

SYNOPSIS OF SUBJECTS

OF

TRACT BABA BATHRA (LAST GATE).

CHAPTER I.

MISHNAS *I. TO III.* In case of dividing partnerships in a yard, where and of what the wall shall be built. Is overlooking another's property considered injurious? Of what size the yard must be to be fit for division. May a prayer house be taken apart before the new building is ready? The legend of Herod the great with Simeon b. Shatuh. How Herod built the Temple without the consent of the Roman government. Concerning partitions, fences in partners' gardens, and valleys. Mayor may not one be compelled to join in the expenses of fences if one's estate is surrounded by his neighbor's on three sides? If there is a wall, and one of the owners claims that his neighbor did not bear his share of the expense. A debtor who says: I paid my debt before due. If the plaintiff demanded his money long after due. He who claims, "I have never borrowed," is to be considered as if he should say, "I have never paid." How and where is a parapet to be made and of what size? If there were two courtyards one upon the other; there were two tenants, and the roof of the lower one sank; there was one who built a wall against the window of his neighbor, etc. Two brothers divided a bequest, a palace and a fine garden, and the latter built a wall on the edge of the garden. There was a note belonging to orphans, against which the other party showed a receipt, [1-16](#)

MISHNA *IV.* The sharing in the building of a gate to a courtyard as well as to a city wall. Who are obliged to pay taxes and duties of a city? Rabbi opened his barns of grain in the years of famine, etc. How long must one dwell in a city to be taxed? Charity must be collected by two persons and distributed by three. May one be pledged or not for charity? Who of the poor must be investigated before support, and who supported immediately without inquiry? What about one who begged from door to door? The virtue of charity equals the sum of the virtues of all the other commandments together. "I was told by the child who was corrected by his mother," etc. The one who is doing charity secretly is greater than Moses our master. How is the verse, Prov. xxi. 21, to be understood? Whosoever makes it his business to do charity will be blessed with sons having wisdom, wealth, etc. The discussion of Aqiba with Tarnusruphus. As the yearly household expenses for one are appointed (in Heaven) on each Rosh Hashana, so are his

losses. Grace is charity which nears the redeeming, etc. How may the born of Israel be raised? Rabban Johanan b. Zakkai questioned his disciples as to the meaning of the verse, Prov. xiv. 34, etc. Iphra Hurmiz, the mother of King Sabur, sent four hundred dinars for charity to R. Ammi, etc. If one bought a tract of land, however small, he is considered a citizen immediately, [16-32](#)

MISHNA V. Partners cannot compel each other to divide. This is the rule: If, after division, each part retains its former name, then one can compel his partner to divide. A yard must be divided in accordance with the doors, etc. The four ells which are allowed for each door are for unloading. If one of the inhabitants of an alley desires to open the door leading from his yard to another alley. Inhabitants of alleys who desire to make doors to the street may be prevented by the public. Prophecy was taken away from the prophets and was given to the wise, to lunatics, and children (how this is to be understood). There was a man who bought an estate near to the estate of his father-in-law (who had no male children). The law, "Either you concede or I concede," when is it applied? The case of female slaves whom Huna bequeathed to his sons. May or may not the books of the Bible be bound together? What must the size of the holy scrolls be? What was placed in the ark, and how. The order of the Prophets, and who wrote them? Who was Job--an Israelite or a Gentile--and at what time did he exist, if he existed at all? The legends about Satan and Job. Satan was more afflicted than Job himself, etc. Satan and Peninnah both intended (with their accusations) to please Heaven, etc. The explanation of the passages addressed out of the storm wind, etc., etc. Why was not Job doubly rewarded with daughters, as he was with sons and with all his property? There are three to whom the Holy One, blessed be He, gave a taste of the world to come in this world. There are six whom the angel of death has not dominated. There are four who died without sin, [32-54](#)

CHAPTER II.

MISHNAS I. TO III. How much space is to be left between one's property and another's? For whom is it to remove himself from supposed injury, the supposed injurer or him who would be injured? One must remove a pond for steeping flax from herbs, garlic from onions, and mustard from bees. Three spans space, and plastered with lime--are both needed, or does one of them suffice? Is one allowed to void his urine near the wall of his neighbor? Under what circumstances one may or may not place an oven in a lower story of a house. Can one of the partners in a yard prevent his partner from establishing a store in it, or not? At what age a child may be taken to school. The enactment of Joshua b. Gamla concerning teaching of children. In what circumstances the claim, "You are cutting off my livelihood," applies? "I doubt whether an inhabitant of one alley can prevent one of another alley from competing with him." The legend of R. Dimi's dry figs. How much space is to be left from one wall to an opposite one, and how much to a window, [55-67](#)

MISHNAS IV. TO XII. To what distance a ladder must be removed from one's neighbor's pigeon-coop. The distance between a pigeon-coop and the city. If a case which we should judge by a majority would be different if

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according to proximity, how is it to be judged? How much space is to be left to the city when planting a fruit tree outside; and how much to a wild one, to a carob, and to a sycamore. How much to barns, to cemeteries, and to tanneries. The Shekhinah occupies every place. The world is like a balcony without the fourth wall, etc. On what side of the city a tannery may be placed. He who desires to increase his wisdom shall recite his prayers towards the south, etc. To a well a distance of twenty-five ells must be left when planting a tree, etc. One must not plant a tree near his neighbor's field, etc. A tree which bears fruit to the measure of a kab is forbidden to be cut

down. A tree which is within sixteen ells of the boundary of another's estate is considered robbery, etc. If the branches of a tree are inclined towards another's field, what is to be done? The branches of a tree which overhang public ground may be cut off, so that a camel with its rider may pass freely, [67-82](#)

CHAPTER III.

