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CHAPTER VI.

REGULATIONS CONCERNING THE ERUBIN OF COURTS AND PARTNERSHIPS.

MISHNA: To one who dwells in the same court with a Gentile, or with one who does not acknowledge the laws of Erub, the latter prove a bar (to his carrying in the court). R. Eliezer ben Jacob, however, said: "At no time can such a prohibition be caused, unless there be two Israelites, who prevent each other."

R. Gamaliel related: "It happened that a Sadducee dwelt with us in one alley (entry) in Jerusalem, and my father said to us (on the eve of Sabbath): 'Make haste and bring all the vessels into the alley, lest the Sadducee bring out his, and thus make it unlawful for you to carry out yours.'" R. Jehudah related the same circumstance with a variation in the language, viz.: "Make haste and do what you require done in the alley, lest he come out and make it unlawful for you to do so."

GEMARA: Abayi and R. Hinana, both sons of Abin, were sitting along with Abayi. The two brothers said: "The Mishna would be correct according to the opinion of R. Meir, who holds that the dwelling of a Gentile as far as the laws of Erubin are concerned is regarded as a dwelling; but what about R. Eliezer ben Jacob? If he regards the dwelling of a Gentile as a dwelling, then it should prove a bar even to one Israelite, and if he holds that it is not regarded as a dwelling, then it should not interfere even with two Israelites." Said Abayi to them: "Does then R. Meir hold, that the dwelling of a Gentile is regarded as a dwelling where the laws of Erubin are concerned? Have we not learned in a Boraitha, that R. Meir holds the dwelling of a Gentile to be like a vacant house, where things may be moved at will? Therefore I say, All agree that the dwelling of a Gentile is not considered as a dwelling as far as Erubin are concerned and that the intent of the Mishna is simply to prevent the Israelite from falling into the ways of the Gentile and disregard the Sabbath entirely, and to this end R. Meir holds, that a

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[paragraph continues] Gentile proves a bar even to one Israelite, but R. Eliezer ben Jacob maintains, that it is so rare an occurrence for one Israelite and one Gentile to live in one court, that such a precaution is in that case superfluous."

The text of the above Boraitha is as follows: "The dwelling of a Gentile is, as far as the laws of Erubin are concerned, to be regarded as a vacant house and things may be moved and carried to and from his house and the court; but if an Israelite also dwelt in the same court, the Gentile proves a bar to the Israelite." Such is the dictum of R. Meir; R. Eliezer ben Jacob, however, said, that the Gentile does not interfere, unless there are two Israelites who prevent each other."-- Have we not learned in our Mishna that if one dwells in the same court with a Gentile, the Gentile proves a bar? This presents no difficulty: The Mishna refers to the Gentile who is on the

spot, while R. Eliezer ben Jacob refers to one who is not at home.

What does R. Eliezer mean to express? Does he hold, that a dwelling without the occupant is also a dwelling, then he should state, that even one Israelite is prevented by it; if he holds, that a dwelling without its occupant is not considered a dwelling, then why does he mention a Gentile, he could say, if there be two Israelites and one is absent from home, he does not prove a bar to the other? Nay; a dwelling without its occupant is not considered a dwelling; but in the case of the Israelite who was absent, if he had proved a bar when at home, the precaution is also enforced when he is not at home, but in the case of a Gentile, no such precaution is necessary for the reason, that he himself does not prove a bar to the Israelite and his interference is merely due to the fact that the Israelite might fall into his ways and disregard the Sabbath. When the Gentile is absent, however, such apprehension does not exist.

If the Gentile is absent he does not prevent the Israelite? Have we not learned in a Mishna, that "if a person quits his house, and he goes to take his Sabbath-rest in another town, whether he be a Gentile or an Israelite, he proves a bar to the other inmates of the court, such is the decree of R. Meir"? This refers to a case of where there is fear that the person will return on the same day.

R. Jehudah said in the name of Samuel: "The Halakha prevails according to R. Eliezer ben Jacob." R. Huna, however, said: "It is customary to hold to the opinion of R. Eliezer, *i.e.*, it is not taught in the colleges that the Halakha prevails

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according to R. Eliezer ben Jacob, but when a man asks concerning this law, he may be told to follow that dictum." R. Johanan however said: "The people act in accordance with R. Eliezer's decree, but it should not be decided so when the question arises."

Abayi asked R. Joseph: "It is known to us, that all the Mishnaoth taught by R. Eliezer ben Jacob are clean and thorough. Here also R. Jehudah said in the name of Samuel, that the Halakha prevails according to R. Eliezer ben Jacob. Now then, if a disciple of a certain master live in the same town as his master and is asked concerning a Halakha established by R. Eliezer ben Jacob (which is therefore correct) may he decide it himself or must he as usual refer the case to his master?" R. Joseph answered: "R. Hisda (who was a disciple of R. Huna) would not even decide the question whether eggs may be eaten with kutach (a dish made principally of milk) as long as R. Huna was living."

R. Jacob bar Abba asked Abayi: "May a disciple decide in the place where his master resides a Halakha, contained in the scrolls of Fast-days?" Abayi replied: R. Joseph decided this question as stated above.

R. Hisda *did* decide legal questions, during the lifetime of R. Huna, in Khafri. [1](#)

R. Hamnuna [2](#) decided questions in the city of Hartha, which belonged to Argaz in the days when R. Hisda lived. (Hartha was not far from Pumbaditha, the residence of R. Hisda.)

Rabhina would examine the slaughtering-knives in Babylon during the lifetime of R. Ashi (who

was the head of the college). R. Ashi asked him: "Why does Master do this?" Rabhina answered: "Did not R. Hamnuna decide questions in Hartha during the lifetime of R. Hisda?" Said R. Ashi to him: "On the contrary! We have learned, that R. Hamnuna did *not* do this." Rejoined Rabhina: "We have learned both, that he did and that he did not, and the case seems to be thus: As long as R. Huna the master of R. Hisda lived, R. Hamnuna did not decide any questions, but upon the death of R. Huna when R.

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[paragraph continues] Hisda became the head of the college, R. Hamnuna began to decide questions also, because he was virtually a disciple (and) comrade of R. Hisda and I am also a disciple comrade of Master."

Rabha said: "If a slaughtering-knife is brought to a young scholar for examination, he may examine it, providing he intends to use some of the meat himself."

Rabhina 1 came to the city of Mehuzza (and stopped at an inn). The inn-keeper brought a slaughtering-knife to him for examination, and Rabhina told him to take it to Rabha. Said the inn-keeper: "Dost thou not hold with Rabha, that a young scholar may examine a slaughtering-knife if he intends to use the meat himself?" Rejoined Rabhina: "Yea; but the meat is thine and I merely buy the meat of thee as others do."

R. Elazar of the city of Hagronia and R. Abba bar Tachlipha (R. Aha) were the guests of R. Aha the son of R. Iqua in the city presided over by R. Aha bar Jacob. A calf, which was the third of its mother, was to be prepared and the slaughtering-knife was brought to them for inspection. Said R. Aha bar Tachlipha: "Must we not respect the elder (meaning R. Aha bar Jacob)?" Said R. Elazar to him: "Thus decided Rabha: A young scholar may examine the slaughtering-knife if he intends to use the meat himself." Accordingly R. Elazar examined the knife but was afterwards punished for it.

Why was R. Elazar punished for it? Rabba had really allowed it? Because R. Aha bar Jacob was an exceptionally wise and extremely old sage.

Rabha said: A disciple has no right to decide questions of law. If, however, he sees a person committing a prohibited act, he may even in the presence of his master correct such a person.

Rabhina while in the presence of R. Ashi (his master) observed a man tying an ass to a tree on Sabbath. He admonished him and told him that it was not allowed; but the man paid no attention to him, whereupon Rabhina said to him: "Thou art under a ban for this." Then he (Rabhina) said to R. Ashi: "Can this action of mine be construed as disrespectful to thee because it was done in thy presence?" R. Ashi answered: "It is written [Proverbs xxi. 30]: 'There is no wisdom nor understanding nor counsel against the Lord,' and that means, where the honor of

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the Lord is concerned, the respect due a teacher is not to be considered."

Rabha said: "If a disciple decide a point of law in the presence of his master, it is considered as a capital offence; but if he does this in the absence of his master while the master is still in the same city, it is not a *capital* offence, but is nevertheless prohibited." Zera said in the name of R. Hanina: It is not a capital offence, but he is nevertheless called a sinner, as it is written [Psalms cxix. ii]: "In my heart have I treasured up thy saying, in order that I may not sin against thee." (This signifies that if one did not treasure up his knowledge but uttered it in the presence of his master, he commits sin.)

