WHATSOEVER IS WITHIN THE [CITY] WALL IS REGARDED AS THE DWELLING HOUSES IN A WALLED CITY, WITH THE EXCEPTION OF FIELDS. R. MEIR SAYS: ALSO FIELDS. IF A HOUSE IS BUILT INTO THE WALL, R. JUDAH SAYS: IT IS NOT CONSIDERED A HOUSE WITHIN A WALLED CITY. R. SIMEON SAYS: ITS OUTER WALL IS REGARDED AS ITS [CITY] WALL.

GEMARA. Our Rabbis taught: [It is written] 'house',<sup>2</sup> hence I know only about a house, whence [do I learn] to include the building for the oil-press, bath-houses, towers, dove-cotes, pits, trenches and caves? Therefore the text states: that is in the city.<sup>3</sup> One might have assumed that fields are also included, therefore it is said: 'house'. So R. Judah. R. Meir says, 'house', hence I know only about a house. Whence [do I learn] to include the buildings for the oil-press, bath-houses, towers, dove-cotes, pits, trenches and caves, and also fields? Therefore the text states: 'that is in the city'. But surely it is written: 'house'? — R. Hisda in the name of R. Kattina said: The practical difference between them applies in the case of a sand-mound and a glen.<sup>4</sup> Thus also was it taught: Concerning a sand-mound and a glen. R. Meir said: They are as houses, R. Judah: They are as fields.

IF A HOUSE IS BUILT INTO THE WALL, R. JUDAH SAYS: IT IS NOT CONSIDERED A HOUSE WITHIN THE WALLED CITY, etc. R. Johanan said: And both expound the same Scriptural verse: Then she let them down by a court through the window; for her house was upon the side of the wall, and she dwelt upon the wall.<sup>5</sup> R. Simeon [explains it] according to the simple meaning of the text,<sup>6</sup> whilst R. Judah holds: She dwelt upon the wall, not in a walled city.

MISHNAH. [A HOUSE WITHIN] A CITY WHOSE HOUSEROOFS<sup>7</sup> FORM ITS WALL, OR THAT WAS NOT ENCOMPASSED BY A WALL IN<sup>8</sup> THE DAYS OF JOSHUA B. NUN, IS NOT CONSIDERED A DWELLING HOUSE IN A WALLED CITY. [A HOUSE IN ANY OF] THE FOLLOWING IS ACCOUNTED A HOUSE IN A WALLED CITY: [THOSE IN A CITY] OF NO LESS THAN THREE COURTYARDS, HAVING TWO HOUSES EACH, WHICH HAVE BEEN ENCOMPASSED BY A WALL IN THE DAYS OF JOSHUA B. NUN, SUCH AS THE OLD CASTLE OF SEPPHORIS,<sup>9</sup> THE FORT OF GUSH-HALAB.<sup>10</sup> OLD YODPAT,<sup>11</sup> GAMALA,<sup>12</sup> GADUD,<sup>13</sup> HADID,<sup>14</sup> ONO,<sup>15</sup> JERUSALEM AND THE LIKE.

GEMARA. Our Rabbis taught: [It is written,] 'a wall',<sup>16</sup> but not a line formed by joining roofs; round about,<sup>17</sup> that excludes Tiberias whose wall is the lake. R. Eliezer b. Jose says: asher lo homah,<sup>18</sup> even though it has none now, as long as it had one before.

[A HOUSE IN ANY OF] THE FOLLOWING IS ACCOUNTED IN WALLED CITIES etc. It was taught: Gamala was in Galilee, Gadud in Transjordania, Hadid, Ono and Jerusalem in Judaea. What

