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TRACT BABA BATHRA (LAST GATE).

CHAPTER I.

RULES AND REGULATIONS CONCERNING HOUSES, YARDS, AND FIELDS IN PARTNERSHIP OR CONJOINTLY; THE SHARING IN PARTITIONS, FENCES, AND WALLS; LOOKING INTO OTHERS' PROPERTY; CLAIMS PAID BEFORE DUE; DUTIES OF ONE TO HIS CITY--STREETS, ETC.; CITIZENSHIP BY LAPSE OF TIME, AND CONCERNING THE SIZE OF A YARD LIABLE TO DIVISION.

MISHNA I.: Partners in a courtyard surrounded by two houses, each of them belonging to one of the partners, one of whom (or both) may desire to make a Me'hitza (partition) in the yard, the wall is to be built in the middle exactly. The material for it and all other things must be as is customary in the country; viz.: in the case of unhewn stones (of which the thickness is usually six spans) each of them has to give his share of space and material for three spans; in the case of hewn stones, for two and a half; in the case of half-bricks, between which are usually inserted sand and small stones, for two; and in the case of whole bricks, one and a half spans from each suffice. Therefore, when it happens that such a wall falls, the space and material of it belong to both equally. The same is the case with a garden in places where they are usually fenced: if one of the partners desires to construct a fence, the other cannot prevent him, nor withhold his share of the expense. In valleys, however., in places where it is not usual to fence, one cannot compel his partner to share with him, but he may build a fence about his own portion, and make an enclosure on the outside (as a sign that it belongs to him only); and therefore should such a fence fall, the material belongs to him alone. If, however, such is built conjointly, it must be in the exact middle, and an enclosure is to be made on both sides (as a sign that it was built conjointly); and therefore should it fall, the space and material belong to both.

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GEMARA: The schoolmen, in interpreting the Mishna, were about to explain the word Me'hitza as meaning division, according to Numbers xxxi. 43, where the word Ma'htzis is used in the sense of divided into halves; and the Mishna comes to teach that when both have decided to divide their grounds, one of them can compel the other to join in building such a wall, even if he object to do so, from which it is to be inferred that looking into the other's property is considered injurious. But perhaps the expression Me'hitza means only a partition, according to what we have learned in a Tosephtha, that if a partition (which divides the vine from other kinds of products) break, the owner of the other products has to notify the owner of the vineyard twice that he should fence it, and if he does not do so, the products are prohibited and the owner of the vineyard is responsible. And as in this Tosephtha the word Me'hitza is used with the meaning of a fence, so it may be that in our Mishna also it means a fence. And the Mishna teaches that if both have decided to build a fence, then each of them must join in its making, but not otherwise. From which it is to be inferred that looking into another's property is not considered injurious? If it should be so, then why does the Mishna state "the wall must be," etc.? It ought to be, "it must

be built." On the other hand, if the Mishna means that they have decided to divide, why the expression "Me'hitza"? It ought to be "to halve," as people say: "Come to halve our goods"; and also, if looking is considered injurious, why the statement of the Mishna, "if *both* like to do so"? Even if one of them desires, his partner may be compelled to join with him, so as to prevent injurious looking in. Said R. Assi in the name of R. Johanan: Our Mishna treats of a small yard which was not liable to division (it did not contain eight ells), and then only when both consent to divide can one compel his partner, but not otherwise. But then what comes the Mishna to teach? That when the yard is not sufficient for a division, and both wish to do so, they may? Is it not taught plainly farther on? From that teaching one may say that he can compel him only to join in erecting a border-mark, but not a wall. It comes to teach us that the same is the case even with a wall. But if so, why the other statement of a border-mark? There it is needed because of the last part of the Mishna, which teaches that with the Holy Writ it is different: it is not allowed to be divided, even if both consent to do so. Now, the Mishna is explained as treating of

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a yard which is not sufficient for division. Then what matters it--even if they have both decided to divide their grounds, could they not retract? Said R. Assi in the name of R. Johanan: It treats of a case in which it was already done with the ceremony of a *sudarium*. But even then, what matters it? After all, it was decided only verbally, and they may retract? It speaks of a case in which the parts of each were already marked off. R. Ashi, however, said: It speaks of a case in which each of them has already made a *hazakha* (settlement) on his part, so that they have acquired title and can no more retract. (The expression in the Mishna for half-bricks is *khphisin*.) Said R. A'ha b. R. Ivia to R. Ashi: Whence do we know that this expression means half-bricks and the additional span is for the stuff which is put between them? Perhaps it means unhewn stones, and this additional span is for the projecting corner. And he answered: The meaning of the words of the Mishna is traditionally so explained.

Said Abayi: A span is needed only when, between the half-bricks, small stones and sand are put, but if only clay, a span is not needed. Shall we assume that a wall, four ells in height, of hewn stones needs the thickness of five spans? Was not the height of the walls of the first Temple thirty ells, and the thickness only six spans, and it nevertheless held? The additional span sustained it. Why, then, did they make the walls of the second Temple still thicker? Because a thickness of six spans can sustain only a height of thirty ells, but not a greater one, and the second Temple was much higher. And whence do we deduce it? From [Haggai, ii. 9]: "Greater shall be the glory of this latter house than that of the former." Rabh and Samuel, and according to others R. Johanan and R. Elazar, differ in the explanation of this verse. According to one, it means the building itself; and according to the other, it means the years of its existence. In reality, however, it was in both respects more glorious.

The schoolmen propounded a question: Does the Mishna mean, by giving the sizes, with the lime, or without? Said R. Na'hman b. Itz'hak: Common sense dictates that it means with the lime; for without the lime the sizes mentioned in the Mishna would not be correct (since without the lime it would not hold, and the lime, of course, enlarges the size). But can it not be said that it means without the lime, and because the size of the rime does not reach a span, therefore the Mishna does not count

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it? But does not the Mishna state a span and a half? It may be said that, because the two halves make a span, therefore it is counted. Come and hear! (Erubin, p. 28:) "The cross-beam in question must be wide enough to hold a half of a brick, which is three spans in length and in width." There it treats of a great one, and it seems to be so, as it says: "A half of a brick, three spans," etc., from which it is to be inferred that there is a smaller half-brick which is not of the size mentioned, and this is the size in our Mishna, where both half-bricks together measure only three spans with the lime. R. Hisda said: One must not take apart a prayer-house until another one is built; according to some, because it may be neglected by accident, and according to others, because until the new one be built there they will have no place for prayer. And the difference is that, when there is another place for prayer, according to the latter it may be done.

Maremar and Mar Zutra used to take apart the summer house of prayer in the winter, and the winter house of prayer in the summer. Said Rabhina to R. Ashi: How is it? When the money for the new building has already been collected by the treasurer, may the old be taken apart, or not? And he answered: Even then a redeeming of prisoners may happen, for which the sum might be used. But how is it if the whole material for the new building was already prepared? And he rejoined: Even then the above case can happen, and the material would be sold out for this purpose. If so, then even when it is already built? And he replied: A completed building it is not customary to sell for such a purpose. And this was all said in case no sign of ruin was seen in the old building; but if there were such, it might be taken apart immediately. R. Ashi, for example, saw such in the prayer-house at Sura, and took it apart and placed his bed there, and did not take it out until the whole building was ready. It is said farther on that Baba b. Buta advised Herod to take apart the old Temple for the purpose of building a new one. Was this not against the law, as declared above by R. Hisda: "One must not take apart," etc.? If You wish, you may say he saw a sign of ruin in the old one; and if you wish, it may be said it is different with a king, who usually does not retract from his word, as, *e.g.*, Samuel said, that if the king should say, "I will remove this great mountain," it would be done.