R. Hamnuna propounded a contradictory question to the above verse, viz.: It is written [Psalms xl. 10]: "I announce thy righteousness in the great assembly," and himself explained it by saying: "The former verse was proclaimed by David when Ira the Yairite, who was his master, was still living and the latter when Ira was dead."

R. Abba bar Zabhdā said: "He who sends his gifts to one particular priest to the exclusion of all others brings famine into the world, as it is written [II Samuel XX. 26]: "And Ira the Yairite was a priest unto David." Why a priest unto David? Was he not also a priest to the rest of Israel? The inference then is, that David presented him with all his gifts and immediately following this verse, it is written [ibid. xxi. 1]: "And there was a famine in the days of David three years."

R. Elazar said: A disciple who decides a point of law in the place of his master, if intrusted with a position of importance, is eventually deposed, as it is written [Numbers xxxi. 21-24] that Elazar the priest quoted a law and although he quoted it in the name of Moses, still he was deposed from office on that account; for although Joshua was ordered to stand before Elazar [Numbers xxvii. 21], we do not find one instance where Joshua ever availed himself of Elazar's services.

R. Levi said: He who decides a point of law in the presence of his master will die childless, for it is written [Numbers xi. 28], that Joshua, the son of Nun said, "My lord Moses, forbid them," and [Chronicles vii. 27] it merely states, "Now his son, Jehoshua his son," whence we see that Joshua had no children.

There was an entry in which a man by the name of Lachman bar Risthak resided. He was asked to rent his right to the

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ground occupied by him to the other inmates; but he would not do this. So the matter was brought to Abayi for decision and he told them as follows: "All of you, resign your rights to your grounds to one man in the entry and thus it will constitute a case of where one Israelite and one Gentile occupy the same entry; when one Gentile occupies the same grounds with one Israelite he does not interfere with the Israelite." How can this remedy us? Why was it decreed, that one Gentile does not interfere with an Israelite, because it is of rare occurrence, that they should occupy the same court, but in our case it is different. We all live there? Said Abayi: "In your case there is also an unusual occurrence; for it seldom happens, that all the inmates of one entry should resign their rights to one man."

Subsequently R. Huna the son of R. Jehoshua related this statement of Abayi to Rabha. Said Rabha: "If so, then the entire law of Erubin was made void in that entry." Nay; they mad can E

rub between themselves also. Rejoined Rabba: "This is still worse. In that case it will be said that an Erub may be made where a Gentile lives." Answered R. Huna: "It will be proclaimed, that the carrying is not done on account of the Erub, but because every inmate has resigned his right to the ground to one man and hence it is private ground." "To whom will ye proclaim this? To the children?" continued Rabba. "I have a better plan. Let one man go and ask Lachman bar Risthak to permit him to deposit something in his (Lachman's) yard, which will then be considered as rented for an entire year, and R. Jehudah said in the name of Samuel, that if ground had been rented by an Israelite from a Gentile or *vice versa* for one year or even for one season when the crops are harvested, in fact if any dealings at all have been had on this order with the Gentile, an Erub may be placed in the entry where he lives with impunity."

Abayi asked of R. Joseph: "How is it, if there are several who had rented apartments from a Gentile and one of them forgot to make an Erub. Would he prove a bar to the others or not?" Answered R. Joseph: "The statement of R. Jehudah in the name of Samuel was made in order to make the law more lenient and not to make it more rigid."

When R. Na'hman heard the dictum of R. Jehudah in the name of Samuel quoted above, he said: "How fine is this Halakha!" Then he heard another dictum of R. Jehudah in the name of Samuel stating, that one who had imbibed a quarter of

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a lug of wine, must not decide any legal questions. Said R. Na'hman: "This Halakha is preposterous! I know that my head is not quite clear until I drink a quarter of a lug of wine." Said Rabba to him: "Why should master say this? Has he not heard the dictum of R. A'ha bar Hanina, viz.: it is written [Proverbs xxix. 3]: 'He that keepeth company with harlots wasteth his wealth,' and this means, that one who declares one Halakha to be fine and another to be bad loses the beauty (wealth) of the Torah." Answered R. Na'hman: "Thou art right. I shall do this no more."

Rabba bar R. Huna said: One who is tipsy should not pray; but if he had done so his prayer is nevertheless acceptable. One who is intoxicated, however, and prayed, his prayer is considered as a blasphemy. What is meant by tipsy? If a man were compelled to speak to the king and had still sense enough to do so, he is merely tipsy; but one who would not be able to do this is considered intoxicated.

Said Rami bar Abba: "One who after drinking had walked a mile or slept a little is again considered sober." Said R. Na'hman in the name of Rabba bar Abbahu: This is the case if he had drunk only a quarter of a lug of wine; but if he drank more, then the walk tires him still more, and the interrupted doze inebriates him still more.

Will a walk of one mile then neutralize the effects of the wine? Have we not learned, that Rabbon Gamaliel while travelling at one time rode upon an ass from the city Akhu to Khazib and was followed by R. Ilayi. R. Gamaliel noticed some loaves lying on the road, so he said to Ilayi: "Take the loaves up," and meeting a Gentile later said to him: "Mabgai, take the loaves away from Ilayi." Ilayi then asked the Gentile: "Whence art thou?" and he answered: "From the cities of Burganin." "What is thy name?" asked Ilayi again. "I am called Mabgai," was the answer. "Dost thou know R. Gamaliel?" was the next question, "or does R. Gamaliel know

thee?" "Nay," answered the Gentile. Thus it is obvious, that R. Gamaliel knew the name of the Gentile by inspiration [and three things may be deduced from his actions, viz.: "Firstly, that bread must not be passed by (but should be gathered up); secondly, that we must be guided by the majority of wayfarers (*i.e.*, on account of the majority of wayfarers being Gentiles, the bread is presumed to belong to them and hence R. Ilayi was told to give it to the Gentile); and thirdly, that leavened bread

belonging to a Gentile, even if remaining over from the Passover, may be made use of by Israelites after the Passover."]

Upon his arrival at Khazib, R. Gamaliel was asked by a man to nullify a vow. Said R. Gamaliel to his companions: "Have we drunk a quarter of a lug of Italian wine?" and they answered: "Yea, we did." "Then," quoth R. Gamaliel, "let us walk on, the man following us until the effects of the wine wear off," and they walked on for three miles. When they came to the steps leading up to the city of Tyre, R. Gamaliel dismounted, wrapped himself in a robe, sat down and nullified the man's vow, and from these actions we have learned many things; namely: "A quarter of a lug of Italian wine inebriates a man; when a man is inebriated, he must not decide any legal questions; a walk neutralizes the effects of wine; and a vow must not be nullified while riding, standing, or walking, but in a sitting position."

Thus we see, that a three miles' walk is required to destroy the effects of wine, how can it be said, that one mile is sufficient? In a case of inebriation through Italian wine it is different, because that wine is very strong, but for ordinary wine a walk of one mile is all that is necessary.

The master said: "One must not pass by bread." Said R. Johanan in the name of R. Simeon ben Jochai: This was said in the earlier generations when the daughters of Israel had not yet resorted to witchcraft, but in the latter generations when they began to practise it, bread may be passed by, lest it be bewitched.

We have learned in a Boraitha: Whole loaves of bread may be passed by, because they may be bewitched, but pieces of bread should not, as there is no fear of their being bewitched.

R. Shesheth said in the name of R. Elazar ben Azariah: "I could exempt the entire world from divine judgment since the destruction of the Temple to the present day; for it is written [Isaiah li. 21]: "Therefore, hear now this, O thou afflicted, and drunken, but not with wine." (Hence if all the world is drunken, they should not be judged.)

An objection was made: "We have learned, that a drunken man's purchase is a valid purchase, his sale is a valid sale; if he has committed a capital offence, he should be executed; if he committed a crime involving the punishment of stripes, he must be given the stripes. The rule is, that he is in all respects considered as a sober man with the exception that he is absolved

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from prayer." R. Shesheth means to say by stating that he can absolve the entire world from divine judgment, that he can exempt the world from the judgment concerning their prayers. Said R. Hanina: All this is said concerning a man whose drunkenness does not equal that of Lot's, but if it is of the degree of Lot's drunkenness, he is exempt from all judgment.

R. Hyya bar Ashi said in the name of Rabh: "One whose mind is not thoroughly at ease must not pray, as it is written: "In his affliction shall he not judge." [1](#)

It was the custom of R. Hanina to omit saying his prayers on a day when he was in a bad humor, and Mar Uqba would not take his seat on the judge's bench on a day when a hot south wind would blow, saying, that it was too hot to judge with a clear mind. R. Na'hman bar Itz'hak said: When a Halakha is to be decided by a man, his head should be as clear as it is on a day when a north wind which drives away all dark clouds is blowing and the sky is clear and the weather fine.