does he mean to say?<sup>19</sup>

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- (1) His ordinance providing also for the case where the owner was present. V. Git. 74b.
- (2) Lev. XXV, 29.
- (3) Ibid. 30.
- (4) A sand-mound for glassmaking, and a glen (shaft for metal-digging). Aliter: a fish-pond. [It is to these that R. Meir refers under the term of 'fields', since they appertain to buildings but not to actual fields, in which he agrees with R. Judah, though R. Judah treats the former also as fields.]
- (5) Joshua II, 15.
- (6) Which states that the house was in the wall and she dwelt in (a city surrounded by) a wall.
- (7) The ed. Lowe of the Mishnah reads: gannotheha (house-gardens) instead of gaggotheha (house-roofs).
- (8) Lit., 'since', v. Gemara.
- (9) In Lower Galilee.
- (10) The Fort of Gush-Halab, identified by Neubauer with Josephus' Giskala.
- (11) Yotapata mentioned by Josephus.
- (12) On the eastern shore of Lake Galilee.
- (13) Var. lec: Gadar, perhaps Gadara, a fortress described by Josephus as the capital of Beraea.
- (14) Mentioned in Ezra II. 33; east of Lydda.
- (15) Modern Kefir Anneh, N. of Lydda.
- (16) Lev. XXV, 30.
- (17) Ibid. 31.
- (18) Asher lo homah (E.V. 'that is in the walled city'); the kethib is spelt כִּשׁ (not), meaning lit., 'which has no wall' and the kere, כִּשׁ (to it), i.e., 'which has a wall to it', hence the combination of the meanings: Even if it has no wall now, as long as it had one in the long ago it is, for the purposes of these laws, considered a walled city.
- (19) Surely not that there were no walled cities in Galilee save Gamala, or in Transjordan save Gadud!

## Talmud - Mas. Arachin 32b

Abaye said: This is what he means, [All the cities] up to Gamala in Galilee. up to Gadud in Transjordan, and Hadid, Ono and Jerusalem in Judaea.<sup>1</sup> Raba said: Gamala in Galilee [is mentioned so as] to exclude [any city called] Gamala in other countries; Gadud in Transjordan to exclude Gadud in any other countries; but with regard to the others, since there are none of the same name [like them], no [statement as to their location] was necessary.

But is [any house in] Jerusalem liable to become irredeemable? Was it not taught: Ten special regulations were applied to Jerusalem: first, that a house sold there should not be liable to become irredeemable [etc.]. R. Johanan said: [The Mishnah means] like Jerusalem, that was encompassed by a wall in the days of Joshua b. Nun, [yet] not like Jerusalem,<sup>2</sup> for in Jerusalem no house sold there was liable to become irredeemable, but here<sup>3</sup> a house sold is liable to become irredeemable. R. Ashi said: Did not R. Joseph say. There were two [different cities called] Kadesh? Thus also were there two [cities called] Jerusalem.<sup>4</sup>

It was taught: R. Ishmael b. Jose said: Why did the Sages enumerate those [in the Mishnah]? Because when the exiles [from Babylon] went up [to Palestine] they found these [cities] and sanctified them, but former [cities] lost [their holiness] as the sanctity of the land was lost. He holds, therefore, that as to the first consecration, he<sup>5</sup> consecrated it only for the time being, but not for the future. I will raise a question of contradiction against this: R. Ishmael b. Jose said: Were there only these [mentioned in the Mishnah], surely it has been said: Three score cities, all the region of Argob . . . all these were fortified cities?<sup>6</sup> Why then did the Sages enumerate but these? Because when the exiles came up they found these and consecrated them anew. ('And consecrated them'! Surely we said above that it was not necessary to consecrate them anew? — Rather [read]: 'They found those and enumerated them'.) And not only these [are walled cities], but any one concerning which you



have a tradition from your fathers that it was encompassed by a wall since the days of Joshua b. Nun, then all these laws apply to it, because as to the first consecration, he consecrated it not only for the time being, but for the future?<sup>7</sup> — If you like, say: There were two Tannaim in conflict about the view of R. Ishmael. Or, if you like, say: One of them was R. Eleazar b. Jose, for it was taught: R. Eleazar b. Jose said, ‘Asher lo homah’, even though it is not encompassed by one to-day, as long as it was walled before.<sup>8</sup> What is the reason of the one who holds: ‘As to the first consecration, he consecrated it only for the time being, but not for the future’? — Because it is written: And all the congregation of them that were come back out of the captivity made booths, and dwelt in the booths; for since the days of Joshua the son of Nun had not the children of Israel done so. And there was very great gladness.<sup>9</sup> Is it possible that when David came, they made no booths, [when Solomon came, they did not make booths] until Ezra came?<sup>10</sup> Rather, he compares their arrival in the days of Ezra to their arrival in the days of Joshua: just as at their arrival in the days of Joshua they counted the years of release and the Jubilees, and consecrated cities encompassed by walls, thus also at their arrival in the days of Ezra they counted the years of release and the Jubilees. and consecrated walled cities.<sup>11</sup> And it says also: And the Lord thy God will bring thee into the land which thy fathers possessed, and thou shalt possess it;<sup>12</sup> thus comparing your possession thereof with that of your fathers: just as your forefathers’ possession thereof brought about a renewal of all these things, so shall your possession thereof bring about a renewal of all these things.