MISHNA I. The law of occupancy--to what it does and does not apply. Whence is it deduced? What time is needed for it, and how a protest against it should be made. Must the three years of hazakah be interrupted? Who testifies as to the occupancy of houses? The many cases of occupied houses which the owners claimed, brought before different rabbis of the Amoraim who decided differently. If one claims, "It was from my parents," and the other claims the same. There was one who said: "I possessed a document but lost the true one, and this is a correct copy," There was another case similar concerning a hundred zuz in cash. It was murmured among people that Rabha b. Sharshum had appropriated land belonging to orphans, and Abayi sent for him. One snatched a piece of silver from his neighbor and the case was brought before R. Ami. There was a boat about which two parties quarrelled, each claiming that it was his. If each of the parties claim: "This estate belonged to my parents." If witnesses testified that the plaintiff has loaded a basket of fruit from this field on the shoulders of the defendant, the hazakah is effected immediately. Is ploughing a hazakah, or not? If one has made a hazakah on the trees and another upon the ground, has the owner of the trees a share in the ground? [83-100](#)

MISHNAS II. AND III. There are three lands concerning the law of hazakah. If one runs away from a city because of crime, and one occupies his estate, the law of hazakah applies. How should one protest? Is a protest not in one's presence to be considered? Under what circumstances the court announces to the defendant that his property will be sold. How is it when he told them to write a deed of gift without an explanation? A hazakah to which there is no claim is not to be considered. How so? What happened to Anan and Kahana, who placed their fences on others' estates. If the father has consumed one year and his son two, or *vice versa*, or each of them one year and the buyer from them one year, is it considered a hazakah? The law of hazakah does not apply to specialists, farmers, etc. May one who is supposed to be interested in a case be a witness? Has one a right to say: "I cut myself off from this estate entirely"? If A has robbed B of a field and has sold it to C, then D comes with a claim, has B then any right to be a witness for C? If one sold a field to his neighbor without

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security, he has no right to qualify as a witness concerning it. The announcement of Rabha or Papa about an article which a Gentile takes away from an Israelite. If one has given his garment to a specialist, the latter claiming two zuz and the owner one. If one has exchanged his utensils for another's in the house of a specialist, etc. "Come and I will tell you what the swindlers of Pumbeditha are doing." May a gardener be taken as a witness in case of a claim, or not? A robber--neither he nor his son has hazakah, but his grandson has. A specialist or a gardener who has ceased his profession, a son who was separated from his father, and a woman who was divorced--all of them are considered, in a case of hazakah, with men in general. If one sold his estate by duress, the sale is valid. Why so? Tabba hanged Pappi on a tree, to compel him to sell him his field. If witnesses testify they signed a note whose amount was not yet paid, but was prepared by the borrower in case he should find some one who would make him the loan. "I did so only with the intention of pleasing my husband, but not with the intention of selling it." Is

there no occupancy in the estate of a married woman? If one borrowed from his bondsman and encumbered his estate for him by a document, and afterwards he freed him? One must not accept bailments from women, slaves, or children. If one who was the business man of the house, and the bills of sale and notes were in his name, claims: "All this is my own"--what should be the evidence? Concerning a gift or an inheritance of brothers. Is it not the duty of every Israelite to save the property of his neighbor from damage when seeing danger is near? There cannot be a better hazakah than lifting up, as this act gives title to one in everything. The estate of idolaters, if sold to an Israelite, and the latter has not made a hazakah on it, it is like a desert. If an Israelite buys a field from a Gentile and another Israelite comes and takes possession of it (before the bill of sale reaches the buyer). "I was told by the Exilarch Uqban the following three things: (a) That the law of the government should be respected as a law of the Torah," etc., [100-134](#)

MISHNAS IV. TO X. What, and under what circumstances, collusive witnesses have to pay. If there were three brothers and one stranger. There is a difference in usage of articles--in some cases hazakah applies, and in some not. Does this rule always hold good? The wonderful sayings and acts of Bnaha. Hazakah does not apply to movable pipes attached to drains, etc. What is to be considered an Egyptian window? To an enclosure the size of a span in width, hazakah applies. One must not open windows to the yard even when he is a partner in it. One must not open, in a yard belonging to partners, a door or window opposite that of one's partner, etc. One must not make a hole in public ground. "There were enclosures from R. Ammi's property facing an alley," etc. When the second Temple was destroyed, many of Israel separated themselves from eating meat and drinking wine. Such a thing must not be decreed, which the majority of the congregation could not endure, [134-146](#)

CHAPTER IV.