Abayi said: "When my mother would tell me to hand her some kutach, it so confused me, that I could not study that whole day." Rabha said: "If a flea bit me, I could no longer learn."

The mother of Mar, the son of Rabhina, made her son seven suits of clothes, one for each day of the week.

R. Jehudah said: "The night was made only for sleep." R. Simeon ben Lakish, however, said: "The moon was made only in order to facilitate study at night."

R. Zera was told that all his conclusions were very sagacious, and he replied, that they were all studied during the day.

The daughter of R. Hisda said to her father: "Why does Master not sleep a while?" and he answered: "Very long days will yet come, when study will be impossible" (meaning the days in the grave).

R. Na'hman bar Itz'hak said: "We are all day-laborers." R. A'ha bar Jacob would borrow hours from the day and repay them at night.

R. Eliezer said: One who travelled on the road should,

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upon his return, not recite his prayers for three days, as it is written [Ezra viii. 15]: "And I gathered them together to the river that runneth into the Ahava, and we encamped there three days: and I looked about among the people." (Which signifies, that one should deliberate for three days and then pray.)

The father of Samuel when on the road would not pray for three days. Samuel himself would not pray in a room where there was any beer, saying, that the odor of the beer confused him. R. Papa would not pray in a house where there was Harsena (a dish made of fish and vinegar) saying, that the odor disturbed him.

R. Hanina said: A man who is angry with another and when under the influence of liquor can be persuaded to a reconciliation possesses one of the qualities of his Creator, as it is written

[Genesis viii. 21]: "And the Lord smelled the sweet savor," etc.

R. Hyya said: "One who drinks wine and is not excited thereby, has some of the qualities of the seventy sages in the days of Moses." The inference of R. Hyya is based upon the word Yain (wine), which according to the Hebrew method of counting, namely, Yod = 10 and another Yod = 10 and Nun = 50, altogether 70; and also upon the word Sod (secret) Samach = 60, Vav = 6 and Daled = 4, altogether 70; hence when the wine enters, the secrets escape and the man who does not become excited through wine and can retain his secrets, possesses the wisdom of the seventy sages.

R. Hanan said: "Wine was created only to comfort the mourners and to pay the wicked their reward for any good they may have done, on this earth, as it is written [Proverbs xxxi. 6]: "Give strong drink unto him that is ready to perish, and wine unto those who have an embittered soul." (By "one that is ready to perish," is meant the wicked and by "those who have an embittered soul," are meant the mourners.)

R. Hanin bar Papa said: A house where wine does not flow like water cannot be classed among those that are blessed, as it is written [Exod. xxiii. 25]: "And he will bless thy bread and thy water." The bread referred to is that which can be bought with the proceeds of the second tithes and the water which cannot be bought with such money really means wine. If, then, wine is so plentiful in the house, that it flows like water, the house is counted among the blessed.

R. Ilayi said: By means of three things a man's character

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may be ascertained: "By his wine-cup, by his purse, and by his anger," and others say also by his play (for money).

R. Jehudah said in the name of Rabh: There was a case, where an Israelite and a Gentile occupied an inner court and another Israelite occupied the outer court and it was referred to Rabbi for decision. He decided that the outer court must not be used to carry therein. It was then referred to R. Hyya and he decided likewise.

Rabba and R. Joseph both sat in the presence of R. Shesheth, when he finished his lecture, and R. Shesheth concluded by saying, that Rabh decided the above Halakha in accordance with the opinion of R. Meir. Rabba shook his head. Said R. Joseph: Is it possible, that two such great men (as R. Shesheth and Rabba) should be mistaken? If Rabh's dictum were according to R. Meir, why was it necessary to state, that the outer court was occupied by an Israelite? (R. Meir holds, that even one Gentile and one Israelite are sufficient to make it unlawful to carry in one court.) If we assume, that Rabh merely related the circumstance as it occurred, without making a decision, is it not a fact that when Rabh was asked whether, if the Gentile was at his home, the Israelite may carry from the inner court to the outer, he answered that he may, hence we see that the Gentile does not prevent the Israelite occupying the same court from carrying therein; but that the two Israelites prevent each other. Shall we then assume, that Rabh held in accordance with R. Eliezer ben Jacob? Why should it be prohibited for the Israelite to carry from one court to the other? Further on we shall learn, that, according to R. Aqiba, a foot (meaning a man) which is allowed to carry in its place cannot interfere with the right of another place (and in this

case each Israelite may carry in his own court, for one of them has the court to himself and the other has but one Gentile in his court, who, according to R. Eliezer ben Jacob, does not interfere with his right to carry), why then should it be prohibited for them to carry between the courts? It might be then, that Rabh holds with R. Aqiba, who says, that a foot which is allowed to carry in its own place nevertheless interferes with the right of another place, then why should the Gentile be mentioned? Each Israelite will prevent the other?

Said R. Huna, the son of R. Jehoshua: It may be assumed that Rabh agrees either with R. Eliezer ben Jacob or with R. Aqiba; but in this case the two Israelites combined in an Erub,

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and on account of the interference of the Gentile, he prohibited both.

Resh Lakish and the disciples of R. Hanina met in an inn where lived two Israelites and a Gentile, who rented his place from another Gentile. The tenant was not at home but the owner was. The question then arose whether the place of the tenant could be rented from the owner for the Sabbath. Where the tenant had a perfect lease and could not be dispossessed for that day, it is entirely out of the question. If, however, the tenant's lease was conditional, *i.e.*, if the owner could at any time dispossess him, the question arises whether, because of the fact, that he had not yet been dispossessed the tenant retains his right to the place and it cannot be rented, or from the fact, that it is optional with the owner to dispossess the tenant at any time, the place may be rented.

Resh Lakish said: In the meantime, let us rent the place, and afterwards, when we come to our sages in the South, we will ask their opinion. Subsequently, when they came to R. Ephes and asked him, he told them that they had done rightly.

R. Hanina bar Joseph, R. Hyya bar Abba, and R. Assi met at an inn, the proprietor of which was a Gentile and who arrived on the Sabbath. The question then arose, whether his place could be rented from him for the Sabbath or not. If renting a place is equal to making an Erub, then, of course, it would not be permitted on Sabbath, but if renting a place was merely the resigning of it by one man to another, then it may be done, because that is allowed *on Sabbath*. R. Hanina advised renting it but R. Assi objected. Said R. Hyya bar Abba to them: Let us depend upon this elder (meaning R. Hanina) and rent it and then we will ask R. Johanan. When they asked R. Johanan he told them, they had done what was right.

The men of Neherdai when hearing of this were surprised, saying: "Did not R. Johanan say at another time, that 'renting a place for the Sabbath was equivalent to making an Erub,' hence, as the Erub must be effected on the preceding day, the renting must be done likewise." Nay; R. Johanan means to state that as an Erub may be effected with anything, no matter how little in value, a place may also be rented for any amount, be it ever so small; and as one man may combine an Erub for five others occupying the same court, so may one rent also for others.

Samuel said: "There is no such thing as resigning the right

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of one court to another court, nor resigning the right to the space of a ruin. (This signifies, that if two courts opened into an entry or into the street and besides had a door between them, there is no necessity for them to combine an Erub, and, in consequence, they are not benefited if the right of one court is resigned to the other.) And as for a ruin, it means, that if there were two houses opening into a ruin between them, neither can use the ruin, unless they combine an Erub; but the space enjoyed by each cannot be resigned by one to the other. R. Johanan, however, said that both in the case of the court and of the ruin the right to the space may be resigned by one to the other.

It was necessary for us to be told of both instances wherein they differ; for if we had been told, that Samuel only prohibited the resigning of the space by one court to the other, we might have assumed, that he did so because each court had a right in itself without combining a joint Erub, but as for a ruin, he might have held, that as an Erub must be effected by the two houses on each side, if the use of the ruin is desired, the resigning of the space was *permitted*. If the difference concerning the ruin only were related, it might be said, that R. Johanan permits the resigning of the space of the ruin only; because an Erub must be effected by the houses desiring its use, whereas in the case of the court, he agrees with Samuel. Hence both instances are quoted.

Abayi said: The prohibition of Samuel regarding the resigning of the space by one court to another refers only to two courts that had a door between them. If, however, one court was contained within the other and did not have a separate entrance to the street, they may mutually resign their space, because they are bound to combine an Erub. Rabha said: In such a case, they at certain times may do so and at other times they must not (and this will be explained at the end of this chapter).