And the other?<sup>13</sup> — He [Ezra] had prayed for mercy because of the passion for idolatry and he removed it, and his merit then shielded them even as the booth. That is why Scripture reproveth Joshua, for in all other passages it is spelt: Jehoshua, but here, Joshua.<sup>14</sup> It was quite right that Moses did not pray for mercy, because the virtue [power] of the Holy Land was absent [to support his plea], but why did Joshua, who had the power of the Holy Land [to assist him], fail to pray for mercy?<sup>15</sup> But it is written: ‘which thy fathers possessed and thou shalt possess it’?<sup>16</sup> — This is what is meant: Since they fathers possessed it, you also possess it.<sup>17</sup>

But did they count the years of release and Jubilees [after the return from Babylon]? If even after the tribe of Reuben, the tribe of Gad and the half-tribe of Manasseh went into exile, the Jubilees were abolished, should Ezra in connection with whom it is said: The whole congregation together was forty and two thousand three hundred and three score,<sup>18</sup> have counted them? For it was taught: When the tribe of Reuben, the tribe of Gad and the half-tribe of Manasseh went into exile, the Jubilees were abolished as it is said: And ye shall proclaim liberty throughout the land unto all the inhabitants thereof,<sup>19</sup> i.e., [only] at the time when all the inhabitants thereof dwell upon it, but not at the time when some of them are exiled. One might have assumed that if they were there, but intermingled, the tribe of Benjamin with that of Judah and the tribe of Judah with that of Benjamin, that even the [laws of the] Jubilee should apply, therefore it is said: ‘unto all the inhabitants thereof’, which means, only at the time when its inhabitants are there as [where] they ought to be, but not when they are intermingled! — Said R. Nahman b. Isaac: They counted the Jubilees to keep the years of release holy.<sup>20</sup> [

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(1) All the cities up to Gamala etc. were encompassed with walls in the days of Joshua, and have no less than three courtyards of two houses each.

(2) He compares them to Jerusalem which was a walled city in the days of Joshua, but they are not as Jerusalem, for in that city no house sold could become irredeemable, Jerusalem belonging to all Israel.

(3) I.e., in the other places mentioned.

(4) Perhaps the distinction is made between the Greater Jerusalem and Jerusalem proper, as between New York City and Greater New York, the latter including very many and widely scattered communities. In Jerusalem proper no house could fall to the purchaser in perpetuity because of the seller's failure to redeem it within the year. But this restriction would have no validity in the expanded Greater Jerusalem, evidence as to which has of late been presented.

(5) Joshua; the consecration of the Holy Land by him lost its validity with the destruction of the Holy City and the exile of its population.

(6) Deut. III, 4, 5.

(7) V. Shebu., Sonc. ed., p. 80 notes.

(8) V. p. 192, n. 9.

(9) Neh. VIII, 17.

(10) Inserted with Sh.Mek. The mentioning of David alone is insufficient, surely with Solomon, the Temple-builder, Sukkoth was celebrated, too.

(11) The words For since the days of Joshua . . . had not . . . done so, do not refer to the booths but to the renewed formal rites of sanctification.

(12) Deut. XXX, 5.

(13) How does he who holds that he consecrated for all the future explain the passage from Nehemiah? 'Booths' here as symbolic meaning: they enjoyed the protection 'as of booths', because Ezra through his prayer had achieved the destruction of idolatrous tendencies among the people, and this achievement protected them. In this sense they 'had booths', when they returned.

(14) For his failure to implore the Lord to remove the passion for idolatry from the heart of the people. Just as with Abram the enlargement of his name into 'Abraham' was an expression of divine approval, so did this diminution of Jehoshua into Joshua express divine disapproval. The reason for Joshua's failure to implore the Lord to remove the passion for idolatry was his assumption that he possessed the land in its pristine holiness, so that it would in itself help Israel to overcome its idolatrous tendencies.

