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TRACT SABBATH.

CHAPTER XI.

REGULATIONS CONCERNING THROWING FROM ONE GROUND INTO ANOTHER.

MISHNA: One who throws a thing from private into public or from public into private ground is culpable. From private into private ground, by way of public ground, R. Aqiba holds him to be culpable, but the sages declare him free. How so? If two balconies face each other across a street, one who transfers or throws something from one into the other is free; if the two balconies, however, are in the same building, he who transfers a thing from one into the other is culpable, but he who throws is free; because the work of the Levites (in the tabernacle) was as follows: From two wagons facing each other in public ground boards were transferred, but not thrown from one into the other.

GEMARA: Let us see! Throwing is but the offspring of transferring. Where is transfer itself mentioned in the Scriptures? Said R. Johanan: "It is written [Ex. xxxvi. 6]: 'And Moses gave the command and they caused it to be proclaimed throughout the camp,' etc. Where was Moses sitting? In the quarters of the Levites. The quarters of the Levites was public ground (because all the people were received there by Moses). And Moses said unto Israel: 'Ye shall not transfer anything from your quarters (which was private ground) into these quarters.'" We have found, then, transfer from within, but where do we find transfer from without? It is a logical conclusion, that transfer from within is the same as transfer from without. Still he calls transfer from within the principal act and transfer from without but the offspring. Now, if transferring from within and transferring from without involve the same degree of culpability, why does he call the one

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a principal and the other all offspring? For the following reason: If one commit two principal acts of labor, or two offsprings of two different acts of labor, he becomes bound to bring two sin-offerings; but if he commits one principal act and one offspring of the same act of labor, he becomes bound to bring only one sin-offering.

Whence do we know that if one throw a thing four ells in public ground he is culpable? All that is said about four ells in public ground is traditional.

R. Jehudah said in the name of Samuel: The wood-gatherer's sin [mentioned in Numbers xv. 32-35] consisted in carrying four ells in public ground. We learned in a Boraitha, however, that he pulled out sticks growing in the ground. R. Aha b. R. Jacob said: He gathered the sticks and bound them into bundles. What difference is there in the acts? (Why this dissension?) The

difference is, as we were taught in the name of Rabh, who says: "I found a mysterious paper in the possession of my uncle, R. Hyya, upon which was written: 'Aissi ben Jehudah said: The principal acts of labor are forty less one. One of them does not involve culpability. R. Jehudah holds, that carrying in public ground is not this one act and the Boraitha holds that pulling out of the ground is not that one, and R. Aha b. R. Jacob holds that binding into bundles is not the act which involves culpability.' Each one of these three was certain that if a man committed any of the acts mentioned by each he was undoubtedly culpable."

The rabbis taught: The name of the wood-gatherer was Zelophchad, and so it is written [Numb. xv. 32]: "And while the children of Israel were in the *wilderness* they found a man," etc., and further on [ibid. xxvii. 31 it is written: "Our father died in the *wilderness*," etc., etc., "but in his own sin he died," etc., an analogy of the word *wilderness*. As by "our father" is meant Zelophchad, so also the name of the wood-gatherer was Zelophchad. So said R. Aqiba. Said to him R. Jehudah b. Bathyra: "Aqiba! Whether your statement be true or false, you will have to answer for it at the time of the divine judgment; for if it be true, you disclosed the name of the man whom the Scriptures desired to shield, and thus you brought him into infamy, and if it be false you slandered a man who was upright." The same case occurred in the following: It is written [Numb. xii. 9]: "And the anger of the Lord was kindled against them," etc. From this we learn that Aaron also became

leprous. So said R. Aqiba. Said to him R. Jehudah b. Bathyra: "Aqiba! Whether your statement be true or false, you will have to answer for it at the divine judgment; for if it be true, you disclosed a thing the Scriptures desired to conceal, and thus you brought infamy upon Aaron, and if it be false, you slandered a man who was upright." But the Scriptures say: "And the anger of the Lord was kindled against *them*." This signifies *only* that Aaron was included among those against whom the anger of the Lord was kindled.

We have learned in a Boraitha according to the opinion of R. Aqiba: "Aaron also became leprous, as it is written: 'And Aaron turned toward Miriam, and behold she was leprous,' which implies that at the moment when he turned toward Miriam he was cured of *his* leprosy and perceived it in Miriam."