MISHNAS I. TO V. If one sells a house unconditionally. If one sells a property, he must write in the bill of sale: "I reserve nothing of it for myself." If E owns a field adjoining A's field from east to west, and B's from

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north to south, and he comes to sell it, etc. If A and B were partners in a field, and A sold his share to C. If one sold a house with the stipulation that the upper *diæta* (chamber) was reserved for him. If one has sold the house to one man and the *diæta* to another. Title is not given to a well, although there is mentioned that one sold the depth and the height. The difference between a sale and a gift. If one sold a house, he sold with it the door, the bolt and lock, but not the key. If one sold a yard, the houses, walls, cellars, and caves are included, but not movable property. If one sells a press-house, the sale includes the trough, the press-beam or press stone, etc., 147-166.

MISHNAS VI. TO IX. If one sells a bath-house the sale does not include the boards on the floor. If one sells a town, the sale includes houses, etc., but not movable property. If one sells a field, the sale includes the stones which are needed for its use. From the passage, Gen. xxxiii. 17, we infer that the boundary is sold to the buyer with the field biblically. A depositary who claims that he had returned the bailment, etc. In selling a field, if it contains a well, cistern, etc., they are not included in the sale [158-166](#)

CHAPTER V.

MISHNAS I. TO V. How should one acquire title to a boat? To a promissory note title is given by transfer and bill of sale: acquire title to it and to all the debts it contains is traditional and also according to common sense. A bill of sale to a wagon does not include the mules when not hitched, and *vice versa*. May the amount paid serve as evidence? If one sells an ass, the harness is not included. The *khumni* is not included in the harness. What does *khumni* mean? If one sold a she-ass, its foal is sold; but if a cow, the calf is not. If one buys the brood of a pigeon-coop; of a bee-hive. If one buys a tree for cutting it down, he must begin a span high from the ground; an inoculated sycamore, three spans; a trunk of sycamores, two. If exactly three spans, it is beneficial for the growth of the tree, etc., [167-175](#)

MISHNAS VI. TO IX. If one buy two trees within his neighbor's field, the ground beneath is not sold; if three, it is. Concerning the firstfruit offerings. If the branches were wide-spreading. How much space is to be left between the trees in question, that it should be considered the buyer's? A practised act is more important for evidence. How should the ground be. longing to the buyer be measured? If one has sold two trees situated in his field and one on the boundary. There are four legal customs concerning sales. If one sold dark-red wheat and it was found to be white, or *vice versa*, etc. By what acts is title given to fruit and to flax? The vessels of the buyer give title to him in every place, except on public ground. There are four legal customs concerning sellers, etc. To real estate title is acquired by money, deed, or hazakah; and to personal property title is given by drawing only. To a thing which is usually lifted up, title is given by lifting; and usually drawn, by drawing. If one hires a servant to work for him in the barn for one dinar a day, with the stipulation that he shall work for him for the same price in the harvest-time. If one sold wine or oil, and it be comes dearer or cheaper, [175-190](#)

MISHNAS X. AND XI. If one sends his little son to the storekeeper with a *pundiun* (dupondius), but the child loses the issar and breaks the glass. If

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one take a vessel from a specialist, to examine it, he is responsible for an accident. The wholesaler has to clean his measures once within thirty days. Must overweight be given, and how much? The punishment for false measuring is harder than for adultery. It is harder for the cheating of a commoner than for the cheating of the sanctuary. The scales must be hanging three spans in the air, etc. Weights must not be made of tin, lead, cassiterite, or other kinds of metal. One must not keep in his house an unjust measure, even if he uses it for a chamber. If the elders of the city want to enlarge the measures, it must not be more than a sixth of them. From the verse Ezek. xlv. 12 may be inferred three things, etc. "Those who forestall fruit," etc.--who are meant thereby? There must not be exported from Palestine things by which a livelihood is made. It may be prayed by blowing of horns even on Sabbath, when business becomes dull. One must not emigrate from Palestine to other [provinces](#), unless the price of grain has increased, etc.

"When Abraham our father departed from this world, all the great men of the nations stood up in a file and said," etc. "I remember when a child used to break a piece of carob, threads of honey would leak out," etc., [190-203](#)

HAGADAH.

The well-known legends of Rabba b. b. Hana: Waves, Hurnim ben Lilith, roebuck of one day, alligator. The fish which destroyed sixty cities. The fish with two fins. About the leviathan, male and female. The banquet of the upright in the world to come. The bird with her head in the sky. The geese from which a whole river of fat was running. The Arabian merchant who accompanied Rabba in the desert, and showed him the dead of the desert at the time of Moses. The place where Korach with his company was swallowed up, where the earth and the sky meet, etc. What R. Johanan has to tell. Jehudah of Mesopotamia. What happened with Eliezer and Jehoshua while on the ship. What Huna b. Nathan told. The canopies (*chupas*) for each upright in the world to come. The ten *chupas* made for Adam the first in paradise. About Hiram the King of Tyre who claimed to be a God. The increase of Jerusalem in the future, [203](#)-213

APPENDIX.

Usucapio in the Roman Law [214](#)

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