When R. Hisda met R. Shesheth his lips would tremble; for knowing that R. Shesheth was so well versed in Mishnaoth and Boraitoth, he was afraid to render a decision lest R. Shesheth would contradict him with another Mishna or Boraita. On the other hand R. Shesheth's whole body would tremble when he met R. Hisda, for knowing that the latter was very shrewd, he was afraid of R. Hisda's sagacity.

R. Hisda propounded the following question to R. Shesheth:

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"If there were two houses on each side of a wide street (public ground) and some Gentiles made a partition around the street on the Sabbath, what is the law? According to those who maintain, that it is not allowed for one court to resign its space to another, there is no question; because if the two courts had desired to make an Erub on the preceding day they could have done so and still they are not allowed to resign their spaces to each other; so much the more in our case, where the two houses could not have combined an Erub on the preceding day on account of the intervening public ground which had not yet had a partition, they are not allowed to resign their space to each other. I am asking, however, considering the Tana who maintains, that the two courts may resign their space to each other. Shall I assume, that it is permitted in the case of the two courts because they could have made an Erub on the preceding day, but in the case of our two houses which could not have made an Erub on the preceding day, it is not permitted or, as there is a partition around the intervening public ground, they may do so?"

R. Shesheth answered: "Nay, it is not permitted." R. Hisda queried again: "How is it, if two Israelites living in the same court with a Gentile and not having made an Erub or rented the place of the Gentile, the latter died on the Sabbath? May they mutually resign their space to each other? According to the Tana who holds, that one may rent a place on the Sabbath, there is no question, because if they did not make an Erub they may rent the place from the Gentile and then resign their places to each other; thus if two things may be done on the Sabbath, one certainly may be done. I ask thee according to the Tana who prohibits renting on the Sabbath. May the two Israelites in this case where the Gentile is dead and they need not rent his place resign their places to each other or not?" Rejoined R. Shesheth: "I say that they may; because if they had chosen to rent the place yesterday and then effect an Erub they could have done so, but Hamnuna does not allow them to do this."

R. Jehudah said in the name of Samuel: "If a Gentile have in his court a door, four spans wide and four ells high, opening into a valley, even should he lead cattle, camels, and wagons through the entry to the court all day long, he does not interfere with the Israelites inhabiting the court, because his door is of more use to him than the common entry, and serves to separate him from the others."

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The schoolmen asked: "How is the law, if the door of the Gentile opened into a woodshed?" R. Na'hman bar Ami said in the name of some learned men: "Even if the door of the Gentile open into a woodshed and the common entry into the street, he also does not interfere with the Israelites inhabiting the court." Rabba and R. Joseph both say: "If the woodshed was not more than of two saahs' capacity, the Gentile *does* interfere with the Israelites, because he cannot derive as much comfort from the woodshed as he can from the street, but if the woodshed was larger than that the Gentile does not interfere. With Israelites it is the reverse: if the woodshed, into which the separate door opens, be *no* more than of two saahs' capacity and the Israelite had not combined in the Erub with the others, he does *not* interfere with them, because a woodshed of that size may be used by him on the Sabbath; but if the woodshed be larger, he *does* interfere with the other Israelites."

Rabha bar Haklayi asked of R. Huna: "How is the law if a Gentile have a door opening into a woodshed?" and R. Huna answered: "The sages have already decided this. If the woodshed be of two saahs' capacity, he interferes with the Israelites, but if of more than two saahs' capacity he does not."

It happened that some warm water was spilled and more was needed for a child on the Sabbath. So Rabba said: "Let some warm water be brought from my house." Said Abayi to him: "Why! no Erub has been made!" Rejoined Rabba: "Let us depend upon the combine made in the entry (of this court)," but Abayi persisted: "We have no part even in the entry." Finally Rabba said: "Let a Gentile be told to bring it." Subsequently Abayi said: "I had a mind to dispute even this last order of my master, but R. Joseph would not permit me to do this; for R. Joseph said in the name of R. Kahana: 'Where a biblical ordinance is in question the case should be discussed before the act is committed, but in the matter of rabbinical ordinances the deed may be accomplished and then the decision may be asked for.'"

Then R. Joseph asked Abayi: "Upon what grounds dost thou desire to dispute this last order of the master?" and he answered: Upon the teaching we have learned in a Boraitha, viz.: While the

sprinkling of an unclean man (with the ashes of the red heifer) by a clean man is only a rabbinical ordinance, the Sabbath should not be violated by the performance of this rite even if it be necessary for the fulfilment of a commandment,

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and in the same manner requesting a Gentile to perform an act on the Sabbath being also against the rabbinical ordinance, it should not be done on the Sabbath. Rejoined R. Joseph: "Canst thou discriminate between the performance of an *act* which is against the rabbinical ordinance and a case where no act at all was committed? The Gentile was not told by Rabba to warm the water but merely to bring it from his house through the entry, and this is certainly not prohibited."

Said Rabba bar R. Hanan to Abayi: "How is it possible, that in a court where two such great men as Rabba and thou reside, no Erub was made either in the court or in the entry?" Answered Abayi: "How can I help it? The master does not usually pay attention to such trifles; I am engaged all the week long in study, while the inmates of the court do not trouble themselves about it. Should I make up my mind to present them with the bread in my basket, it would be merely a sham, for if they were to demand it, I could not in reality part with it as I cannot spare it; hence even if I should have this in mind, it would be useless; for we have learned in a Boraitha, that if one of the inhabitants of the entry demanded wine or oil and was refused, the combine is made invalid." Rejoined Rabba bar R. Hanan: "Then thou couldst have in mind to give them a quarter of a lug of vinegar from the cask thou hast in the house, and thou surely wouldst not use up *that* on the Sabbath." Abayi replied: "We have learned in another Boraitha, that it is not allowed to combine an Erub with material which is in bulk because it might be, that the very part which was intended for the Erub may be used." "But," insisted Rabba bar R. Hanan, "we have learned in another Boraitha that this may be done." Said R. Oshiya: "Concerning this, there is a difference of opinion between Beth Shammai and Beth Hillel." It happened again that some warm water needed for a child was spilled. Said Rabba: "Let the mother be asked whether she is in need of warm water, and, if so, a Gentile may be told to warm it and bring it to her and it will serve for the child also." R. Mesharshia remarked: "The mother has been eating dry dates for some time (then she certainly does not need any warm water)." Rejoined Rabba: "She is not quite herself and knows not what she eats."

Another case of this kind happened with a child. So Rabba said: Let the belongings of the men be taken from the men's room into the women's apartment; I shall then resign my place

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for the benefit of others and the warm water may be brought from my house.

Said Rabhina to Rabba: "Did not Samuel say, that it is not allowed to resign the space of one court to another?" and Rabba answered: "I hold with R. Johanan who permits this to be done." Rejoined Rabhina: "If thou dost not hold with Samuel, why then didst thou order the belongings of the men to be transferred to the women's apartments? Thou shouldst have resigned thy place to them and they their place to thee, then all of you will be enabled to carry, which according to Rabh is also permissible." Rabba replied: "In this respect I hold with Samuel in order that it should not appear as a farce if I resign my place to the others and they their place to me."

The text states, that Rabh permits the mutual resigning of places and Samuel prohibits it. Said R. Ashi: Rabh and Samuel differ in the same point as R. Eliezer and the sages (in Chapter II., last Mishna, where R. Eliezer forbids the inmate of a court who had forgotten to join in the Erub to carry and permits the other inmates to do so).

"*R. Gamaliel related: It happened that a Sadducee,*" etc. Whence this reference to a Sadducee? The Mishna is not complete and should read thus: A Sadducee is considered the same as a Gentile, and R. Gamaliel said: "He is not considered as a Gentile," and then relates the incident: "It happened, that a Sadducee dwelt with us in one alley in Jerusalem, and my father said to us: 'Make haste and bring out all your vessels into the alley, before the Sadducee can do this and thus prevent you from doing so.'" We have also learned to this effect in a Boraitha, viz.: "An Israelite who lives in the same court with a Gentile, a Sadducee, or a Bathusee, is prevented by, them (from carrying therein). R. Gamaliel, however, said this does not apply to a Sadducee or a Bathusee, and it happened that a Sadducee lived in the same alley with him in Jerusalem, so he said to his children: "Make haste and carry out all your vessels into the alley, before that unworthy one can come out and prevent you from doing so; for so far he has resigned his place to you (but later he may change his mind)." So said R. Meir. R. Jehudah, however, gave another version of the affair, viz.: Make haste and do what is necessary for you in the alley, before it becomes dark; for after dark the Sadducee will prevent you from doing so (meaning that the Sadducee, like a Gentile, cannot resign his place to the Israelites). Shall we assume then,

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therefrom, that if the Israelites do a thing before the Sadducee that he cannot prevent them later? Have we not learned in a Mishna?" One who, after resigning his place, carries out intentionally or inadvertently into the court, prevents the others from doing so. So said R. Meir?" Said R. Joseph: "Say, that he does not prevent the others." Abayi says: There is no difficulty. The Mishna by stating that he prevents the others means to say, if he had previously carried out things (before the others did so) as we have learned in a Boraitha: If after resigning his place, a man carried out things into the court, either intentionally or inadvertently, he prevents the others from doing so, so said R. Meir. R. Jehudah said "only if he did so intentionally." All agree, however, that such is only the case, if the other inmates of the court had not carried out things before he did, but if they had done so, he does not prevent them at all, whether he had carried out things intentionally or unintentionally.