Said Resh Lakish: He who suspects an innocent man is punished in the flesh, as it is written [Ex. iv. 1]: "But behold, they will not believe me," and it was known to the Holy One, blessed be He, that Israel will believe, and the Lord said unto Moses: "They are believers and they are children of believers, but thou, I know, wilt finally not believe." They are believers, as it is written [ibid. iv. 3 1]: "And the people believed." They are children of believers, as it is written [Gen. xv. 6]: "And he believed in the Lord." Thou wilt finally not believe, as it is written [Numb. xx. 12]: "Moses and Aaron, because ye have not confided in me;" and whence do we know that he was punished in the flesh, as it is written [Ex. iv. 6]: "And the Lord said furthermore unto him, Do put thy hand into thy bosom; and he put his hand into his bosom; and when he took it out, behold, his hand was leprous, white as snow."

Rabha said, according to others, R. Jose b. Hanina: Reward for merit, destined for a man, comes to him more quickly and in a greater degree than retribution for wickedness, for in the case of Moses we see it written [Exod. iv. 6]: "And he put his hand into his bosom; and when he took it out, behold, his hand was leprous, white as snow." But the reward was, as it is written [ibid. 7],

"And when he pulled it out of his bosom, behold, it was turned again as his other flesh." The reason that the verse repeats "pulled it *out of his bosom*," is to show, that the hand had become cured while in the bosom (and thus the reward was given more quickly and effectively). It is written [Ex. vii. 12]: "Aaron's staff swallowed up their staves." Said R. Elazar: "This was a miracle within a miracle, for Aaron's staff

did not swallow up the staves (of the Egyptian magicians), which had become serpents, while it was itself a serpent, but after it was become a staff again."

"*From private ground into private ground*," etc. Rabha propounded a question: "Shall we assume that the point of difference is in the opinion relating to whether the surrounding of a thing by the atmosphere of a certain place makes the thing equal to being deposited in that place or not?" And if this is the point of difference, it must follow that the Mishna treats of a case where the object thrown was at no time above ten spans from the ground (because above ten spans no public ground exists). Those who deem it a culpable act, do so, because they hold that the object, being surrounded by the air of the public ground, through which it passed, makes it equal to being deposited therein, while those who do not deem it a culpable act are not of this opinion; but if the object thrown was above ten spans from the ground, do both sides agree that the thrower is not culpable? Or shall we assume that both sides do not differ as to the object thrown being equal to being deposited in the place, the atmosphere of which surrounded it, agreeing that such is the case; but their point of difference is as to whether throwing is equal to transfer or not? He who holds that the thrower is culpable does so because he considers throwing equal to transfer by hand, and as transfer makes a man culpable, even if it was accomplished above ten spans from the ground, it also applies to throwing; but he who holds that the thrower is not culpable, does so because he does not consider throwing equal to transfer by hand. And the case treated of by the Mishna is one where the throwing was done above ten spans from the ground? Said R. Joseph: This question was also propounded by R. Hisda, and R. Hamnuna decided it from the following Boraitha: "From private into private ground, by way of public ground *itself*, R. Aqiba makes him culpable, but the sages declare him free." Now, if he says, "by way of public ground *itself*," it implies that it was below ten spans from the ground. Let us then see wherein was the difference of opinion. Shall we say that it was a case of transfer by hand and still the one who holds him culpable does so because it was below ten spans, but if it was above ten spans he would concede that he was not culpable? How can this be? Did not R. Elazar say: "He who transfers a burden above ten spans from the ground is culpable, because thus were burdens transferred by the sons of

[paragraph continues] Kehath"? Therefore we must assume that the Boraitha treats of a case of throwing and not of transfer by hand, and hence one holds, that an object surrounded by the atmosphere of a certain place below ten spans from the ground is equal to an object deposited in that place, while the other holds that such is not the case. Conclude then from this that the Mishna treats of a case where the throwing was done below ten spans from the ground.

The above teaching, however, is not in accord with the opinion of R. Elazar, for he said: R. Aqiba makes the thrower culpable even when the throwing was done above ten spans from the ground; but for what purpose does the Boraitha state "public ground *itself*"? Merely to show the

firmness of the rabbis in declaring one free, even when he transferred a thing by hand through public ground.