Herod was a servant of the Hasmoneans, and there was a

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little girl among them upon whom he cast his eyes. One day he heard a voice saying that a servant who should rebel that day would succeed. Then he slew all his superiors except this little girl; and when she saw that he intended to marry her, she ascended to the roof and proclaimed: "If it happen that one shall claim himself descended from the Hasmoneans, be it known that he is a slave, for all the Hasmoneans were slain except myself, and I now commit suicide by throwing myself from this roof." Said Herod to himself: Who insists upon what is written [Deut. xvii. 15]: "From the midst of thy brethren shalt thou set a king," etc.? The rabbis, as the leaders of Israel. He therefore slew all the rabbis, and left only Baba b. Buta, to take advice from him when needed; but he blinded him. One day Herod came (incognito) and sat before him, saying: "Let the master see what the bad slave Herod has done." And he answered: "What can I do to him?" And he said: "Curse him." But Baba answered with the verse [Eccl. x. 20]: "Even in thy thoughts, thou must not curse a king." Herod said: "But he is not a king at all." And Baba answered: "Let him be only rich, it is written [ibid., ibid.]: 'In thy bed chambers, do not curse the rich.' And even if he be only a ruler, it is written [Ex. xxii. 27]: 'A ruler among thy people, thou shalt not curse.'" And Herod said: "This is only when he does as the people of Israel do; but he, Herod, does the contrary." And he rejoined: "I am afraid of him." Herod continued: "But there is no one who could tell him, as only you and I are here." And Baba rejoined with the above-cited

verse: "For a bird of the air can carry the sound," etc. Then rejoined Herod: "I am Herod, and did not know that the rabbis were so careful. Had I been aware of this, I should not have slain them; but now I crave your advice; perhaps as to that you will find some remedy for me." And Baba answered: "You have blinded the eye of the world, as it is written [Num. xv. 24]: 'If through inadvertence of the congregation.' 1 Go, therefore, and occupy thyself with the eye of the world, which is now the Temple, as it is written [Ezek. xxiv. 21]: 'I Will profane my sanctuary . . . the desire 2 of your eyes,' and so I advise you to rebuild the Temple."

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And Herod said: "I fear the Roman government." Rejoined Baba: "Send a messenger to Rome, for which it shall take a year until he shall reach there, and let him remain there a year, and his returning shall also take a year, and during the three years you can take apart this Temple and build a new one." Herod did so, and the answer was: "If you have not as yet taken apart the old one, let it remain so; if you have already taken it apart, do not build a new one; and if you have already taken apart and also rebuilt, such is the custom of bad slaves: they seek advice after the thing is already done. It is true, you are now the ruler. Your record, however, is in our archives, in which it can be seen that you are not a king, nor a descendant of kings. It is only marked, 'Herod, the servant, has made himself free.'" It was said that he who had not seen the new Temple of Herod had not, in all his life, seen a fine building. "With what material did he build it?" asked Rabha. With ornamented marble stone of different colors, the stones being not in a straight line, but alternately projecting and receding, the gaps being intended to receive the lime. He intended to cover it with gold, but the rabbis advised him not to do so, because as it was it looked as effulgent as the waves of the sea.

But why did Baba give Herod such advice? Did not R. Jehudah in the name of Rabh, or in the name of Jehoshua b. Levi, say that Daniel was punished for giving good advice to Nebuchadnezzar, as it is written [Dan. iv. 24]: "Therefore, O king, let my counsel be agreeable unto thee, and atone for thy sins by righteousness," etc.? With the Temple it was different, for except by the king, it could not be rebuilt at all. And whence do we know that Daniel was punished? He was thrown into the lions' den [ibid. vi.].

"*And all other things,*" etc. What does the expression all add? Those places where it is customary to make such a partition of thorns.

"*Therefore, if it happens that such a wall fall,*" etc. Is this not self-evident? It means that, should the wall fall into the part of one of them, or if, in the building thereof, one of the partners should build it all on his part, lest one say that then the other partner should be considered as a plaintiff for whom it is to bring evidence, it comes to teach us that this is not so.

"*The same is the case with a garden,*" etc. Does not this paragraph contradict itself? It states: "The same is the case, etc., where it is customary to make a fence"; from which it is

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to be inferred that if it was not customary, one cannot compel another to join. Then how is to be understood the last part, which states: "In a valley, etc., where it is not customary to make a fence," etc.; from which it is to be inferred that if there be no such custom at all, he may be

compelled to join? And this is contradictory, since even concerning a garden, where there was no such custom at all, he is not to be compelled. So much the less in a valley, where there is no such custom? Said Abayi: It means to say thus: In a garden, even where it was not the custom, and in a valley, where it was the custom, to make a fence, the partner may be compelled to join. Said Rabha to him: If it is so, to what purpose is it stated "*however*." "Therefore," said he, "it means thus: concerning a garden, where there is no custom at all, it must be considered as if it were customary to make a fence; however, in a valley, where it is not the custom, it is to be considered as though the custom were *not* to fence. Therefore in the first case he is to be compelled to join, and in the second he is not."

"*But one may put the fence in the space of his own part*," etc. How shall the enclosure be put? Said R. Huna: It shall be inclined toward the inside. Why not toward the outside? Because then the partner could cut it off and claim that the wall was built conjointly. But can the same not be done even when it inclines toward the inside? The joining (to the fence) would be recognized. But does not the Mishna state plainly, "*outside*"? The objection remains.

R. Johanan, however, said that the Mishna means not exactly an enclosure, but a sign smeared with clay, the extent of an ell, outside. And why not inside? Because then the partner could mark such outside, to claim that it was done by both. But even now, the partner can scrape it off for the purpose of making such a claim? Scraping can be recognized (as artificial). If, however, the partition were made of thorns, there can be no remedy with a sign, unless one writes it on a note and puts in for safekeeping in the court. ¹ So Abayi maintains.

"*If, however, such was built conjointly*," etc. Said Rabha of Pharziqa to R. Ashi: Why, then, the enclosure at all? And

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he answered: The Mishna treats of a case in which one has already made such an enclosure on one side; the other should follow him on the other side, as a sign that the wall belongs to both. And he asked: Does the Mishna teach a remedy against a swindler? And R. Ashi rejoined: Is not the first part, which states that an enclosure should be made (inside or outside), a remedy against a swindler? To which he answered: The first part teaches a law, and by the way gives also the advice which should be the remedy against a swindler; but in the last part it does not teach a new law at all, as it is self-evident that when they have joined in the wall the material belongs to both (and the new teaching is only the remedy against a swindler)? Said Rabhina: The last part treats of a case in which the wall was made of thorns, and comes to teach that it is not as Abayi said above, that there is no remedy except by a note, etc.; but that if the enclosures are made on both sides it suffices.

MISHNA II.: If one's estates surround those of his neighbor on three sides, and he has fenced all the three sides, the neighbor is not to be compelled to join in the expense (so long as it is open on the fourth side). Said R. Jose: If the neighbor fenced the fourth side of his field, then he must join in the expense of all the fences.

GEMARA: Said R. Jehudah in the name of Samuel: The Halakha prevails in accordance with R. Jose. And there is no difference whether the fourth fence was built by the surrounder or by the surrounded (as in either case his [the neighbor's] field is now protected). It was taught: R. Huna

said: He must take an equal share in all the expense, and Hyya b. Rabh maintains that he has only to pay for the cheapest fence-rails. An objection was raised from our Mishna, which states that when he has fenced all three sides the neighbor is not to be compelled; from which it is to be understood that if he has fenced the fourth side also, then the neighbor must join. Then the decision of R. Jose, who said that when the fourth was fenced he must join in the expense of all the fences, is to be understood that he differs with the first Tana in that, according to him, he must share all the expense equally, while according to the first Tana he must pay only for cheap fence-rails. And this explanation can be correct only in accordance with R. Huna. But according to Hyya, who said that all of them treat only about the payment for cheap fence-rails, what, then, would be the point of difference between the first Tana and R. Jose?