(15) Hence the implied censure of Joshua.

(16) Which would show that renewed sanctification was required.

(17) Without the need of a renewed sanctification.

(18) Ezra II, 64.

(19) Lev. XXV, 10.

(20) Though the Jubilees had been abolished, years of release were still observed, consequently they had to count the Jubilees in order to be able to observe the years of release in their proper time. For the year of Jubilee was not included in the seven years cycle. They therefore had to know when the year of Jubilee arrives to be able to fix the next year of release, which was to be the eighth year following the year of Jubilee.

### **Talmud - Mas. Arachin 33a**

That will be right in the view of the Rabbis who hold that the fiftieth year is not included,<sup>1</sup> but according to R. Judah who holds that the fiftieth year counts both ways,<sup>2</sup> why was that necessary [to count the Jubilees]? It would have been enough if the years of release alone had been counted! Hence [we must say], this is not in accord with the view of R. Judah.

But did they not count years of release and the Jubilees?<sup>3</sup> Is it not written: At the end of seven years ye shall let go every man his brother that is a Hebrew, that hath been sold unto thee,<sup>4</sup> and when we asked: Why 'at the end of seven years'? is it not written: He shall serve thee six years?<sup>5</sup> and to this R. Nahman b. Isaac replied: Six for one who had been sold and seven for one who had his ear pierced?<sup>6</sup> — This is written in connection with the threat of punishment, for the prophet said: 'Did you set them free [when you should have done so]?<sup>7</sup> But it is said: They hearkened and let them go'<sup>8</sup> — Rather, said R. Johanan: Jeremiah brought them back, and Josiah son of Amon ruled over them. Whence do we know that they returned? — Because it is written: For the seller shall not return to that which is sold.<sup>9</sup> Now is it possible that the Jubilee was abolished already and the prophet would prophesy concerning it that it will be abolished? This therefore teaches that Jeremiah had brought them back. Whence do we know that Josiah ruled over them? — Because it is written: Then he said: What monument is that which I see? And the men of the city told him: It is the sepulchre of the man of God, who came from Judah, and proclaimed these things that thou hast done against the altar of Beth-El.<sup>10</sup> Now what had Josiah to do at Beth-El?<sup>11</sup> Hence [we must say]. When Jeremiah had brought them back, Josiah ruled over them. R. Nahman b. Isaac derived it from here: Also, O Judah, there is a harvest [katsir] appointed for thee!<sup>12</sup>

MISHNAH. HOUSES IN COURTYARDS<sup>13</sup> HAVE THE PRIVILEGES BOTH OF HOUSES IN A WALLED CITY. AND THE PRIVILEGES GIVEN TO FIELDS: THEY CAN BE REDEEMED AT ONCE, AND AT ANY TIME WITHIN THE TWELVE MONTHS LIKE HOUSES [IN A WALLED CITY], AND THEY GO OUT [TO THE OWNERS] IN THE YEAR OF JUBILEE OR [AT AN EARLIER TIME] BY [PAYMENT OF A] LESSENER PRICE<sup>14</sup> LIKE FIELDS.