All that was said above is contrary to the opinion of R. Helkiah b. Tubhi, because *he* said: "If the throwing was below three spans from the ground, all agree that the thrower is culpable; if above ten spans, all agree that he is not culpable; but if the throwing was done between three and ten spans above the ground, then the difference of opinion between R. Aqiba and the sages arises." We have learned in a Boraitha in support of R. Helkiah: "Below three all agree that one is culpable; above ten all agree (that only a rabbinical prohibition exists) as a precautionary measure (because no Erubh was made). [1] If the two premises belonged to the thrower, he may throw to start with. From three to ten spans is where the point of difference between R. Aqiba and the sages arises.

It is certain, that if it is one's intention to throw eight ells and he throws only four, one is culpable; because it is equivalent to the case where one intends to write the name Simeon and only writes Sim (for Sim alone is also a name, and four ells is the prescribed distance for throwing); but what is not certain is, If one intended to throw only four ells and threw eight, what is his case? Shall we assume that he threw the prescribed distance and is thus culpable, or, because the object did not reach the desired destination, he is not culpable? The answer was, that according to this question Rabhina asked R. Ashi, and the latter answered that no culpability can exist unless he intended that the object should remain wherever it happened to alight, *i.e.*, if

the man intended to throw eight ells and threw only four he is also not culpable, and the assertion that the last-named act is equivalent to writing Sim when the intention was to write Simeon, which according to the succeeding Mishna is an act involving culpability, does not hold good; for he cannot write Simeon without first writing Sim, but surely he can throw eight ells without previously throwing four ells.

The rabbis taught: If one threw from public into public ground and private ground was in between, and the four ells commenced and ended in the two public grounds, including the private ground, he is culpable; but if he threw less than four ells he is not culpable. What news does this convey to us? It is to inform us, that the different premises are counted together and that the culpability arises not from the fact that the atmosphere of the private ground, having surrounded the object thrown, makes that object equal to having been deposited in that private ground; because that ordinance does not hold good, and the culpability arises merely from throwing four ells in public ground.

R. Samuel b. Jehudah, quoting R. Abba, who quoted R. Huna in the name of Rabh, said: If one transferred an object for four ells in a roofed public ground, he is not culpable. Why so? Because this public ground is not equal to the public ground under the standards in the desert traversed by the Israelites. This is not so! We know that the wagons which carried the boards of the tabernacle were roofed, and Rabh said in the name of R. Hyya that the ground beneath the wagons, between them, or alongside of them, was all public. Rabh means to state that the wagons were not actually covered, but that the boards were placed crossways on them in layers, and between every layer there was uncovered space, and that space was, in the opinion of Rabh, public ground.

The rabbis taught: The boards used at the tabernacle were one ell thick and sloped gradually until they attained the thickness of one finger at one end, as it is written [Ex. xxvi. 24]: "And they shall be closely joined together on top by means of one ring," and in another passage [Joshua iii. 16] it is written, "failed, were cut off." [1] So said R. Jehuda. Hence it is evident that on top the boards were only one finger thick. R. Nehemiah says: "They were also one ell thick on top, as it is

written [ibid. ibid.], 'joined *together*,' and the 'together' means that they were to be the same on top and on the bottom. But it says "joined" (Tamim)! The Tamim here signifies that they must be whole, unbroken.

The school of R. Ishmael taught: To what can the tabernacle be compared? To a woman going to market, whose dress hangs down and drags on the ground (*i.e.*, the curtains were hanging down and dragging on the ground).

The rabbis taught: The boards of the tabernacle came to a point and the thresholds contained sockets on which the boards were fitted. The hooks and fillets of the curtains appeared like stars in the sky.

The rabbis taught: The lower curtains were of blue, purple, and scarlet yarn and of twisted linen thread, and the upper curtains were of goats' hair, and more skill was necessary to make the curtains of goats' hair than of the first-named materials, for concerning the lower curtains it is written: "And all the women that were wise-hearted spun with their hands, and they brought that which they had spun of the blue, and of the purple, and of the scarlet yarn, and of the linen thread"; but concerning the upper curtains it is written [ibid. 26]: "And all the women whose hearts stirred them up in wisdom spun the goats' hair." And we have learned in the name of R. Nehemiah, "The goats' hair was woven right from the goats' backs without being shorn."