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[paragraph continues] It is to be explained as to the surrounder and the surrounded. According to the first Tana, even when the surrounder has fenced the fourth side, the surrounded has to pay, for the reason stated above; and according to R. Jose, only when the surrounded himself has fenced the fourth side, from which we see that the other fences pleased him; but if the surrounder did so, the surrounded has nothing to pay.

Runya's estate was surrounded by that of Rabhina on all four sides. And when he asked him to join in the expense of fencing, he would not listen. "Join at least in the expense for cheap fence-rails." He would not listen. "Give something for the protection of your estate"; and he would not. One day Runya was engaged in gathering dates from his trees, and Rabhina said to his gardener: "Go and fetch one bunch of dates." And Runya rebuked him. Then said Rabhina to him: "Now your intention that your trees should be protected, if not from thieves, at least from goats, is clear." And he answered: "Goats can be prevented by the voice." And Rabhina rejoined: "But even then you must have a man who shall lift up his voice." Finally Runya came before Rabha, who told him that he should go and settle with Rabhina as well as he could, as otherwise he would decide in accordance with R. Jose as explained by R. Huna.

The same Runya bought a field which was attached to one of Rabhina's, and the latter was about to prevent him, in accordance with the law of preemption. Said R. Saphra b. R. Ieba to Rabhina: "People say, Zala, who is poor, needed for his family as much bread as Zalla the rich. Permit then the poor Runya, who has already one estate among your estates, to have another one, so that he can make a living."

MISHNA III.: If a wall which separated courtyards falls, the owners of both sides have to join in rebuilding it (to the height of four ells). If there is a wall, and one of the owners claims that his neighbor did not bear his share of the expense in building it up to the height of four ells, he is not to be trusted unless he brings evidence (as it is considered that his neighbor did so at the time it was built). Above four ells, one cannot compel his neighbor to join with him. If there were a wall above that height, and the neighbor built another one near it to the same height, with the intention of roofing, he has to share in the expense, even before roofing; and if he claims

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that he has already joined in the expense, he is not to be trusted unless he brings evidence.

GEMARA: Said Resh Lakish: "A debtor who says: 'I paid my debt to the creditor, when the time had not yet elapsed,' is not to be believed, as usually creditors are glad to be paid in due time."

Abayi and Rabha both said: It may happen that one unexpectedly got money and thought, "I shall pay my debt before it is due, so I shall not be troubled thereafter." An objection was raised from our Mishna, which states that he is considered to have paid at the time it was built. Now let us see how was the case. If the defendant claims that he has given his share of the expense in time, there is no reason why he should not be believed, it must then be said that he claims to have paid it before it was due, and nevertheless the Mishna states that he is to be believed? The case of the Mishna is different, as with every brick or every piece of material that was used the time for payment is considered due; *i.e.*, it is not to be considered that he is claiming to have paid before it was due. Come and hear the other part of the Mishna concerning the height over four ells, which is considered not to have been done conjointly. Let us see how was the claim. If the defendant claims: "I have joined with you in time," why should he not be believed (he is the defendant, and it is for the plaintiff to bring evidence)? It must be, then, that he claims that he has joined before the time due, and we see that he is not believed. There is another reason why he should not be believed, as usually one would pay no money before he is positive that the court will decide against him. R. Papa and R. Huna b. R. Jehoshua acted according to Abayi's decision, and Rabha b. Mar R. Ashi acted according to Resh Lakish, and so the Halakha prevails. And even in the case of orphans, although the master said elsewhere that he who comes to collect from the estate of orphans cannot do it without taking an oath; yet in our case the "hazakha" rule, that one does not pay when it is not due, is strong enough even concerning orphans.

The schoolmen propounded a question: If the plaintiff demanded his money after the time has long elapsed, and the defendant claim that he had paid when it was as yet not due, shall we say that the above standing rule., that one does not pay before due, denies the theory of giving consideration to a claim which appears trustworthy, for the reason that, why should he

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tell a lie which only injures him, as, *e.g.*, the defendant could say: "I have paid in time" (and then it would be for the plaintiff to bring evidence), while claiming "I have paid before due," the burden of proof lies upon him, or perhaps such a claim is to be considered even with the standing rule? Said R. A'ha b. Rabha to R. Ashi: Come and hear! If one claims, "I have a *mana* with you," and the debtor answers, "Yea"; on the morrow, when he demands his money, the debtor says, "I have already paid you," then he is free. If, however, he says, "You have nothing with me," he is responsible. Is it not to be assumed that by the expression, "I have paid you," it means in time, and the expression, "You have nothing with me", means, "I have paid you before due"? Hence we see that such a claim is not considered Nay, the expression, "You have nothing with me," means, "You have never loaned it to me," as the master says elsewhere: He who claims, "I have never borrowed," is to be considered as if he should say, "I have never paid."

"*If, however, he has built another wall,*" etc. Said R. Huna: If he has built only a half-wall, it is the same as if he should build the whole. And R. Na'hman said: He has to join only for the half he has built, but not for what he has not. R. Huna, however, admits that if the neighbor built something opposite the party wall, the corner of his house attaching it to the party wall, then he has not to join in the expense except so far as he has built; and also R. Na'hman admits that if he

has prepared in his wall a place for roofing it (from which is to be seen that he intends to continue the wall and to roof it), he must join immediately. R. Huna said the holes in the wall prepared for placing the roofing beams, which were prepared by one of the partners, do not support the claim of the other partner, who says he has joined with him in the building of the whole wall (claiming that if he should not do so he would not expend so much money in an uncertainty, perhaps his partner would not join with him and would not allow him to open windows to the side of his yard), even when the $\mu\epsilon\lambda\alpha\theta\gamma\omega\omega$ (the holes which hold the beams) for the roofing beams have already been placed, as the builder may say, "I have prepared the whole thing, with the purpose of not damaging the wall through making holes in it, being sure that this would suit you, and you will join in the expense afterward." R. Na'hman said: If one has placed on his neighbor's wall little *boards* for roofing, it is not to be considered

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that the consent of his neighbor suffices for roofing it with *beams*. In the reverse case, however, such is to be considered sufficient. The same said again: If the dripping of water from; one's roof into a neighbor's yard take place, it gives him a right to put a pipe on the roof so that the water may run to one place in the same yard; and the same is the case in the reverse, but not if the roofing be of small branches, so that it contains numerous interspaces, thus spoiling the earth where there is dripping through the interspaces. R. Joseph, however, maintains that even this is allowed, and so he acted.

R. Na'hman in the name of Rabba b. Abuhu said: If one let a chamber of his house to his neighbor, and this was a house with many rooms for different tenants, the tenant may use the holes which are in the wall, the beams which protrude up to four ells from his chamber; and if this was an upper chamber, he may also use the thickness of the wall on the roof, if customary to use same; but he has no right to use the front yard. R. Na'hman himself, however, maintains that he has a right to the front yard also, but not to the rear yard; and Rabha maintains that he has a right in the rear yard also.

Rabhina said: A roof which is made for shade, if one has attached it to the wall of his neighbor, it is not to be considered as "hazakha" until the lapse of thirty days. However, if there be no protest after thirty days, it is a "hazakha" (and the owner is trusted if he claim that he has done this with his neighbor's consent). If this, however, was done for the purpose of a booth for the Feast of Tabernacles, after seven days it is considered a "hazakha." If, however, one has attached the roof with clay, it is considered a "hazakha" immediately (as this he would not do without consent).