GEMARA. Our Rabbis taught: [It is written:] [But the houses in courtyards which have no wall about them] shall be reckoned with the fields of the country:<sup>15</sup> Scripture compares them with a field of possession: just as a field of possession goes out in the Jubilee and by payment of a lessened price, so do houses in courtyards go out in the year of Jubilee and by payment of a lessened price. [One might have assumed that similarly:] Just as a field of possession may not be redeemed before two years, thus may houses in courtyards not be redeemed before two years, therefore it is said: they may be redeemed,<sup>15</sup> i.e., at once. Since you have given them the privileges of fields, as well as those of houses in walled cities, one might assume that they do not go out in the year of Jubilee, therefore it is said: And they shall go out in the Jubilee.<sup>15</sup> What does he mean to say?<sup>16</sup> — Said R. Huna: This was necessary [to be stated] only for the case of one who consecrates a house among the houses in a courtyard, and someone else redeemed it from the Sanctuary, and the year of Jubilee came in its second year.<sup>17</sup> With what, now, will you compare it? If you compare it to a house in a walled city, it becomes the perpetual [possession] of the purchaser;<sup>18</sup> if you compare it to a field of possession, it goes out to the priests. For this case it was necessary to say: ‘And they shall go out in the Jubilee’.<sup>19</sup> To this R. Ze’ira demurred: Why speak about someone else redeeming it? Even if no-one redeemed it the same [law would apply]?<sup>20</sup> — Said Abaye: [This is not so] lest people say: Consecrated property goes out without redemption. Whence do we know that? — [It is derived] from a Levite: If a Levite whose privilege is strengthened where he sold property<sup>21</sup> has his rights weakened where he consecrated an object,<sup>22</sup> how much more shall an Israelite whose rights are weakened where he sold property, have his rights weakened with regard to an object which he consecrated himself! And whence do we know it there?<sup>23</sup> — Because it was taught: And if a man purchase of the Levites, then shall go out [in the Jubilee] that which was sold.<sup>24</sup> From this I might infer that [the law applies] even to his slaves, his movable property, and his documents, therefore it is said: Of a house [in the] city of his possession. What then does ‘that which was sold’ mean? What he sold goes out without payment, but no consecrated object goes out without payment but [requires] redemption. Now this<sup>25</sup> conflicts with R. Oshaia, for R. Oshaia said: All was included in the general statement: Then shall he add [the fifth part of] the money . . . and it shall be assured to him,<sup>26</sup> and when Scripture specified with regard to the field of possession: But the field when it goeth out in the Jubilee shall be holy unto the Lord,<sup>27</sup> [as a field devoted], [it teaches] only a field if redeemed goes out [from the one who redeemed it] to the priests, but all other [objects redeemed from the Sanctuary] remain where they are.<sup>28</sup>

For what purpose [then]<sup>29</sup> is it said: ‘And they shall go out in the Jubilee’? — R. Papa said: This is necessary but for the case of one who sells a house among the houses in courtyards, and the Jubilee came in the second year. With what now will you compare it? If you compare it to a house in a walled city, it becomes the perpetual [possession] of the purchaser; if you compare it to a field of possession, it needs the completion [of two years in the purchaser's possession],<sup>30</sup> for this case it was necessary to state: ‘And they shall go out in the Jubilee’.

It was taught in accord with R. Huna and in refutation of R. Oshaia: If one consecrates a house among the houses in courtyards, then he may redeem it at once, and redeem it for ever. If someone else redeemed it from the Sanctuary, and the Jubilee arrived and it had not been redeemed [by the original owner] it reverts in the year of Jubilee to the owner.

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(1) In the cycle of seven years.

(2) Both as the year of release and the beginning of the next seven year cycle.

(3) After the exile of the tribes of Reuben, Gad, etc.

- (4) Jer. XXXIV, 14.
- (5) Deut. XV, 12.
- (6) According to Ex. XXI, 6 the ear of the slave who refuses to go free and who must then serve him up to the year of the Jubilee, is pierced. If such a pierced servant has completed seven years and the eighth was a Jubilee year. he went out free. This passage of Jeremiah refers to the time of Zedekiah, long after Sennacherib had exiled a large part of the people, and yet the law of the year of Jubilee was valid!
- (7) The verse is thus to be rendered: By the end of the seven years you should have had set free etc.
- (8) Jer. XXXIV, 10.
- (9) Ezek. VII, 13.
- (10) II Kings XXIII, 17.
- (11) Josiah was King of Judah, Beth-el was in Israel.
- (12) Hosea VI, 11. Reading for kazir (harvest) kazin (prince, ruler). The letters r and n interchange frequently in the Hebrew Bible. The meaning of the passage thus is given as: 'From Judah (whose king Josiah was first) was a king appointed for thee (O Israel)'.
- (13) V. Lev. XXV, 31. E.V., 'houses of the villages'.
- (14) V. supra 24a.
- (15) Lev. XXV. 31.
- (16) Obviously they will go out in the Jubilee because they were compared to fields of possession. Why then the superfluous, And they shall go out in the Jubilee?
- (17) After it had been redeemed from the Sanctuary.
- (18) V. supra 31b.
- (19) And it returns to the owner.
- (20) The superfluous 'And they shall go out in the Jubilee' coming to teach that the law applies to the case of consecration no less than to that of sale, making the house in a courtyard returnable on the Jubilee to the original owner.
- (21) A Levite can redeem at any time a house in a walled city sold by him.
- (22) V. infra.
- (23) That the rights of the Levite are weakened in the case of consecration.
- (24) Lev. XXV, 33. So literally.
- (25) R. Huna's statement above that if a stranger redeems a house in a courtyard from the Sanctuary, it returns to the original owner at Jubilee.
- (26) Lev. XXVII, 19 teaching that he who redeems aught from the Sanctuary retains the ownership of the redeemed object in permanence.
- (27) Ibid. 21.
- (28) In the permanent possession of him who redeemed them.
- (29) On the view of R. Oshaia.
- (30) V. supra 29b.