The master said: "R. Jehudah, however, gave another version of the affair. Then R. Jehudah holds, that the Sadducee is considered as a Gentile, and in the Mishna we have learned, that R. Gamaliel said: "Lest the Sadducee bring out *his* vessels," etc. This presents no difficulty. There are two kinds of Sadducees. One who publicly violates the Sabbath is considered as a Gentile, and one who does so secretly, is not considered as a Gentile. According to whose opinion will the following Boraitha be: "One who publicly violates the Sabbath, cannot resign his place?" According to the opinion of R. Jehudah.

Once a man went out on the Sabbath with a bundle of spices in his hand, and seeing the approach of R. Jehudah the Third, he concealed it. Said R. Jehudah the Third: According to R. Jehudah a man of this kind may resign his place, as we have learned in another Boraitha: An apostate who does not violate the Sabbath in the markets may resign his place, but one who does violate the Sabbath in the markets cannot do so; for it was said, that only an Israelite may resign his place or accept ground resigned to him by another, but from a Gentile the place must be

rented. How may a place be resigned by Israelites? One says to the other: My place is sold to thee or my place is resigned to thee, and no token of acceptance is necessary.

MISHNA: Should one of the householders of a court forget, and not join in the Erub, neither he nor the other inmates of the court are allowed to carry anything into or out of his house,

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but he *and* they may carry into or out of their houses. If the other inmates have resigned to him their common right to the court, he is permitted to carry therein, but they must not do so. Should there be two persons who have neglected to combine in an Erub, they mutually prevent each other; for one individual can resign his right to the court or can acquire that right; but two persons, though permitted to jointly resign their right, cannot jointly acquire the right to the exclusive use of the court.

From what time is the right to be conferred? Beth Shammai hold, "While it is yet daylight," but Beth Hillel maintains "even from dusk (on the eve of Sabbath)." Whoever resigns his right (to the court) and afterwards either intentionally or inadvertently carries within it, prevents (renders it unlawful for) the others from doing so. Such is the dictum of R. Meir. R. Jehudah, however, said: If he carries (within the court) intentionally, he prevents them, but if inadvertently, he does not.

GEMARA: Is it unlawful only to carry into and out of his house, but carrying into and out of the court it is lawful? How was the case? If he resigned his right to the house why should it be unlawful (to carry into) the house; if he did not resign his right to the house, why should they all have a right to the court? In this case, the man had resigned his right to the court alone but not to his house, and the sages maintain, that by resigning his right to the court he did not also resign his right to his house, and there are men who live in houses that have no court. Why then is it lawful for him to carry in and out of their houses? Because he is considered as a guest.

"If the other inmates have resigned to him," etc. Will they then be considered as his guests? One man can be the guest of five, but five men cannot be considered the guests of one. Can we adduce from this clause in the Mishna that this resigning of the right (to a place) can be repeated mutually several times? The Mishna may mean to state that the other inmates had already previously resigned their rights to the one man, in which case it becomes lawful for him, but not for them.

"Should there be two persons," etc. Is this not self-evident? The case is, if after having forgotten to join in the Erub, one of the two persons resigned his right to his house and also the right to the part of the court renounced to him by the others. We might assume that this could be lawfully done. We are therefore told that the other inmates having resigned their rights to

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the two persons jointly, one of them individually cannot resign his right, because he had not an individual right at that time.

"For one individual can resign his right," etc. This was just stated in the Mishna, what need is

there of the repetition? We have learned both concerning resigning and acquiring a right? The latter part of the clause, which teaches that two persons may resign their right, but must not acquire it, is essential. This, however, is also self-evident? We might assume, that a precautionary measure is necessary prohibiting two to resign their right, lest one resign his to two; therefore we are told, that such a precaution is not necessary.

"*Two persons cannot jointly acquire the right.*" Why this repetition again? Here we are told, that two persons must not acquire the right even when presented with the ground in question outright, so that they have the privilege of transferring it to others.

Abayi asked of Rabba: "If five men inhabited one court and one of them had forgotten to join in the Erub, must he resign his right to each of the others individually or can he do so collectively?" Rabba answered: "He must do so to each individually." Rejoined Abayi: "We have learned, that one who had not joined in an Erub, may resign his right to another that had, and two persons who had joined in an Erub may resign their right to one who had not; two who had not joined in an Erub may also resign their right to two others who had not, but one who had not joined in an Erub must not resign his right to another in the same condition nor may two who had not joined in an Erub resign their right to two others, who were similarly situated. It says, then, that one who had not joined in an Erub, may resign his right to one who had. The one who had, certainly must have had another person to combine an Erub with him, then it seems to be sufficient if he (who had not joined) resigned his right to the one man only and not to the other also?" Rabba replied: "Yea, he certainly had a companion in the Erub, but it may be the case, that the companion died and he was left alone."

Rabha asked R. Na'hman: "May an heir (whose father died on the Sabbath) resign his right or not? Shall I say, that because he could not prepare the Erub, on the preceding day, not having his own property, he cannot resign his right on the Sabbath; or that he, being a descendant of his father, has also inherited his father's right?" Answered R. Na'hman: "I

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hold, that he may, but the disciples of Samuel maintain, that he must not." Rabha objected: We have learned: This is the rule: A thing that had been permissible on part of the Sabbath is permissible for the entire Sabbath, and that which was prohibited for part of the Sabbath was also prohibited for the entire Sabbath. What is meant by "had been permissible on part of the Sabbath?" *e.g.*, a door which was used for making the Erub and had become closed up during the Sabbath, and "by prohibited for part of the Sabbath" is meant, *e.g.*, two houses, each one of which stood on the opposite sides of a wide street and a partition was made by Gentiles on the Sabbath. The exception is as regards one who resigned his right, *i.e.*, although a man had forgotten to join in an Erub before the Sabbath, he was not permitted to carry on part of Sabbath, still he may on the Sabbath resign his right to the place and carry. It says, however, that only the man may carry but not his heir? Replied R. Na'hman: "Learn: instead of 'the exception is as regards one who resigns his right,' the exception is the law pertaining to the resigning of a right."

Rabha raised another objection: We have learned: "If one of the householders of a court died and left his right to the ground to one living in the market, if the death took place while it was yet day before the Sabbath, the man living in the market impedes the inmates of the court; but if the death took place after dusk, he does not. If a man, however, living in the market, was possessed of a house and having died left his right to his place to one of the inmates of the court,

then the reverse is the case, *i.e.*, if he died before Sabbath set in, the inmate of the court does not impede the others, (because he could have joined in an Erub); but if the man died on the Sabbath, he does impede the others." Now if thou sayest, that the heir may resign the right, let him do so, why should he impede the others? Answered R. Na'hman: "This means, that he impedes the others only until he resigns his right."

R. Johanan said: The above Boraitha is according to Beth Shammai, who hold, that it is not allowed to resign a right on Sabbath as we have learned in our Mishna: From what time may the right be resigned? Beth Shammai hold "while it is yet daylight," and Beth Hillel maintain: "From dusk."

Said Ula: Why do Beth Hillel hold, that it may be done on Sabbath? The reason of Beth Hillel is based upon an instance where a man was about to separate heave-offerings for

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another without being told to do so. In the meantime this other man came along and saw that the heave-offerings were being separated for him, whereupon he said to the man: "Separate it from the finer grain." In that case the heave-offering is valid. Why? Because by the statement "separate it from the finer grain" he demonstrated his approval of the man's action and his intention to have done this at all events. The same is the case with a man who resigns his right on the Sabbath; for he demonstrates that his intention had been to join in the Erub on the preceding day, but he had forgotten.