Abayi said: If there were two houses on both sides of a public thoroughfare, each of the owners has to make a parapet to half of his roof, but not exactly opposite each other (*i.e.*, one may make it on the north and the other on the south), and each of them has to add a little to his half (for the purpose of preventing looking into his neighbor's property). [Questioned the Gemara:] Why only on a public thoroughfare--should it not on a private thoroughfare be the same? The law of a public thoroughfare it was necessary for him to teach, lest one say: "One may claim it is anyhow needed for you to make a parapet to prevent the people passing in the street from looking into your property; therefore make the whole parapet on your property,

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and I will bear half of the expense." So he comes to teach us that he may answer: "From the public thoroughfare one can see only in the daytime, but not at night"; or, "Only when I am standing, but not when I sit," and also, "When one likes to look. For you, however, it is to be seen in any circumstances." The master said: "Each of them has to make a parapet to half a roof," etc. Is this not self-evident? He means to say that if one has already done his part, lest one say his neighbor has a right to say to him, "Take from me the expense, and make all of it (as it is too much trouble for me to find a laborer for such a small work; and if you had not done yours, I would have taken laborers to do the whole of it on my property and taken from you your share of the expense)," it comes to teach us that his neighbor may say, "As you do not wish to spoil your roof by the weight of the entire parapet, so I do not wish to spoil mine." R. Na'hman in the name of Samuel said: On a roof which looks into the yard of one's neighbor, he has to make a parapet to the height of four ells. However, between the roofs he need not. And R. Na'hman himself maintains that four ells is not necessary, but a partition of ten spans is. To what purpose? If to prevent looking, then four ells are necessary; and if only for separation of the roofs, in case one step beyond his roof, he should be accused of intention to steal, then any partitions suffice, and if to prevent goats or sheep from straying, a small partition which they cannot jump over suffices? It is for the second purpose mentioned above; but if there should be any separation, he may say, "I stretched my hand over to the neighbor's roof because I wanted to measure the boundary lines on the roof," which is not likely for him to say when the partition is of ten spans. An objection was raised from the following: "If his courtyard was higher than the roof of his neighbor, it is not to be taken into consideration." May we not assume that it means that no parapet *whatever* is needed? Nay. It means the *consideration* of a parapet of four ells, but one of ten spans is required.

It was taught: If there were two courtyards, one upon the other, according to R. Huna the lower one has to build from his upper side upwards until he reaches the upper one, and the higher one continues; and according to Ula and R. Hisda the higher one has to share in the expense of the lower one also; and there is a Boraitha which supports R. Hisda as follows: If there were two courtyards, one upon the other, the upper one

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cannot say, "I will begin to build from my property," but he must share with the lower one; and if, however, his courtyard were higher than the roof of his neighbor, he has nothing to do with him.

There were two tenants, one in the upper and one in the lower part of a house, and the roof of the lower one sank, and he called on the upper one to rebuild it. He declined, saying, "My residence is not spoiled." Then the lower one asked of him permission to rebuild the whole thing at his own expense, but the upper one responded, "I have no place in which to live until you shall have rebuilt." Then he wanted to hire a residence for him, but he was told, "I do not want to trouble myself by removing." And to the claim of the lower one that he could not live in the house, he answered, "Thou canst bow thy head when going out and coming in." Said R. Hama: The upper one's claim could be taken into consideration, provided the roof had not reached down to the height of ten spans from the floor of the house; but if it so reached down, the lower one may claim, "This place belongs to my property, and it must be removed." And all this is said when there was no stipulation at the time of building; but if there were, the upper one may be compelled to share in the rebuilding. But to what extent must it have sunk that the lower one should have the right to rebuild? Said the rabbis, in the presence of Rabha, in the name of Mar

Sutra b. R. Na'hman: He has quoted his father answering this question, that if the height was less than is stated (Chapter VI., Mishna 4), the height should be the half of the length and the breadth together. And Rabha answered: Did not I tell you, you should never hang a βίχος (clay pot) on R. Na'hman's neck? (It means that nonsense should not be quoted in his name.) For I know R. Na'hman's decision was: "If it was spoiled from the ordinary use of a dwelling." However, after all, to prevent controversy the law should state some dimension. Said R. Huna b. R. Jehoshua: If the height decreases so that the bundles of sticks usually made in the city of Mehusa cannot be brought in and be manipulated.

There was one who built a wall against the window of his neighbor, and to the claim of his neighbor, "You darken my place," he answered him, "I will close up at my expense this window and make you a new one above." But the other party refused, saying, "By doing so you will spoil my wall." He said then: "I will take apart your wall unto this place and

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build you a new one." The other rejoined: "The old wall will not bear the new building." He then offered to rebuild the whole wall from top to bottom and to make him a new window, and again he refused, saying that one new wall would not correspond with the three old ones. Finally the other party agreed to rebuild the whole house, and still he refused: "I have no place to live." And even then his neighbor agreed to hire for him a residence, and he again responded, "I do not want the trouble of removing." And R. Hama decided that the law cannot compel him to comply with the wish of his neighbor. But to what purpose is this stated? Has not R. Hama declared his decision in the above case? He meant to say that even if he has used the house in question for keeping straw and wood only, even then he cannot be compelled.

There were two brothers who divided a bequest. One took a palace and the other took a nice garden which was in front of it; and the latter built a wall on the edge of the garden, and to the claim of his brother that he darkened his house, he answered, "I built it on my property." And Rabh decided that the law is not against him. Said Rabhina to R. Ashi: Why should this case differ from the case in the following Boraitha: Two brothers divided a bequest. One took a vineyard and the other took a field. The owner of the vineyard is entitled to four ells of the field for the entering of animals to work it up, etc., as it is considered that so was the stipulation at the time of the division. (Hence we see that the requirements of the vineyard are taken into consideration. Why should it not be the same with the palace of the above case?) And R. Ashi answered: There the owner of the vineyard paid to his partner the difference between the two estates, and consequently the stipulation that his vineyard should be worked up was made. To this Rabhina rejoined: Do you mean to say that in the case of the palace there was not any settlement about the value of the two parts of the bequest? Does the law speak of fools? And R. Ashi rejoined: It may be there was a settlement, and the man of the garden took his share for the value of the building of the palace, but they had not made any settlement for the value of the air. But should there not be taken into consideration the rightful claim of the man of the palace, that he has paid him the difference for a palace, and then it was changed into a dark chamber like a prison? Said R. Shimi b. Ashi: The name of the palace does not change even after the wall is

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built, and the gratification which the owner of the garden received was for the name. As we have learned in the Middle Tract (p. 275), if one said, "I sell you the estate, which contains a kur of

earth, and there is no more than a half," etc., the sale is valid, as it is so called. But still, what comparison is this? There he sold him a piece of ground which was so named, and the buyer is aware of what he bought; but here, could not the man of the palace say: "I have agreed to this division for the purpose of living in it as my parents did, and now it is darkened"? Said both Mar the Elder and Mar the Younger, the sons of R. Hisda, to R. Ashi: The Sages of Nahardai, among them R. Hama, decided according to their theory elsewhere, that they hold with R. Na'hman, who said in the name of Samuel that brothers, after the dividing of a bequest, have no claim for a path, for windows, for ladders, and for canals, each on the other (as they ought to take these into consideration when dividing), and must be strict on this law, as this was enacted once for all. Rabha, however, maintains that such a claim is always to be taken into consideration.

There was a note belonging to orphans, against which the other party showed a receipt, and R. Hama decided not to collect on this note because of the receipt, and not to destroy it until the orphans should have grown up, as they might find some evidence against the receipt. R. A'ha b. Rabha questioned Rabhina: How does the Halakha prevail in all cases like the above-mentioned? and he answered: All of them are to be practised in accordance with R. Hama, except in the case of the receipt, as witnesses should not be considered by us as liars. 1 Mar Sutra b. R. Mari, however, said that even in the last case R. Hama is right; for, if the receipt were genuine, they would have made use of it while the creditor was still alive, and because they did not do so forgery was to be feared.

MISHNA IV.: Partners of a courtyard must share in the expense of building a gate or a door to it, if one of them demands it. R. Simeon b. Gamaliel, however, says: Not all courtyards need a door (the Gemara will explain which need one and which do not). An inhabitant of a city has to share in the building of a wall around the city, with the doors and the bolts. R. Simeon b. Gamaliel, however, maintains that not all cities need one. How long must one dwell in a city to be considered

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a citizen of it? Twelve months. If, however, he has bought a dwelling-house in it, he is considered a citizen at once.