"*If the two balconies*," etc. Said Rabh in the name of R. Hyya: "The space between the wagons, beneath the wagons, and alongside of them is public ground." Said Abayi: "The space between two wagons was the length of another wagon? What is the length of a wagon? Five ells. Rabha said the sides of the wagon (*i.e.*, the width between the sides) was the width of a wagon. What is that width? Two and one-half ells. Now, we know that the width of a way in public ground is sixteen ells. Whence do we adduce this? If we adduce this from the case of the tabernacle, it should only be fifteen ells; (for the width of two wagons together with the space between them was fifteen ells). The answer is: There was another ell additional between the two wagons where the Levite walked in order that he might watch the wagons and adjust anything that might come out of place."

MISHNA: One who takes anything from, or places anything upon a sand-heap, dug out of a pit or a stone that is ten spans

high and four spans wide, is culpable. If the sand-heap or the stone is below that height, he is

free.

GEMARA: Why does the Mishna say a sand-heap, dug out of a pit, or a stone? Why not the pit or the stone itself? (Then we would know both the height and depth which must not be used for the placing of a thing.) This was said in support of the statement of R. Johanan, viz.: That the sand-heap dug out of a pit is counted in with the depth of the pit as to height to complete the ten spans. We have also learned thus in a Boraitha: One must not draw water from a pit in public ground which is ten spans deep and four spans wide, unless he has made a railing round the pit that is ten spans high. He must also not drink from the pit unless he put his head and the larger portion of his body into it. The pit and the sand-heap dug out of the pit are counted in with it to complete the ten spans.

R. Mordecai asked of Rabha: What is the law regarding one who threw a thing on a post ten spans high and four spans wide, standing in public ground? Shall we assume that he is culpable because he removed the thing unlawfully and also deposited it unlawfully (*i.e.*, from public ground into private), or that he is not culpable because the object which lighted on the post came from ground which is under no jurisdiction, being above ten spans from the ground? (If the man had the intention to throw the object on top of the post, he must have thrown it high up into the air, and before lighting on the post it passed through space above ten spans from the ground, and that space is regarded as ground under no jurisdiction, therefore he is not culpable?) Rabha answered: "This is explained in the Mishna." R. Mordecai then went to R. Joseph and asked the same question. He received the same answer: "It is explained in the Mishna." Thereupon he came to Abayi with the same question, and again received the same answer. Said R. Mordecai to Abayi: "Do ye all spit with the same spittle?" Answered Abayi: Dost not *thou* think that the Mishna explains it? Did not the Mishna say, "One who takes from or places upon"? Rejoined R. Mordecai: "Perhaps the Mishna treats of a needle which can be placed on a level with the ten spans height." Said Abayi: "A needle must also be lifted above the level." Said R. Mordecai again: "It can be placed without being lifted above the level, because every stone has some crevices that are lower than the surface of the stone and the needle can be placed in one of the crevices."

R. Johanan propounded a question: "What is the law regarding a man who throws a cake of earth (four spans square and one span deep) into a pit exactly ten spans deep and four spans square? Shall we say, that he is culpable because he threw the cake of earth into the pit, which was still ten spans deep and therefore private ground, or that he is not culpable because as soon as the cake reached the bottom of the pit it lessened the pit's height to nine spans, and thus made the pit unclaimed ground?" Let R. Johanan decide this question himself by what he said in the following Mishna: "If one throw a thing from a distance of four ells against the wall, and it strikes the wall at a height of over ten spans from the ground, he is free, but if below ten spans from the ground he is culpable, because one who throws a thing to the ground at a distance of four ells is culpable." We have investigated the case; how can he be culpable if the object thrown did not adhere to the wall? And R. Johanan answered: "The case was one of a soft date, which did adhere to the wall." Now, if the conclusion is that the cake of earth lessened the depth of the pit, the date which adhered to the wall also lessened the distance of four ells from where the date was thrown, and he says that the man is culpable? The answer was: In the case of the date the thrower did not intend that the date should adhere to the wall permanently, while in the case of the pit the cake of earth remained in the pit permanently, as intended by the thrower.