### **Talmud - Mas. Arachin 33b**

**MISHNAH.** THE FOLLOWING ARE CONSIDERED HOUSES IN [OPEN] COURTYARDS: [A CITY IN WHICH ARE] TWO COURTYARDS, EACH HAVING TWO HOUSES, EVEN THOUGH THEY HAVE BEEN ENCOMPASSED BY A WALL SINCE THE DAYS OF JOSHUA B. NUN, ARE THEY ACCOUNTED HOUSES IN [OPEN] COURTYARDS.

**GEMARA.** Our Rabbis taught: By mere implication of the text: 'Houses of the courtyards',<sup>1</sup> would I not know that they are not encompassed by walls, why then is it stated: 'Which have no wall around them'? [To teach us] that even if they were encompassed by a wall, they would still be considered as not being so encompassed.<sup>2</sup>

And how many [houses and courtyards must there be]? — 'Houses' [denotes] two; 'courtyards', also two: i.e., two courtyards having two houses each. But perhaps one house in one courtyard? Then the Divine Law should have written, [only] 'courtyards'. And if you were to say: If the Divine Law

had written only courtyards', it would have been understood as a courtyard without a house, but such a one is called an enclosure [and not a courtyard].

MISHNAH. IF AN ISRAELITE INHERITED [A HOUSE IN A WALLED CITY OF THE LEVITES] FROM HIS MOTHER'S FATHER WHO WAS A LEVITE, HE CANNOT REDEEM IT ACCORDING TO THE ORDER HERE PRESCRIBED.<sup>3</sup> ALSO IF A LEVITE INHERITED [A HOUSE IN A WALLED CITY OF ISRAELITES] FROM HIS MOTHER'S FATHER WHO WAS AN ISRAELITE, HE CANNOT REDEEM IT ACCORDING TO THE ORDER HERE PRESCRIBED, AS IT IS WRITTEN: FOR THE HOUSES OF THE CITIES OF THE LEVITES.<sup>4</sup> [THIS ORDER THUS DOES NOT APPLY] UNLESS HE IS A LEVITE AND IN THE CITIES OF THE LEVITES. THESE ARE THE WORDS OF RABBI. THE SAGES SAY: THESE THINGS APPLY ONLY TO THE CITIES OF THE LEVITES.<sup>5</sup>

GEMARA. Then like whom [does he redeem]?<sup>6</sup> Like a Levite? But then it teaches UNLESS HE IS A LEVITE AND IN THE CITIES OF THE LEVITES? — Say: HE CANNOT REDEEM IT except ACCORDING TO THE [FOREGOING] ORDER HERE PRESCRIBED, UNLESS HE IS A LEVITE AND IN THE CITIES OF THE LEVITES. THESE ARE THE WORDS OF RABBI. It is quite right as to [UNLESS HE IS IN] THE CITIES OF THE LEVITES, as it is written: For the houses of the Levites. But whence do we know that [these foregoing rules do not apply UNLESS HE IS] A LEVITE? — Because it was written: And if a man redeem of the Levites.<sup>7</sup> It was [likewise] taught: 'And if a man redeem [re-purchases] of the Levites'. One might assume that a Levite could re-purchase from an Israelite, because the privileges of the former are strengthened, whereas the rights of the latter are weakened,<sup>8</sup> but a Levite could not re-purchase from a Levite because the privileges of both are strengthened, therefore it is said: '[And if a man] redeem of the Levites'. 'Of the Levites, i.e., but not all the Levites, excluding a Levite who is a bastard or a nathin.<sup>9</sup> The Sages, however, say: 'These things apply only to the cities of the Levites'. But we do not say that he must be a Levite.<sup>10</sup>