GEMARA: Shall we assume that a gate to a courtyard is considered a good thing? Is it not a fact that there was a pious man to whom Elijah appeared frequently, and after he had built a gate to his courtyard Elijah did not speak to him thereafter (because this prevented poor men from entering for their needs)? This presents no difficulty. If the door is to be opened from inside, it is not good; but if from outside (so that any one can open it), it is a good thing.

"*Building a gate or door to it,*" etc. There is a Boraitha: R. Simeon b. Gamaliel said that only a yard which is near the public thoroughfare needs a gate, but not one which is not near to it. The rabbis, however, maintain that a courtyard which is even far away from a public thoroughfare may need a gate; for it may happen that people will pass into it from that which is at the thoroughfare, and will cause harm to the owner's property. And also to a city which is far from the boundary a surrounding wall is not required, according to R. Simeon; and the rabbis maintain that each of them may require one in war time. R. Elazar questioned R. Johanan: How shall such a tax be apportioned: according to the number of souls, or to the number of houses, or according to one's wealth? And he answered: According to the number of houses; and thou, Elazar, my son, put nails in this Halakha (that it never escape from thy mind).

R. Jehudah the Second taxed the rabbis for this purpose, and Resh Lakish said to him: The rabbis do not need any guard, as it is written [Ps. cxxxix. 18]: "Should I count them," etc. Count whom--the upright? Can they be *more* than the sands? Is it not written [Gen. xxii. 17] that all Israel is only "*as the sand*"? You must then say that it means that the acts of the upright are *more* than the sands, etc. Now, the little sands guard the sea. So much the more should not the acts of the upright, which are *more* than the sands, guard *them*? R. Na'hman b. R. Hisda taxed the rabbis. Said R. Na'hman b. Itz'hak to him: By this act you have transgressed what is written in the Pentateuch, the Prophets, and the Hagiographa. The *Pentateuch* [Deut. xxxiii. 3]: "Yea, thou also lovedst the tribes; all their saints were in thy hand; and they, prostrate before thy feet, received thy words." Thus said Moses before the Holy One, blessed be He: "Lord of the Universe, even when thou lovest the tribes, the saints of Israel shall be in *thy*

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hand" (*i.e.*, they shall be guarded by thee). For the further explanation of this verse R. Joseph taught that it means the scholars who drag their feet from town to town and from country to country to learn the Torah and to discuss about the commandments of the Omnipotent. The *Prophets* [Hosea, viii. 10]: "But even though they should spend gifts among the nations, now will I gather them; and they shall be humbled a little through the burden of the king of princes." And Ula said: This verse was written in the Aramaic language, and the expression *Yithnu* should be read *Yethano*, which means (in Aramaic) "to learn," and it is to be interpreted thus: If all the Israelites who are in exile should occupy themselves with the study of the Torah, the gathering of them would be at hand; but if only a few of them, they should be exempt from the burdens imposed by kings or princes. And the *Hagiographa* [Ezra, vii. 24]: ". . . no one shall be empowered to impose any tax, tribute, or toll," etc. And R. Jehudah said: This means, to free the scholars of the taxes of the government.

R. Papa had taxed orphans for digging a new well. Said R. Shesha b. R. Idi to him: Perhaps no water will be found (and then the money of the orphans would be taken for nothing, for they are not of age to relinquish their property). And he answered: I am taking the money; if there should be water, I will use it; if not, I will return it.

Rabbi opened his barns of grain in the years of famine, and said: This shall be for the use of them who have studied the Bible, Mishna, Gemara, Halakha, or Hagada, but not for ignorant men who have never desired to study anything. R. Jonathan b. Amram entered, and said: Rabbi, feed me. He asked him: My son, hast thou read the Bible? And he said no. Hast thou studied the Mishna, or anything? And he said no. "Then why should I feed thee?" And he answered: Feed me as people feed a dog or a raven. And he did so. After he went out, Rabbi was sorry, saying: Woe is me! that I have given my bread to an ignorant man. Said R. Simeon his son to him: Perhaps this man was your disciple, Jonathan b. Amram, whose custom it is not to derive any benefit from his wisdom. It was investigated, and they found that so it was. Then said Rabbi: My barns shall be open to every one, without any distinction. Rabbi's previous act, however, was in accordance with his theory elsewhere, that chastisements are inflicted upon the world only because of the ignorant men who do not desire to study anything.

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"*How long must one dwell in a city,*" etc. There is a contradiction from the following. A caravan

with asses or camels, who are travelling from one place to another, who took their rest in a city which was guilty of idolatry, and the caravan while being there were persuaded and worshipped idols, they are to be stoned, but their money must be saved for their heirs. If, however, they were there thirty days, they must be slain by the sword, as inhabitants of the town, and their money is to be confiscated (hence we see that thirty days' residence suffices to be counted a citizen). Said Rabha: This presents no difficulty. To be counted an inhabitant of the town, thirty days suffice; but to be a citizen, twelve months are required. As we have learned in the following Boraitha: If one vows that he shall derive no benefit from the citizens of this town, he must not so derive from them who have resided there for twelve months; but he may derive benefit from them who have resided there less than this time. If, however, he vows not to derive benefit from the *inhabitants* of this city, then he may derive from them only who have not resided as yet thirty days. But have we not learned in a Boraitha that a poor man who has resided thirty days in the city is entitled to get meals from the kitchen of the city charities? Three months entitles him to get cash for food from the treasury of the charities; six months, to raiment; nine months, to burial; and twelve months, he must share in the expense of fencing fields or gardens, which it was then customary to make of sticks in the shape of the Greek letter ψ ? Said R. Assi in the name of R. Johanan: The statement in the Mishna, *twelve months*, means also the same.

The same said again in the name of the same authority: Every one, even orphans, must share in the expense of the fencing, except rabbis.

R. Papa said: To the repair of the wall of the city, for buying horses for the riders around the city (for watching and to ascertain what it needs), and for an arsenal. all, even orphans, must contribute, except the rabbis. The rule for this is that to everything from which they derive benefit they must contribute, even orphans. Rabba had taxed the orphans of Mar Mirion for charity. Said Abayi to him: Has not R. Samuel b. Jehudah taught that orphans must not be taxed for charity, even for the redeeming of prisoners? and he answered: I did so only to honor them.

Aiphra Hurmiz, the mother of King Sabur, sent a purse with

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dinars to R. Joseph, saying: This shall be used for the highest charity. And he deliberated what kind of charity should be considered the highest. Said Abayi to him: As it is said above that orphans must not be taxed even for the redeeming of prisoners, it is to be inferred that redeeming of prisoners is considered the highest charity.

Rabha said to Rabba b. Mari: Wherefrom is the Rabbi's decision that redeeming of prisoners is the highest charity? And he answered: From what is written [Jer. xv. 2]: "Such as are destined to death, to death; to the sword, to the sword; to famine, to famine; to captivity, to captivity." And R. Johanan said all in this verse that is mentioned later is harder than what precedes it--as, for instance, "to be killed by the sword" is harder than a natural death, in accordance with the verse, as well as with common sense. The verse [Ps. cxvi. 15]: "Dear 1 in the eyes of the Lord is the (natural) death of the pious," accords with common sense--because from a natural death the corpse remains clean, but the sword defiles it with blood. And that famine is worse than the sword is also learned from the same, as in the verse [Lam. iv.], "Happier are those slain by the sword than those slain by hunger," etc., and common sense--for the latter has to suffer long and great pain, while the former's death is quick and sudden. Captivity, however, is harder than all of

them, as in it all the before-mentioned sufferings are endured.