Said Abayi to him: If this be the reason of Beth Hillel, what about the case of a Gentile who lived in the same court with two Israelites and happened to die on the Sabbath? The Israelites are permitted in that event to resign their rights to each other, but can it be said that their intention dated from the preceding day? Hence the reason of Beth Hillel is simply this: While Beth Shammai prohibit the resigning of the right to a place because they hold, that it is equal to selling the place and selling or buying is prohibited on the Sabbath, Beth Hillel however hold, that resigning the right to a place is simply abandoning the place, and that is permissible on the Sabbath.

MISHNA: Should a householder be in partnership in wine with two of his neighbors (residing in the same alley), they do not require an Erub; if he be in partnership with one in wine and with another in oil, they do require an Erub. R. Simeon said: Neither in one case nor in the other do they require an Erub.

GEMARA: Said Rabh: "Such is the case if the wine was contained in one vessel." And Rabha said: "This may be inferred from the Mishna itself; for the latter clause of the Mishna states, that if the householder be in partnership with one in wine and with another in oil, they require an Erub. It would therefore be correct if in the first clause the wine is contained in one vessel and in the second clause there are two separate vessels; but were there two vessels in the first clause also, what difference would it make whether one vessel was filled with oil and the other with wine, or both with wine?" Rejoined Abayi: This is no argument. Wine can be mixed with wine (hence, even if it be in two vessels it can be mixed and an Erub made with it is valid), but oil and wine cannot be mixed, and even though there are two separate vessels the Erub cannot be made therewith.

R. Simeon said: "Neither in one case nor in the other do they require an Erub." Is it possible that R. Simeon holds, that even where one vessel contains wine and the other oil, no further Erub is necessary? Said Rabba: "The case referred to applies to a court between two entries (alleys) and R. Simeon holds to his theory, as we have learned in the case of the three courts opening into each other and also into the street, that communication between the middle court and the two outer or between the two outer ones and the middle one is permissible; thus in this case R. Simeon means to imply, that the court made an Erub with one of the entries by means of wine and with the other by means of oil, hence no additional Erub is necessary, and communication between the court and both entries is permissible."

Abayi objected: "How canst thou compare the two instances? In the case of the three courts communication between the two outer is prohibited, whereas here it is said that no additional Erub whatever is necessary?" Learn also here, that no additional Erub is necessary to allow of communication between the court and the entries, but if the inmates of either of the entries desire to carry in the other they must make an additional Erub.

R. Joseph, however, said: "R. Simeon and the sages differ in the same point as R. Johanan ben Nouri and the sages in another Mishna as follows: 'If oil floated on wine and a man who had bathed before sunset (and hence was not yet ritually clean) touched the oil, the sages hold, that the oil becomes unclean, but the wine is not affected. R. Johanan ben Nouri, however, maintains, that the wine and the oil are attached to each other and therefore both become unclean.'" In our Mishna, the sages hold with the sages of the Mishna quoted, and R. Simeon holds with R. Johanan ben Nouri.

We have learned in a Boraitha: R. Elazar ben Tadaï said: "In either case they require an additional Erub." Even if both vessels contain wine an additional Erub is necessary? Answered Rabba: The case is thus: If two men each bring a jug of wine and pour the wine together, there is no question but what that constitutes a legal Erub, but in this instance R. Elazar ben Tadaï means to state that if two men bought a cask of wine jointly and had not yet separated their shares, the Erub is not valid because it cannot be made with anything owned in partnership, and he holds thus for the reason that he does not accept the theory of premeditated choice. The sages, however,

permit this mode of procedure, because they accept the theory of premeditated choice.

R. Joseph said: "R. Elazar ben Tadaï and the sages differ on another point, namely: The question whether the inmates of the court can depend upon the combine made in the entries." All agree that carrying in the entries is permissible if the Erub has been made there, but R. Elazar ben Tadaï holds, that this is not permitted in the court because the combine made in the entries cannot be depended upon, while the sages hold that it may be depended upon.

R. Joseph continued: "Whence do I know, that this is the point of difference? From the statement of R. Jehudah in the name of Rabh, to the effect that the Halakha prevails according to R. Meir, and the subsequent statement of R. Brona in the name of Rabh, that the Halakha

prevails according to R. Elazar ben Tadaï. Therefore, we must assume, that R. Meir and R. Elazar have one and the same reason." Said Abayi: "This may be so; but why did Rabh say at one time that the Halakha prevails according to R. Meir and at another time according to R. Elazar ben Tadaï? Would it not be sufficient to state, that the Halakha prevails according to one of the two?" (And R. Joseph answered:) "Rabh desires to inform us that wherever the laws of Erub are concerned and two Tanaim differ as to the details, but agree as to the main issue of the Halakha, and we say that the Halakha prevails according to both, we need not abide by the more rigorous decisions of each but, on the contrary, should accept the more lenient decrees of both."

Which R. Meir is referred to by Rabh? The one figuring in the following Boraitha: In courts an Erub must be made with bread, but it is not allowed to do so with wine. In the entries a combine must be effected with wine, but if the inmates desired to do so with bread, it is permissible. An Erub must be made in the courts and a combine in the entries in order that the growing children should not forget the laws of Erub and say, "Our parents did not make an Erub." Such is the decree of R. Meir; the sages, however, say: Either an Erub or a combine must be effected (*i.e.*, if one was omitted the other can be depended upon). [1](#)

R. Jehudah in the name of Rabh said: "The Halakha prevails

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according to R. Meir." R. Huna said: "The custom prevails according to R. Meir," and R. Johanan said: "The masses only act in accordance with the dictum of R. Meir." [1](#)

MISHNA: Should five different companies take their Sabbath-rest in one hall (triclinium), Beth Shammai hold, that each company requires a separate Erub, but Beth Hillel hold, that one Erub suffices for all of them. The latter school admit, however, that if any of these companies occupy distinct chambers or attics, each company requires a separate Erub.

GEMARA: Said R. Na'hman: "The two schools differ only as regards a low centre-partition, but if there was a partition ten spans high between each of the companies, all agree that each company requires a separate Erub." According to another version, R. Na'hman is supposed to have said: "They differ not only as regards a low centre-partition, but also concerning partitions between each company."

R. Jehudah the Sagacious said: The schools of Shammai and Hillel do not differ where partitions that reach to the ceiling of the hall are concerned, they agree that in that event each company requires a separate Erub. Wherein they do differ, however, is if the partitions do not reach the ceiling. Said R. Na'hman in the name of Rabh: The Halakha prevails according to R. Jehudah the Sagacious.

R. Na'hman bar Itz'hak said: We can infer this from the Mishna itself. The latter clause of the Mishna states, that Beth Hillel also agree with Beth Shammai if the companies each dwell in distinct chambers or attics. What is meant by distinct chambers and attics? Shall we say, that they are really chambers and attics? Then it would be self-evident. We must say, then, that they are similar to chambers and attics, *i.e.*, that the reference is to partitions which reach to the ceiling. Hence the deduction that the decree of R. Jehudah the Sagacious is correct.

We have learned in a Boraitha: The difference of opinion between the two schools centres in the question whether the companies deposited their Erubin elsewhere. But if the Erub is deposited in the hall occupied by them, all agree that one Erub is sufficient for all. According to whose opinion will be the statement of the following Boraitha, that if five men combined an Erub, one Erub is sufficient for all of them? This is in accordance with the opinion of Beth Hillel.

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MISHNA: Brothers (or associates) who take their meals at their father's (or at one) table, but sleep each in his separate house (in the same court), must each one prepare a separate Erub. Therefore if one of them had forgotten and not prepared an Erub, he must resign his right (to the common court). When is this the case? When the Erub had been deposited in some other place; but if the Erub has been placed with them, or if there are no other inhabitants in the court, they need not prepare any Erub whatsoever."

GEMARA: From this Mishna it may be adduced, that an Erub should be made in the place where a man sleeps and not where he takes his meals (and further, we will observe, that Rabh holds, that an Erub must be made where the man takes his meals). Said R. Jehudah in the name of Rabh: The Mishna means to say, that the brothers did not actually eat at their father's table but merely received from their father the means with which to obtain their meals.

The Rabbis taught: One who had a vestibule, a gallery, or a balcony in the court of another, and did not join in an Erub with the other inmates of the court does not impede the other inmates. If he had a hay-loft, a cattle-pen, a woodshed, or a granary in the court of another and did not join in an Erub, he does impede the others. R. Jehudah, however, said: "Nothing except a dwelling-house can prove an interference," and he continued: "It happened that an inhabitant of Naph'ha, 1 who had five courts in Usha, did not join in an Erub with the inmates of those courts and the question was laid before the sages whether this was an impediment to their carrying within the courts and the sages replied: 'Nothing but an actual dwelling-house can prove an impediment.'"