MISHNAH. ONE MAY NOT TURN A FIELD INTO A CITY'S OUTSKIRTS,<sup>11</sup> NOR A CITY'S OUTSKIRTS INTO A FIELD.<sup>12</sup> NOR A CITY'S OUTSKIRTS INTO A CITY,<sup>13</sup> NOR A CITY INTO A CITY'S OUTSKIRTS.<sup>14</sup> R. ELEAZAR SAID: THIS APPLIES ONLY TO THE CITIES OF THE LEVITES, BUT IN THE CITIES OF THE ISRAELITES ONE MAY TURN A FIELD INTO A CITY'S OUTSKIRTS, BUT NOT<sup>15</sup> A CITY'S OUTSKIRTS INTO A FIELD. [ONE MAY TURN] A CITY'S OUTSKIRTS INTO A CITY, BUT NOT A CITY INTO A CITY'S OUTSKIRTS, THAT THEY DESTROY NOT THE CITIES OF ISRAEL. THE PRIESTS AND LEVITES MAY SELL [A HOUSE] AT ANY TIME AND REDEEM IT AT ANY TIME, AS IT IS SAID: THE LEVITES SHALL HAVE A PERPETUAL RIGHT OF REDEMPTION.<sup>16</sup>

GEMARA. R. ELEAZAR SAID: THIS APPLIES ONLY TO THE CITIES OF THE LEVITES. BUT IN THE CITIES OF THE ISRAELITES ONE MAY TURN etc. But, at any rate, all are of the opinion that in [the cities of] the Levites one may not effect any change. Whence do we know that? — R. Eleazar said: Because Scripture said, But the fields of the open land about their cities may not be sold.<sup>17</sup> What does 'may not be sold' mean? Shall I say that it may not be sold at all? But since it is written, 'The Levites shall have a perpetual right of redemption' it is evident that they must be selling; rather must 'may not be sold' mean that they may not be changed [as above].

THE PRIESTS AND LEVITES MAY SELL AT ANY TIME AND REDEEM AT ANY TIME. Our Rabbis taught: 'The Levites shall have a perpetual right of redemption'; what does that teach us? Because it is said: According unto the number of years of the crops he shall sell unto thee,<sup>18</sup> one might have assumed that shall apply also here, therefore it is said: 'The Levites shall have a perpetual right of redemption'. And because it is said: But the field, when it goeth out in the Jubilee, shall be holy unto the Lord,<sup>19</sup> one might have assumed the same applies here: therefore it is said:

‘The Levites shall have a perpetual right of redemption’. And because it is said: ‘Then the house that is in the walled city shall be made sure in perpetuity to him’,<sup>20</sup> one might have assumed that shall apply also here: therefore it is said: ‘The Levites shall have a perpetual right of redemption’. Granted that one could assume that with regard to the first, but how do Levites come to have houses in walled cities? Was it not taught: These cities [of the Levites] may not be either little villages nor large walled cities, but cities of average size?<sup>21</sup> — R. Kahana said: This is no contradiction: one refers to a city first inhabited and then encompassed.<sup>22</sup> But would it in that case be considered a walled city? Was it not taught: ‘And if a man sell a dwelling house in a walled city’,<sup>23</sup> i.e., one that was first walled, and then inhabited. One might have assumed [that law applies] even if the Israelites had walled it [after the conquest of the Land]: therefore it says here: ‘wall’ and elsewhere it says, too, ‘wall’:<sup>24</sup> just as there it refers to one built by idolaters, so here also. One might have assumed [it would be considered a walled city] if the idolaters had walled it at a later date: therefore it says here, ‘wall’, and there too it says ‘wall’: just as there the idolaters had done so before [the conquest]. so here too [the wall must have been there before the conquest]! — R. Joseph, son of R. Sala the Pious interpreted it before R. Papa: We suppose that they [the cities] had fallen to them [the Levites] together with their outskirts.<sup>25</sup>

(1) Lev. XXV, 31. E.V., ‘houses of the villages’.

(2) Since they are sparsely inhabited.

(3) The meaning seems to be: The order described in Lev. XXV, 32-3 which contains the regulations governing houses belonging to the Levites. V. however Gemara.

(4) Lev. XXV, 33.