The rabbis taught: Charity must be collected by two persons and distributed by three. Collected by two, because an administrating body must be constituted of no less than two; distributed by three, because it requires deliberation in judgment (as to whether the applicant is worthy of support, and to what extent): therefore it is likened unto a civil case which requires a body of three. The collecting of food is to be done every day; but cash for the charity treasury, only on the eves of the Sabbaths. Distributing of food is for every poor man, but cash is only distributed to the poor of the city. However, the elders of the city have a right to exchange, according to their discretion, money for food, or food for money. The elders of the city have also the right to fix the measures, and the prices of victuals and beverages, and also the wages of laborers, and to fine him or them who transgress their laws. The masters

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say: No administrative body should be less than two. Whence is this deduced? Said R. Na'hman: It is written [Ex. xxviii. 5]: "And *they* shall take the gold." An administration requires two; but to bestow trust, one is sufficient. And this is a support to R. Hanina, who said that it happened once that Rabbi appointed two brothers as treasurers of the charity (and two brothers are considered one in this office). But, after all, what "administration" is there in collecting charity? It is as R. Na'hman said in the name of Rabba b. Abuhu, that one may be pledged for charity even on the eve of Sabbath (hence it is administration). Is that so? Is it not written [Jer. xxx. 20]: "I will punish all that oppress them"? Also R. Itz'hak b. Samuel b. Martha said in the name of Rabh that it means even the collector of charity? This presents no difficulty. If the man is wealthy, he may be pressed and pledged as Rabha pressed R. Nathan b. Ammi and took from him four hundred zuz for charity. But if he is not wealthy, then the one who presses him will be punished. It is written [Dan. xii. 3]: "And the intelligent shall shine brilliantly, like the brilliance of the expanse." This means a judge who goes into the depths of the law and tries ever to decide according to the truth. "And they that bring many to righteousness shall be like the stars, for ever and ever." This means the collectors of charity. In a Boraitha, however, it is taught that the first part of the verse quoted means both the judges and the collectors, while the latter part means the instructors of children. Who, for instance, is meant? Said Rabh: "R. Samuel b. Shilath"--whom Rabh found once standing in a garden, and he said to him: "Have you left your honorable position (as I was told that you never left the children whom you are instructing, and now I see you standing without them)?" The answer was: "It is thirteen years since I have seen this part of my property, and even now my mind is with my pupils." (But there are only mentioned the judges, collectors, and instructors of children.) But how about the rabbis? Said Rabhina: The verse [Judges, v. 31], "But may those that love him be as the rising of the sun in his might," refers to them.

The rabbis taught: The collectors of charity must not separate themselves from each other (while they are engaged in collecting). However, one may go to collect from the storekeepers, while the other does so from the keepers of the stands in the market. Should it happen to a charity collector to find money

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in the streets, he must not put it into his private purse, but into the purse of the charity, and when he shall reach home then he may take it out. The same is the case if he meets one of his debtors

and he pay him what he owes him: he shall not put it into his private purse, but into that of the charity (to prevent suspicion), and when he comes home he may take it out.

The rabbis taught: The treasures of charity, if there be no poor among whom to distribute, they may exchange the smaller coins of the money collected for larger ones, but not from their private purse. And the same is the case with the collectors of food; if there be no poor, they may sell it to others, but not to themselves. The coins of charity must not be counted in pairs, but each one separately (in order to avoid suspicion).

Abayi said: Formerly my master would not sit on the rugs which belonged to the synagogue (because they were brought from the treasury of the charities); but after he heard that the elders of the city have the right to change the use of charity money as they see fit, he sat thereon.

Formerly (he said again), while being a treasurer, he used to have two purses--one for poor strangers and one for the poor of the city; but when he heard that Samuel said to R. Ta'hlipha b. Abdimi, "You can keep the money for charity in one purse with the stipulation that you may distribute it to whom you find worthy," he also kept the money in one purse, as he made the same stipulation with his congregation. R. Ashi, however, who was also a treasurer, said: I need no stipulation at all, as all the donations are intrusted to my discretion.

There were two butchers who made a stipulation that each of them should do business every alternate day, and he who should violate this agreement, the skins of his slaughtered cattle that day should be destroyed. And finally one did business on the day which was not his, and the partner destroyed his skins. And when the case came before Rabha, he made him pay. R. Jimar b. Shlamyah objected to him from that which was taught above, that they may fine them who act against the stipulation, and Rabha did not care to answer him. Said R. Papa: He has done right in not answering, as only when there is no court or honored man may partners make a stipulation between themselves. But if there be, then their stipulations are not to be considered when the court, etc., has no knowledge thereof.

The rabbis taught: One must not examine the treasures of charity, and also not the treasures of the sanctuary. Although

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there is no direct support from the Bible, a hint of this is to be found [II Kings, xii. 16]: "And they reckoned not with the men into whose hands they delivered the money," etc.

R. Elazar said: It is advisable for one to count his money, although he has a trusted treasurer in his house, as it is written [ibid., ibid. 11]: "They put up in bags *after* having counted the money," etc.

R. Huna said: If one came to ask food, it may be investigated whether he is in need; but no investigation should be made of him who asks for raiment. This can be seen from the verse [Is. lviii. 7]: "Is it not to distribute thy bread to the hungry . . . when thou seest the naked, that thou clothe him?" etc., as the expression distribute, "Porosh" (with an *sh* instead of with an *s*), means investigate first and then give. And immediately after this it reads: "When thou *seest* the naked," etc., which means *at once*. R. Jehudah, however, maintains the contrary: No investigation for

food, but for raiment. He appeals to common sense and to the verse. To common sense--he who requires food suffers the pangs of hunger, which is not the case with 'him who asks raiment; and the same cited verse is also to be interpreted thus: "Is it not to *distribute* thy bread," etc., means immediately, as the verse is to be explained according to its pronunciation and not the spelling; [1](#) "and if thou *seest* the naked," etc., means that he shall *show* you that he is so. And there is a Boraitha supporting R. Jehudah. If one say: "Clothe me," he must be investigated, but if he say: "Feed me," it must be complied with at once without any investigation. There is a Mishna (mentioned in Sabbath, p. 247): "If a wandering mendicant come to a town, he must be given a loaf which can be bought for a pundian (one forty-eighth of a sela), when the price of flour is one sela for four saahs. If he remain over-night, he must be given lodging; and if he remain over Sabbath, he must be given three meals for Sabbath." What is meant by lodging? Said R. Papa: A bed to sleep in and a pillow; and a Boraitha in addition to this states that if this mendicant was begging from door to door, then the congregation need not look after him.

There was a mendicant who begged from door to door, and R. Papa paid no attention to him. Said R. Samma b. R. Ieba to him: If the master pay no attention to him, then no one will

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mind him, and he may starve to death. But did not the Boraitha say that if he beg from door to door the congregation has nothing to do with him? This means that to him must not be given what is appointed for mendicants who don't beg at the door, but something is to be given him. R. Assi said: One may not refuse to give at least a third of a shekel yearly for charity, as it is written [Neh. x. 33]: "And we established for us (as one of the) *commandments* to impose on ourselves (to give) the third part of a shekel in every year," etc. And he said again: The virtue of charity equals the sum of the virtues of all the other commandments together, as it is written (in the just cited verse) "commandments," in the plural and not in the singular. Said R. Elazar: The gatherer of charity is deemed more virtuous than he who gives charity, as it is written [Is. xxxii. 17]: "And the work of righteousness (*i.e.*, zedaka--charity) shall be peace; and the effect of it quietness and security for ever," which means: If he was worthy of reward, he will distribute his bread to the hungry; and if he was not worthy of reward, the poor will be the members of his household.