Abayi said: If a man throw a mat into a pit ten spans deep and eight spans wide in public ground he is culpable. If he, however, placed the mat into the pit so that the pit was divided into two equal parts, he is not culpable. (The latter decree informs us of two facts: Firstly, that although the mat was placed in the pit, while the pit was still of sufficient size to constitute it private ground and was only diminished at the time the mat was placed into it, the man is not culpable, and secondly, that the mat takes up sufficient space to make the two pits caused by division less than four spans wide each.) Now, if, according to Abayi, it is a certainty that the mat is sufficient to nullify the enclosures necessary for the designation of private ground, so much the more is this the case with the cake of earth previously mentioned, but according to R. Johanan, to whom it is even questionable whether the cake of earth can produce that effect, surely a mat cannot.

Abayi said again: If a man throw an object into a pit ten

spans deep and four spans wide, filled with water and standing in public ground, he is culpable, but if the pit was filled with fruit, he is not culpable; because water does not annul the enclosures necessary for the designation of private ground, while fruit does (the reason is that an object thrown into a pit of water falls to the ground in spite of the water [viz.: a stone or iron], while in a pit filled with fruit it rests on top). [1] We also learned the same in a Boraitha, in the name of R. Simeon: "Water does not annul the enclosures necessary for the designation of private ground."

MISHNA: If one throw a thing (a soft date) from a distance of four ells against the wall, and it strike the wall at a height of over ten spans from the ground, he is free; but if it strike the wall below ten spans from the ground, he is culpable; because one who throws a thing to the ground at a distance of four ells is culpable.

GEMARA: Said R. Jehudah, quoting Rabh in the name of R. Hyya: If one throw a thing at a distance of four ells against a wall, and the thing rested in a hole in the wall above ten spans from the ground, the law in his case is decided differently by R. Meir and the sages, viz.: R. Meir holds, that any object (like a hole) capable of being enlarged, must be looked upon as having been already enlarged, and therefore the man is culpable. The sages, however, hold that such is not the case; everything must be regarded in its actual condition.

R. Jehudah said in the name of Rabh: If a man throw a thing upon a sand-heap four ells wide and sloping up to a height of ten spans, he is culpable, provided the thing rested on the highest point of the heap, because the heap is regarded as being ten spans high in its entire length. The same we have learned in a Boraitha in the name of R. Hanina ben Gamaliel.

MISHNA: If one threw an object within four ells (in public ground) and the object rolled to a greater distance, he is free; if he threw a thing outside of four ells and it rolled back within four ells, he is culpable.

GEMARA: Why should a man be culpable in the latter clause of the Mishna; the object thrown did not rest outside of four ells if it rolled back within the prescribed limit? Said

[paragraph continues] R. Johanan: The Mishna treats of a case where the object thrown came in contact with an obstacle by means of which it rolled back, and therefore it rested for a moment outside of four ells.

Rabha said: "In the opinion of the sages, who differ with R. Aqiba concerning his decree, that an object surrounded by the atmosphere of a certain place makes the object equal to having been deposited in that place, a man who threw a thing from private into private ground by way of public ground, even below three spans from the ground, is not culpable unless the thing thrown rested for a moment at least on the public ground." Mareimar sat and repeated the above decree. Said Rabhina: "Does not our Mishna say the same, through the declaration of R. Johanan, who decrees that the Mishna holds a man culpable only if the object thrown by the man rests at its destination for a moment?" Answered Mareimar: Thou speakest of a rolling thing (which is carried along by the wind and it is not known when it will stand still). Such a thing cannot be regarded as resting, although it is below three spans from the ground, but in our case it is different. The thing was thrown (and was not rolled by the wind); so we might assume that when it reached a distance of less than three spans from the ground, it must be considered as resting on the ground; he informs us (that such is not the case).

MISHNA: If one throw a distance of four ells on the sea, he is free; if there happen to be shallow water, through which a public thoroughfare leads, where he threw the four ells, he is culpable. What must be the maximum depth of such shallow water? Less than ten spans; for one who throws four ells in shallow water, through which only occasionally a public thoroughfare leads, is culpable.

GEMARA: Said one of the schoolmen to Rabha: "The Mishna mentioning a public thoroughfare twice is justified in doing so, because we might presume that a thoroughfare used only in cases of necessity cannot be regarded as a *public* thoroughfare, and hence the Mishna informs us that while in other cases use from necessity is not to be regarded as customary, in this case it is different. But why is shallow water mentioned twice?" Answered Abayi: We might presume that the shallow water was *not* four ells wide, in which case it would be used a thoroughfare; but if it was four ells, people would circumvene it, and thus it would not be considered a public thoroughfare;

therefore it is repeated to inform us that there is no difference between shallow water less than four ells wide or more.