What is meant by a dwelling-house? A house occupied as a dwelling. What is to be understood by "occupied as a dwelling"? Rabh said: "The house where a man takes his meals," and Samuel said: "The house wherein a man sleeps."

An objection was made: The shepherds, those that guard the fig-trees, the inhabitants of huts in the country and the guards of the fields, when passing the night in a town have the same rights as the townsmen, but when passing the night at their posts, they have only the right to two thousand ells from the place where they are situated. (From this we can see, that the place where one passes the night is considered as his abode?)

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[paragraph continues] This is no proof! For we can testify, that those men would be much better satisfied if their meals were brought to them at their posts (hence their posts are not only their places of abode but also their eating-places, and as for those who pass the night in the town, they evidently also take their meals in the town for the time being).

The Rabbis taught: Concerning five women who receive from their husbands the means for securing their food and five slaves who receive the means from their masters to procure their sustenance and who live in separate houses in the court, R. Jehudah ben Bathyra permits the women to carry within the court and prohibits the slaves to do so; but R. Jehudah ben Babba on the contrary allows the slaves to carry but prohibits the women to do so.

Said Rabh: "What reason has R. Jehudah ben Babba for his decree? Because it is written [Daniel ii. 49]: 'Daniel remained in the gate of the king,' the inference is, that in the same manner as Daniel did not always remain in the gate of the king, but his office being such that his place was there, so it is also with slaves who, while in the service of their master, are considered as being always at their master's side." It is self-evident that if a son eat and dwell with his father, he need not make an Erub as stated previously. As for a woman who has a husband and a slave who belongs to a master there is a difference of opinion between R. Jehudah ben Bathyra and R. Jehudah ben Babba. How about a disciple, however, who dwells in the same court with his master and derives his sustenance from his master?

Come and hear: When Rabh still dwelt with R. Hyya he said: "We need not join in an Erub because we depend upon the table of R. Hyya," and when R. Hyya still dwelt with Rabbi he also said: "We need not make an Erub because we derive our sustenance from Rabbi."

R. Hyya bar Abhin asked of R. Shesheth: "What about the disciples of the college, who eat in the inns of the valley and pass the night at the college? When the legal limit of two thousand ells is measured where must the starting point be? The college or the inn where they take their meals?" R. Shesheth answered: "The college."

Rami bar Hama asked of R. Hisda: If a father and son, or a master and his disciple, lived in two courts, one inside of the other, and the outer court opened into an entry, what is

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the law concerning them? Are they to be considered as if they were two distinct individuals who cannot mutually impede each other because each one of them has a right to carry in his own court and a man who is permitted to do so in his own court cannot interfere with a man in another place; hence both father and son, or master and disciple, may carry each in their respective courts; or, shall we consider them collectively because the son or the disciple who lives in a separate court but eats at his father's table has a certain right to his father's court. Thus the father or the master is not in sole possession, but shares it with another. The consequence is that the father or the master is in duty bound to make an Erub in his own court and, on account of this, he becomes one who can interfere with the right of another, and prevents his son from carrying in his own (the son's) court? Then again if they are considered as distinct individuals, are they in duty bound to combine an Erub covering the two courts? Finally if the two courts had separate openings into the entry, are they considered as separate courts and thus the entry becomes valid by the addition thereto of a cross and side beam, or they are considered as one court, and if one court only opens into an entry, the entry cannot be made valid by the addition of a cross and side beam?

Answered R. Hisda: We have learned this in a Boraitha: A father and his son or a teacher and his disciple, providing there are no other inmates in the court occupied by them, are considered

as individuals, and need not make an Erub at any place. Nevertheless the entry into which their court opens becomes valid by the addition thereto of a cross or side beam.

MISHNA: If (the householders dwelling in) five courts that open into each other and also open into one common alley (entry) have joined in an Erub for the courts, but have not combined the alley, they are permitted to carry (things) in the courts, but must not do so in the alley; if they did combine the alley, however, they are permitted to carry both in the courts and in the alley. If they had combined both the courts and the alley, but one of the householders forgot and did not join in the Erub, they are nevertheless permitted to carry both in the courts and in the alley. Should one of the householders (dwelling) in the alley have forgotten to join in the Erub, it is permitted to carry (things) in the court but not in the alley, inasmuch as the alley (bears the same relation) to the courts as the court (does) to the houses within it.

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GEMARA: According to whose opinion is our Mishna? We must say that it is in accordance with R. Meir, who holds that an Erub is needed in the court, and a combination in the alley. How, then, could that part of the Mishna be explained, which states that if a combination in the alley is made it is allowed to carry both (in the courts and in the alley); and this is certainly according to the opinion of the Rabbis, who hold that one of the two is sufficient (*i.e.*, either an Erub in the courts or a combination in the alley)? Are then the two parts of the Mishna based on different opinions? This presents no difficulty. The latter part of the Mishna refers to a case where a combination had already been made in the alley; hence it is according to R. Meir's opinion. Now, then, what is the reason of R. Meir in stating that if one of the householders in the court forgot and did not join in the Erub, it is nevertheless permitted to carry both in the courts and in the alley? R. Meir may hold as follows: The most essential feature of this case is to make an Erub in the courts and a combination should also be made in the alley for the benefit of the growing children in order that they may not forget the laws of Erubin. Hence if the combination has been made both in the courts and in the alley, in which the majority participated, there is no fear of the children forgetting the laws.

R. Jehudah said: "Rabbi does not learn in the Mishna that the five courts opened into each other but merely that they all opened into one common alley." This was corroborated by R. Kahana. What reason did Rabbi have to learn thus? He holds, that if several courts open into one common alley, a cross and side beam suffice to make that alley valid. If, however, only one court opens into the alley, a cross and side beam do not suffice. Samuel, however, said: "Even if only one court or one house opens into an alley, a cross and side beam suffice for the alley." R. Johanan said: Even if a ruin opens into an alley, a cross and side beam suffice.

Abayi asked of R. Joseph: "Does R. Johanan hold, that even if the path leading to a vineyard opens into an alley, a cross and side beam suffice for the alley?" R. Joseph replied: "Nay; R. Johanan meant to say a ruin which (in an emergency) could be inhabited; but a path which could not under any circumstances be inhabited, is out of the question."

Said R. Huna bar Hinana: R. Johanan's statement concerning a ruin is but in accordance with his theory expressed in

his decision regarding the Mishna (Chapter IX., Mishna I, of this tract) where R. Simeon says that roofs as well as courts and woodsheds constitute the same kind of premises for the carrying of all utensils contained therein when the Sabbath-rest began," etc. This was commented by Rabh as follows: "The Halakha prevails according to R. Simeon provided no Erub was combined by the inmates of each separate court," meaning, thereby that if no Erub was combined, the inmates will not carry out any vessels from their houses into the court. Samuel and R. Johanan, however, declare that the Halakha prevails according to R. Simeon, even if an Erub was combined, as there is no apprehension that the inmates will carry out any vessels from their houses into the court, and as in this case there is no apprehension that the vessels will be carried out of the houses, so also in the case of a ruin, R. Johanan holds, that there is no fear of the inmates carrying vessels from the court into the ruin by way of the alley.

R. Brona sate and repeated the Halakha decreed by Samuel (to the effect that even if one court or one house opened into an alley, a cross and side beam was sufficient for the alley). Said R. Eliezer, one of the schoolmen, to R. Brona: "Did Samuel indeed say this?" and R. Brona answered: "Yea." R. Eliezer then asked to be shown where Samuel resided, and R. Brona showed him. R. Eliezer then came before Samuel and said: "Did master decree thus?" and the answer was "Yea." Rejoined the schoolman: "Didst thou not state previously that where the laws of Erubin are concerned, we must hold strictly to the literal text of the Mishna and the Mishna distinctly teaches: 'The alley bears the same relation to the courts as the court (does) to the houses within it.'" Samuel remained silent.

Does the silence of Samuel signify, that he accepted R. Eliezer's view or that he did not care to reply? Come and hear: A certain Aibuth bar Ihi dwelt in an alley and erected a side-beam therein. Samuel told him that this complied with the legal requirements. After the death of Samuel, R. Anan came and destroyed the side-beam. Said Aibuth: "In an alley where I live by the direct permission of our master Samuel, a mere disciple like R. Anan dares to come and destroy my side-beam." Hence we see, that Samuel did not accept the opinion of R. Eliezer! This is not conclusive evidence! The case of the alley could be explained as follows: The sexton of the synagogue took his meals with this Aibuth bar Ihi, but lodged in the synagogue.