Said Rabha to the inhabitants of Mehusa, his city: I pray you, see that there be concord among you, in order that ye shall have peace from the government. R. Elazar said again: When the Temple was in existence one gave his shekel, and he was atoned. Now, when the Temple is destroyed, if people do charity, well and good; if not, the idolaters come and take away their goods by force. Nevertheless, even this is counted as charity in Heaven, as it is written [Is. lx. 17]: ". . . and righteousness as thy taskmasters." (Even when given to the taskmasters, it is counted in Heaven as charity.) Said Mar Uqba: I was told by the child who was corrected by his mother, in the name of R. Elazar, as follows: It is written [Is. lix. 17]: "And he put on righteousness as a coat of mail," etc., which may be understood, that as in a coat of mail every little link thereof is counted in the number which is needed to make up such a coat of mail, so every little coin of charity is counted in Heaven, in the end making up a great amount.

R. Hanina, however, said from the following verse [ibid., lxiv. 5]: ". . . and like a soiled garment, all our righteousnesses . . ." As every thread of a garment makes it into a great garment, the same is it with charity, that every coin counts in the great aggregate.

Why was R. Shesheth called the child who was corrected by

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his mother? Because it happened once that R. A'habui b. Ammi questioned him something concerning the law plagues; and while discussing this matter, the questioner answered him jestingly. R. Shesheth became dejected, and in punishment for this, R. A'habui became dumb, and forgot his studies. The mother of R. Shesheth came to him and wept before him, that he should pray for R. A'habui to be cured; but he did not listen to her until she said to him: "See the breasts by which you have been nursed," when he prayed, and R. A'habui was cured.

R. Elazar said: The one who is doing charity secretly is greater than Moses our master; as in regard to him it is written [Deut. ix. 19]: For I was afraid of the anger, and the indignation . . . and regarding him who does charity secretly, it is written [Prov. xxi. 14]: "A gift in secret pacifieth anger, and a bribe in the bosom, strong fury." He differs, however, with R. Itz'hak, who says that one pacifies only anger, but not strong fury. Because he maintains that the beginning of the verse just quoted does not correspond with the end; as it was heard in his name that a judge who accepts bribery brings strong fury into the world.

R. Itz'hak said again: He who gives a coin to a poor man is rewarded with six blessings; he, however, who encourages him is rewarded with eleven. The six are [Is. lviii. 8, 9]: "Then shall break forth as the morning dawn thy light. . . . Then thou shalt call, and the Lord will answer." The eleven are [ibid., ibid. 10]: ". . . and satisfy the afflicted soul, then shall shine forth in the darkness thy light And thou shalt be called," etc.

The same said again: It is written [Prov. xxi. 21]: "He that pursueth righteousness and kindness will find life, righteousness, and honor." How is this verse to be understood? Because he pursues righteousness, he will find righteousness? It means that whoever pursues righteousness and charity, the Holy One, blessed be He, will open unto him the ways of procuring money, in order that he may be able to do charity. R. Na'hman b. Itz'hak said that the Holy One, blessed be He, gives him the chance to find men who need and are worthy of support, so that he may have the full reward for it, in the world to come. What does he mean to exclude? He means to exclude what Rabha or Rabba lectured: It is written [Jer. xviii. 23]: ". . . in the time of thy anger deal thus with them."

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[paragraph continues] Thus prayed Jeremiah before the Holy One, blessed be He: "Lord of the Universe! even when they overrule their evil thoughts and are about to do charity, Thou shouldst not give them the chance to support worthy men; but unworthy ones, for which they will get no reward in the world to come." R. Joshua b. Levi said: "Whosoever makes it his business to do charity, will be blessed with sons having wisdom, wealth, and who will preach *haggadah* (morality)." As it is written in the above-cited verse, "will find life," which means wisdom; "wealth," as in the same verse it is written *zedaka* (which means charity, and, usually, to be able to do charity, one must be wealthy); and "haggadah," as in the same verse it says "honor," and reads [Prov. iii, 35]: "The wise shall inherit glory. . ."

There is a Boraitha: R. Mair used to say: If a common questioner discusses, "If your God likes

the poor, why does He not feed them?" one may answer, "For the purpose of saving us from the punishment of Gehenna." This Tarnusruphus questioned of R. Aqiba, and the above was his answer. To which Tarnusruphus rejoined: It is, on the contrary, for this you should be punished with Gehenna; and I will give you a parable from which you will understand why: A king became angry at his slave and put him in prison, with the command that nobody should feed him; in spite of this, a person fed him and gave him drink. Would the king not be angry at and punish such a man? And ye Israelites are called servants, as it is written [Lev. xxv. 55]: "For unto me are the children of Israel servants" R. Aqiba answered: I will give you another parable, to which my previous answer is to be compared: A king became angry with his son, put him in prison, and commanded that nobody should give him food or drink; in spite of which command, one fed him and gave him drink. When the king became aware of it, would he not be grateful to this person and send him a present? And we Israelites are called children, as it is written [Deut. xiv. 1]: "Ye are the children of the Lord," etc. Tarnusruphus, however, said: Ye are named children, and also servants--children, when ye are doing the Omnipotent's will, and servants when ye act against His will. And you will admit that now ye are acting against His will (as your Temple is destroyed and ye are in exile, which would not be the case, if ye did His will). Hence he who favors you acts against the will of God. To which R. Aqiba answered: With

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regard to this, it is written [Is. lviii. 10]: "And if thou pour out to the hungry thy soul, and satisfy the afflicted soul," etc. The "afflicted soul" refers to us in our present circumstances, and nevertheless the beginning of this verse favors such charity.

R. Jehudah b. Shalom lectured: As the yearly household expenses for one are appointed (in Heaven) on each Rosh Hashana, so are his losses. If he is worthy, he will act according to the beginning of the verse cited; but if not, the last portion of this verse, "the afflicted souls," will be the members of his own house. So Rabban Johanan b. Zakkai had seen in a dream that his nephews would lose in the current year seventeen hundred dinars, and he made them distribute this amount for charity. However, seventeen dinars remained with them, and on the eve of Atonement the government took them away from them. Then R. Johanan said unto them: "Fear not; seventeen dinars were taken from you, and you will lose no more." To the question: "Whence do you know?" he answered: "I have seen it in a dream." And to the question: "Why did you not inform us, as then we would have distributed the entire amount to the poor?" he answered: "In order that you give charity only for the purpose of doing the heavenly will."

It happened to R. Papa that, while mounting steps, he slipped, and nearly fell (and would have been killed; but was miraculously saved). Then he said: If this had happened, my enemies would have accused me of being a violator of the Sabbath or an idolater. Said Hyya b. Rabh of Diphti to him: Perhaps a poor man called upon you and you paid no attention to him. As we have learned in the following Boraitha: R. Joshua b. Kar'ha said: He whose eyes are shut to charity is likened unto an idolater; and this is to be taken from an analogy of expression in the following verses: Concerning charity it is written [Deut. xv. 9]: "Beware that there be not Belial in thy heart"; and concerning idolatry, it is written [ibid., xiii. 14]: "There have gone forth children of Belial." Hence the expression Belial makes the two above-mentioned acts equal.

There is a Boraitha: "R. Elazar b. Jose said: Charity and kindness done by Israel in this world, are defenders and peacemakers between them and their heavenly Father; as it is written [Jer. xvi. 5]: 'For thus hath said the Lord, Enter not into the house of mourning, neither go to lament nor

to condole with them; for I have taken away my peace from this people,

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saith the Lord, yea, kindness and mercy.' Kindness means bestowing of favors, and mercy means charity (hence, because these were taken away, therefore is the peace also taken away)."