MISHNA: One who throws from the sea into land, from land into the sea, from the sea into a ship, from a ship into the sea, or from one ship into another, is free. If ships are bound together, one may transfer an object from one into the other; but if the ships are not bound together, even though they lie alongside of one another (and meet), one must not transfer a thing from one into the other.

GEMARA: We have learned: If one desires to draw water from the sea into the ship, he must make a small (board) attachment to the side of the ship, and then he can draw the water. So said

R. Huna, because he holds that unclaimed ground commences from the bottom of the sea and ends with the surface. The atmosphere above the sea is considered as ground under no jurisdiction, and hence the making of the attachment was really not necessary; but it being Sabbath, this should be done to distinguish the Sabbath from week-days. R. Hisda and Rabba bar R. Huna said: "The attachment made should be four ells wide," because they hold that the unclaimed ground commences from the surface of the water, and the water itself is considered as ground, and if the attachment were not made, it would constitute carrying from unclaimed ground into private ground, and this is not allowed to commence with.

R. Huna said: "On the small boats, that are not four spans wide down their entire depth, a man must not carry anything only for four ells (because it cannot be considered private ground), unless at a distance of three spans from the ground the boat is four spans wide. If there be sticks or refuse at the bottom of the boat, the bottom of the boat commences from the top of such sticks or refuse, and if the boat be ten spans high, according to that calculation one may carry in it." R. Na'hman opposed this: "Why should a man not be permitted to carry in a boat the bottom of which is not strewn with sticks and refuse?" Have we not learned in a Boraitha that R. Jose b. R. Jehudah said: "If one placed in public ground a stick (ten spans high), on top of which was a trough, which was four spans wide, a person throwing anything on top of the trough is culpable, because, while the trough was not ten spans high itself, the height of the stick upon which it rests is considered as included in its own." Why should this not also refer to the case of the boat, and the place where it *is* four spans wide be considered

as if it reached down to the bottom? R. Joseph opposed R. Na'hman as follows: "Did not R. Na'hman hear that R. Jehudah, in the name of Rabh, according to others, in the name of R. Hyya, said, that the sages did not agree with Jose b. R. Jehudah and exonerated the man?" Hence we see that the Boraitha, treating of the boat, holds with the opinion of the rabbis.

"If ships are bound together," etc. Is this not self-evident? Said Rabha: "The Mishna wishes to inform us, that one is permitted to carry from one ship into another, even if a small boat is between them, *i.e.*, one may carry from one ship into the boat and thence into the other ship, even though the small boat is not tied to either ship." Said R. Saphra to him: "Moses! [1] How canst thou say such a thing? Does not the Mishna state explicitly that one may carry from one ship into another? No boat between them (was mentioned)." R. Saphra, however, explained the Mishna thus: The Mishna, by saying one may carry from one ship into another, means to say that an Erubh maybe made between the two ships, just as between two houses, and then things may be carried from one into the other, as we have learned in a Boraitha: An Erubh may be made between ships that are tied together and things may be carried from one into the other. If the rope by means of which the ships were lashed to each other became torn, carrying to and from one ship to the other is not allowed; but if the ships were lashed together again, either intentionally or unintentionally, through compulsion or through an error, the original permission again holds good.

The same is the case with mats of which tents were made, whereby the ground enclosed by the mats becomes private; and if many such tents were made, carrying from one tent into another is permitted, provided an Erubh is made. If the mats were rolled up, however, such carrying is not permitted. Were the mats rolled down again, intentionally or unintentionally, through compulsion or through error, the original permission again holds good.

It was reported in the name of Samuel: If the ships were tied together with a mere thread, permission to carry from one into the other holds good.

MISHNA: If one threw a thing, and after the thing had

passed out of his hand, he recollected that it was Sabbath; if another person caught the thing thrown; if a dog caught it or if the things thrown was consumed by fire (before reaching its destination), the man is free. If one threw a thing for the purpose of injuring a man or a beast, and before such injury was inflicted recollected (that it was Sabbath), he is free. (For) this is the rule: Only such are culpable and, bound to bring a sin-offering as commit an act through error from beginning to end; if the act, however, was committed through error only at the start, and at the close was committed consciously, or *vice versa*, the perpetrator is free until the beginning as well as the end of the act is committed through error.