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[paragraph continues] Aibuth was of the opinion that the residence is determined by the place where he takes his meals, hence the sexton and he were the occupants of one house; (and Samuel declared his alley to be valid in conformity with his original decision, that if one court or one house opened into an alley a cross and side beam is sufficient for the alley) but Samuel, who held that the residence of a man is determined by his lodging-place, may have accepted the opinion of R. Eliezer, and taking into consideration that there were two dwellings in the alley, that of Aibuth and that of the sexton, he made the alley valid by the addition of a side-beam.

MISHNA: If two courts be one within the other, should the inmates of the inner court prepare an Erub and those of the outer court fail to do so, the inmates of the inner court may carry within it, but those of the outer court must not carry within their (own) court. If the inmates of the outer court prepare an Erub, but those of the inner court fail to do so, neither are allowed to carry within their respective courts. If each have prepared a separate Erub, they are permitted to carry within their own limits. R. Aqiba holds, however, that the inmates of the outer court are prohibited to carry within it and that the right of thoroughfare possessed by the inner court

renders the outer court prohibited; but the sages hold, that the right of thoroughfare does not render it so.

Should one of the inmates of the outer court forget to join in the Erub, it is permitted to carry within the inner court, but carrying within the outer court is prohibited. If one of the inmates of the inner court forget to join in the Erub, carrying in either court is prohibited. If the inmates of both courts deposit their Erub in one place, and one of the inmates of either the outer or inner court forgot and did not join in the Erub, carrying, in either court is also prohibited. Should each court be the property of an individual (or inhabited by only one household), neither require an Erub.

GEMARA: When R. Dimi came from Palestine, he said in the name of R. Janai: The latter clause of the Mishna stating, that if one of the inner court forget to join in the Erub, carrying in either court is prohibited, is merely a continuation of the dictum of R. Aqiba, who holds, that a foot (*i.e.*, a man) which is allowed to carry in its own place nevertheless interferes with the right of another place. The sages, however, hold, that as a foot which is allowed to carry in its own place does not interfere

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with the right of another place, so also a foot which is not allowed to carry within its own place does not interfere with the right of another place and thus the inmates of both courts may carry within their own limits.

An objection was made based upon a previous clause in the Mishna, which states that if the inmates of the outer court prepare an Erub, but those of the inner court fail to do so, neither are allowed to carry within their respective courts, and this is certainly not in accordance with the opinion of R. Aqiba, because even had the inmates of the inner court made an Erub he would still prohibit the outer court to carry within their own court. (Hence we must assume, that this is in accordance with the opinion of the sages, who hold that a foot which is allowed to carry within its own place does not interfere with the right of another place, but one which is not allowed *does* interfere.) Therefore we must rather accept the statement of Rabhin in the name of R. Janai: There are three different opinions concerning this subject, viz.: The first Tana of our Mishna holds that a foot which is allowed to carry within its own place does not interfere with the right of another place, but a foot which is prohibited does interfere with the right of another place. R. Aqiba holds that even a foot which is allowed, also interferes with the right of another place; but the last sages of our Mishna maintain, that as a foot which is allowed does *not* interfere with the right of another place, so also a foot which is prohibited does also not interfere.

"If the inmates of both courts deposit their Erubin in one place," etc. What is meant by "one place"? Said R. Jehudah in the name of Rabh: This refers to the outer court and is called "one place," because it is designated for the use of both courts (as the inmates of the inner court must pass through the outer).

We have also learned in a Boraita (in support to R. Jehudah): "If the Erub was placed in the outer court, but one of the inmates either of the outer or inner court forgot to join in the Erub, carrying in either of the courts is prohibited. If the Erub was deposited in the inner court, but one of the inmates of that court forgot to join in the Erub, carrying in either court is also prohibited.

If one of the inmates of the outer court forgot to join in the Erub, carrying in either court is prohibited. Such is the dictum of R. Aqiba; the sages, however, maintain that in the last instance carrying is permitted within the inner court, but prohibited within the outer court."

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Rabba bar Hanan asked Abayi: "Why do the sages permit carrying within the inner court, because they can close their door and say all the inmates of our court have joined in the Erub? Why should R. Aqiba not take the same view, let him also say, that they can close their door and assert their right to carry within their own court?" Abayi answered: "The Erub deposited in the outer court accustoms the inmates of the inner court to make use of the outer." Said Rabba bar Hanan again: "And the sages, do they not hold that the Erub of the outer court accustoms the inmates of the inner court to walk in the outer?" The sages may maintain, that the inmates who have deposited their Erub can say to the one who forgot to join: We have included thee in our combination for thy convenience, but not to our detriment. Why can they not do this according to R. Aqiba also? According to R. Aqiba, the inmates who have joined in the Erub may say to the one who had forgotten: "We will resign our right to the place in thy favor." Why can this not be said according to the sages? Because the sages do not admit of the resigning of one's right to a place in one court in favor of one who resides in another court.

"*Should each court be the property of an individual,*" etc. Said R. Joseph: "Rabbi taught, that if there was a third court between the two also belonging to an individual, it is not permitted to carry in either of the three." Said R. Bibhi (to the schoolmen): "Do not listen to R. Joseph! Rabbi did *not* teach this; for I myself said it in the name of R. Ada bar Ahabha and gave as a reason that the outer court will be traversed by (the inmates of) three (courts); therefore I also prohibited carrying within the middle court, lest a mistake be made and things be carried in the outer court also." R. Joseph then exclaimed: "Lord of Abraham! I confounded the word 'Rabbim' (many) with Rabbi; for before I was ill I heard from R. Bibhi that the outer court will become a court for many (three) and when recovered from my illness I quoted the Boraitha in the name of Rabbi." Samuel, however, said: "It is always allowed to carry within courts for many (even if there be four or five) provided there is only one household in each court, but if there be two in one court it is not permitted."

Said R. Elazar: According to Samuel, if a Gentile live in one of the courts he is considered as many others and he impedes the outer courts.

R. Jehudah in the name of Samuel said: "If there were ten

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houses one within the other and the house on the outside opened into the court it is not necessary for the inmate of each house to combine in an Erub with the other inmates of the court, but it is sufficient if the inmate of the innermost house, who must pass through all the others, do so," but R. Johanan says that, each inmate must combine; even the one living in the house opening directly into the street. Even the one living in the uttermost court? Is not the uttermost court to be regarded as a vestibule? By uttermost he means to say the one next to the uttermost.

Upon which point do Samuel and R. Johanan differ? Their point of difference is regarding the

definition of a vestibule. Samuel holds, that all the houses leading to the innermost are considered as vestibules hence they require no Erub, while R. Johanan maintains that only the uttermost house, through which all the other inmates must pass, can be considered a vestibule, but even the one next to the uttermost through which the eight other inmates must pass is also not a vestibule.

R. Na'hman in the name of Rabba bar Abahu quoting Rabh said: There were two courts between which stood three houses opening into each other and the two houses on each side of the middle house opened into their respective courts. If the inmates of the courts desired to place their Erub in the middle house, they used the houses opening into the courts as thoroughfares to the middle house. Thus the house at one court becomes as a vestibule to the inmates of that court and the house at the other court becomes a vestibule to the inmates of the other court, while the house in the centre being used to deposit the Erub therein, it need not be combined in the Erub itself. Consequently none of the three need combine in the Erub of the courts.

Footnotes

[147:1](#) Rashi states, that Khafri was a town near Pumbaditha, but in our opinion Khafri is the plural of Khfar--Hebrew for village--and it seems that R. Hisda decided legal questions in the villages where the inhabitants could not reach R. Huna (Tosphath).

[147:2](#) This R. Hamnuna is not to be confounded with the disciple of Rabh previously mentioned.

[148:1](#) This Rabhina is also not to be confounded with the Rabhina previously mentioned.

[153:1](#) This verse is not to be found in the entire Bible. Rashi, however, says that it may be found in the part of the Apocrypha called Ben Sira, but to our knowledge it cannot be found even there. Tosphath says, that a number of verses cited in the Talmud are to be found in Ben Sira, while quite a number cannot be found anywhere in the Scriptures or in the Apocrypha. Concerning the above verse, Tosphath states, that it should read as quoted in Job. xxxvi. 19.

[168:1](#) The explanation to this Boraitha, as given by Rashi, will be embodied in the text throughout this Tract.

[169:1](#) See pages [146](#) and [147](#).

[170:1](#) In the Tosephta this narrative is told of the son of a prince.

[Next: Chapter VII: Erubin in Courts and Alleys](#)