(5) Interpreting the passage to mean: If one of the Levites redeems (instead of the usual rendering. If one redeems of the Levites) that he who redeems must himself be a Levite, excluding thus an Israelite who inherited from a Levite, which is the view of Rabbi in our Mishnah.

(6) Referring to the first two clauses in our Mishnah.

(7) Lev. XXV, 33. E.V., ‘purchase of the Levites’. V. p. 200, n. 5.

(8) Since an Israelite cannot redeem after one year.

(9) Lit., ‘given’, ‘donated’. A descendant of the Gibeonites (Josh. IX, 27). V. Yeb. 78b: David decreed concerning Nethinim that with regard to intermarriage they be excluded from the congregation of Israel.

(10) Lit., ‘unless he is a Levite’.

(11) An open space outside of a city which was neither sown nor built upon. V. Num. XXXV, 3: And their open land shall be for their cattle, and for their substance and for off their beasts. (Ibid. 4:) From the wall of the city and outward a thousand cubits round about.

(12) In the former case the change would reduce the cultivated area, in the latter the city would become ugly, because its beautiful appearance requires an open space round about it.

(13) In order to extend the street, build houses or the like.

(14) One would decrease the number of the city's inhabitants, or destroy its aspects, by changing the city into its outskirts.

(15) Var. lec. omit NOT reading AND A CITY'S etc. V. B.B. 26b.

(16) Lev. XXV, 32.

(17) Ibid. 34.

(18) Ibid. XXV, 15 teaching that the redemption cannot take place before two years, v. supra 29b.

(19) Ibid. XXVII, 21.

(20) Ibid. XXV, 30.

(21) V. Mak. 10a.

(22) The former could not apply to a city of the Levites, but once they settled in them, they could surround the cities by a wall.

(23) Lev. XXV, 29.

(24) Deut. III, 5 in connection with the aborigines of Palestine.

(25) In the days of Joshua, the walled cities together with their outskirts.

## Talmud - Mas. Arachin 34a

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But they as well as their outskirts are to be torn down?<sup>1</sup> — R. Ashi said: It is necessary to teach [the law] for one might have assumed that before they are torn down, if any [of the houses] therein have been sold, they should become perpetual possessions, therefore we are informed [that is not so].

Our Rabbis taught: As a field devoted the possession thereof shall be the priest's:<sup>2</sup> what does that teach? Whence do we know that if a priest consecrated a field obtained by him as [a field of] devotion that he cannot say: Since it anyway goes out to the priests [in the Jubilee year] and now is in my possession, it shall be my own, a fortiori: If I acquire title to what belongs to others, how much more [can I acquire title] to what belongs to me, therefore it is said: 'As a field devoted the possession thereof shall be to the priest'.<sup>3</sup> Now what are we learning from [the words]: 'As a field devoted'? Behold the text came to teach and now it itself is illuminated thereby: we compare the field acquired [by the priest] as [a field of] devotion to an Israelite's field of possession. Just as an Israelite's field of possession goes out of his hand and is distributed among the priests, so also does the field which he acquired as [a field of] devotion go out of his hand to be distributed among his brethren the priests.

The Master said: 'If I acquire title to what belonged to others'. But how can that be compared? There he simply acquires title to it, but here he takes himself? — Rami b. Hama said: It is necessary [to state that]: You might have assumed since it is written: And every man's hallowed things shall be his,<sup>4</sup> that this also is like his 'hallowed things'. But how can you compare these? His hallowed things are not in his possession,<sup>5</sup> whereas this is in his possession!<sup>6</sup> Rather said R. Nahman: It is necessary to teach this, for you might have assumed since it is written: For that is their perpetual possession.<sup>7</sup> that this too,<sup>8</sup> is his possession;<sup>9</sup> therefore the text 'his possession' informs us that [the law applies] only to his possession but not to anything obtained by him as devotion.

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(1) Since the cities of the Levites may not be big walled cities.

(2) Lev. XXVII, 21.

(3) V. supra 29a.

(4) Num. V, 10 referring to the sacrifices which a priest offers on his own behalf.

(5) I.e., he received them from God as a gift for his service.

(6) He obtains them only after the sacrifice has been offered, as his God-appointed portion of the sacrifice, whereas here he keeps it back for himself without any authority.

(7) Lev. XXV, 34.

(8) The field once acquired by him as a field of devotion.

(9) In perpetuity.