GEMARA: What would be the case, if the thing, after passing out of the thrower's hand, had rested (outside of four ells in public ground)? Would he be culpable? Why! Did he not recollect (that it was Sabbath) before the thing rested? And our Mishna (distinctly) states that one cannot be culpable unless an act were committed through error from beginning to end! Said Rabha: The 'Mishna teaches us two facts: Firstly, if one threw a thing, and after the thing had passed out of his hand he recollected (that it was Sabbath); or secondly, even if he did not recollect (that it was Sabbath), but another man, or a dog, caught the thing, or it was consumed by fire before it rested, he is not culpable.

"*This is the rule*." We have learned: If one threw a distance of six ells, two ells through error, the next two consciously, and the last again through error, Rabba declares him free. (How can that occur? As soon as the object had passed out of his hand and had not yet reached farther than two ells, he became conscious that it was Sabbath, and before it had passed the next two ells he forgot again that it was Sabbath.) Rabha, however, declares him culpable. Rabba declares him free, even according to the opinion of R. Gamaliel (in the last Mishna of Chapter XII.), who does not consider the consciousness during the time intervening between the perpetration of the two acts (each of which only executed one-half the prescribed deed) as being of any consequence (but considers the two unfinished acts as one prolonged act done unintentionally and making the perpetrator culpable). For what reason? Because in the case treated of in the cited Mishna nothing was done during the period of consciousness (of the Sabbath) intervening between the two unfinished acts to neutralize the erroneous character of

the two unfinished acts, and thus they became one finished act and made the perpetrator culpable. In this case, however, Rabha assumes that during the time intervening between the passing of the first two ells and the last two ells, the man carried the thing, and did so fully conscious (of the Sabbath), and thus neutralized the erroneous character surrounding the throwing for the first two and last two ells. Rabha, however, declares him culpable, even according to the rabbis, who hold contrary to the opinion of R. Gamaliel (in the cited Mishna) and consider the consciousness (of Sabbath) during the period intervening between the two

unfinished acts as a neutralization of the unintentional character of the unfinished acts, thus making the perpetrator not culpable. In this case, however, the man is culpable. (Why so?) Because in the case cited in the same Mishna the entire act could have been committed, but was not, for after the man became conscious (of its being Sabbath) he stopped; hence the unfinished act was not counted. Later he again forgot that it was Sabbath, but again recollected, before the entire act was committed; so the second unfinished act was not counted, and the man is free. In this case, however, the thing having been thrown could not be stopped when the man became conscious of its being Sabbath before it reached its destination! Thus the act was committed, and the fact that the thrower became conscious (of its being Sabbath) in the mean time is of no consequence. (Now, the conclusion is that there is really no difference between the rabbis and R. Gamaliel or between Rabba and Rabha, because all agree that if the thing was thrown the man is culpable, but if carried by hand he is not.)

Rabba said: If one threw a thing and it rested in the mouth of a dog or in the opening of an oven, he is culpable. Did we not learn in the Mishna that if a dog caught it, or if it was consumed by fire, he is not culpable? Yea; but the Mishna refers to a case where the intention was to throw it elsewhere and accidentally a dog caught it or it was consumed by fire; but Rabba means to say that a man is culpable if he intentionally throw it into the dog's mouth or into the oven. Said R. Bibhi b. Abayi: We have also learned elsewhere that the intention to have a thing rest in a place makes that place a fit one for the thing.

Footnotes

193:1 The law concerning Erubhin, will be explained in Tract Erubhin.

194:1 The Hebrew term for "cut off" in that passage is Tamu, and for "joined" in the previous passage it is "Tamim" hence the comparison by analogy.

198:1 So explains Rashi (Isaakides); we think, however, the reason that water does not annul the enclosures is, because water belongs to the public and any one can draw it out, and therefore it is equal to not being there; but, fruits must belong to a private individual and this makes it private ground.

201:1 The word Moses was used as a title to a great teacher.

Next: Chapter XII: Regulations Concerning Building, Ploughing, etc., On the Sabbath