There is another Boraitha: "R. Joshua said: Grace is charity, which nears the redeeming; as it is written [Is. lvi. 1]: 'Thus hath said the Lord, Keep ye justice and do *zedaka* 1 (charity).' The same used to say: Ten hard things were created in the world: A mountain is hard, iron cuts it; iron is hard, fire softens it; fire is hard, water extinguishes it; water is hard, the clouds bear it; clouds are hard, the winds spread them; the wind is hard, the body tolerates it; a body is hard, shaking breaks it; shaking is hard, wine dispels it; wine is hard, sleep removes it; death is harder than all of these, and charity saves from death; as it is written [Prov. X. 2]: '. . . but *zedaka* will deliver from death.' "

R. Dusthai b. Yannai lectured: Come and see how the manner of the Holy One, blessed be He, is not as the manner of human beings. When a human being brings a present to the king, there is a doubt whether it will be accepted or not; and if it be accepted, whether he will see the king. But the Holy One, blessed be He, is not so; if a man gives a coin to a poor man, he is rewarded and experiences the appearance of the Shekhinah; as it is written [Ps. xvii. 15]: "As for me, in *zedek* (charity) shall I behold thy face.

R. Elazar used to give a coin to a poor man before praying, quoting the above verse [ibid., ibid.]: "I shall be satisfied, when I awake, with contemplating thy likeness." What does it mean? Said R. Na'hman b. Itz'hak: "It means that scholars who keep sleep from their eyes in this world, the Holy One, blessed be He, satisfies them with the appearance of the Shekhinah in the world to come." R. Johanan said: It is written [Prov. xix. 17]: "He lendeth to the Lord, that is liberal to the poor." If this were not written, it would be impossible of conception; for it appears as if He becomes a servant to the lender; for it is written [ibid., xxii. 7]: ". . . and the borrower is servant to the man that lendeth." R. Hyya b. Abba, in the name of R. Johanan, said: It is written [ibid., xi. 4]: ". . . but *zedaka* will deliver from death"; and [ibid., X. 2]: "Treasures of wickedness will not profit aught; but *zedaka* will deliver from death." What do the two *zedakas* mean? One, that it

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saved him from an unnatural death; the other, that it saved him from Gehenna. Which of them speaks of Gehenna? The one from chap. xi., as there is there mentioned the day of "wrath"; as it is written [Zeph. i. 15]: "A day of wrath is that day," etc., meaning Gehenna. And what kind of *zedaka* saves one from an unnatural death? If he gives, and knows not to whom, and he who receives it knows not from whom (if he gives his donation to the treasurer of charity). "Gives and knows not to whom" excludes the acts of Mar Uqba (who used to put four zuz every day in the slot underneath the door for one poor man, so that the poor knew not from whom he received it, but Mar Uqba knew to whom he gave it). "The receiver does not know from whom" excludes the acts of R. Abba, who used to wrap up some dinars in his handkerchief and, coming among the poor, stretch his hand containing it behind him, and the poor would take it out; so that he knew not who took it, but the poor knew who was the giver. An objection was raised from the

following: What shall one do that he should have male children? R. Elazar said: He should distribute his money among the poor. R. Joshua said: He should enjoy his wife before he has intercourse with her. And R. Eliezer b. Jacob said: He shall not give a coin for the treasury of charity unless the treasurer is like unto R. Hananya b. Theradion. (Hence one must not always give to the treasury of charity?) The above Boraitha meant also when the treasurer was of that kind. R. Abuhu said: Moses said before the Holy One, blessed be He: "Lord of the Universe, how may the horn of Israel be raised?" To which He answered: "You should take charity from every one of Israel who is to be counted" [Ex. xxx. 12]. The same said again: King Solomon b. David was questioned: How great is the power of charity? and he answered: Go and see how David, my father, explained this [Ps. cxii. 9]: "He distributeth, he giveth to the needy: his righteousness endureth for ever; his horn shall be exalted in honor." Rabha, however, said, from the following verse [Is. xxxiii. 16]: "He shall dwell on high; rocky strongholds shall be his refuge; his bread shall be given him; his water shall be sure." And it is to be interpreted thus: "Why shall he dwell on high," etc.? Because to the poor he has given his bread, and to the down-trodden his water was sure. R. Abuhu said again: Solomon was questioned: Who is supposed to be the man who has a share in the world to come? And he answered with the verse [Is. xxiv. 23]:

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[paragraph continues] ". . . and before his ancients in glory" (which means him who is respected in his old age for the wisdom which he gathered during all his life. As it happened to Joseph b. R. Joshua, who was in a state of catalepsy, and when he awoke his father asked him: What have you seen in the upper world? And he answered: I have seen a reversed world: he who is here highly esteemed is there considered of the lowest class, and *vice versa*. His father rejoined: Not a reversed world, but a rational one, have you seen. He continued questioning: And how are we considered there? And he answered: The same as in this world. I also heard a saying: Happy are they who come here with their study in their hands. I also heard that those who were killed by the government, none of the creatures could approach them (because of their high standing).

Who is meant by those who were killed by the government? Shall we assume that R. Aqiba and his comrades are meant? Is it only because they were killed? (They were the greatest men of the generation, aside from this.) It meant them who were killed in Louda. (See Tract Taanith, pp. 45-46.)

There is a Boraitha: Rabban Johanan b. Zakkai questioned his disciples as to the meaning of the verse [Prov. xiv. 34]: "*Zedaka* exalteth a people; but the disgrace of nations is sin." And R. Eliezer answered: "*Zedaka* exalteth a people" means Israel, as it is written [II Sam. vii. 23]: "And who is like thy people, like Israel, the only nation on the earth?" And "the disgrace of nations is sin"--all the *zedaka* and kindness of the nations, if they indulge in them only for the purpose of becoming great or gaining a good name, is a sin for them. R. Joshua (one of the disciples) answered the first half-verse same as R. Eliezer; and the second half: If the nations do so even in order that their kingdom shall continue to exist for a long time, as in the case of Nebuchadnezzar [Dan. iv.]. Rabban Gamaliel answered the first half of the verse as above; the second half: It is a sin for the nations if they do so solely to pride themselves thereon against other nations. So he who is proud without cause falls into Gehenna, as it is written [Prov. xxi. 24]: "The presumptuous and proud, scorner is his name, who dealeth in the wrath of presumption." And by wrath is meant Gehenna, as mentioned above. Said R. Gamaliel: For the right interpretation of this verse we are still in need of the Modaith; as R. Eliezer b. Modaith interpreted it thus: The first part as above, and the second part: If the nations art doing so only for

the purpose of insulting Israel; as it is written [Jer. xl. 3]: "Now the Lord hath brought it . . . because ye have sinned," etc., which was said by Nebusaradan. R. Ne'hunia b. Hakana, however, answered. This verse is to be interpreted thus: *Zedaka* and kindness exalt a nation, meaning Israel; but to the nations it is considered a sin-offering. Their master, R. Johanan b. Zakkai, rejoined: It seems to me that Ne'hunia's interpretation is better than yours and mine. "Than mine! Did he also say something about this?" Yea as we have learned in the following Boraitha: "Said to them R. Johanan b. Zakkai: As a sin-offering atones for Israel, so does charity atone for all other nations."

Iphra Hurmiz, the mother of King Sabur, sent four hundred dinars for charity to R. Ammi, and he did not accept it, but forwarded it to Rabha, who accepted it, in order to have peace with the royal house. R. Ammi, however, became angry, and said: Does Rabha not accept the verse [Is. xxvii. 11]: "When its boughs are withered, they shall be broken off; women will come and set them on fire; for it is not a people of understanding," etc.?

But why does R. Ammi become angry? Did he not want to maintain the peace with the royal house? He thought that this money ought to be distributed among the Gentile poor only. Rabha also did so, but R. Ammi was not aware of it.

There is a Boraitha: It was said about Benjamin the Upright, who was a treasurer of charity, that at one time a woman came to him in the years of famine, asking him to feed her. And he told her: I swear that there is nothing in the treasury of charity. But she rejoined: Rabbi, if you will not feed me, you will find a woman with her seven children dead. He then fed her from his own pocket. At a later time he became sick and was near to death; the angels said before the Holy One, blessed be He: "Lord of the Universe, Thou hast declared that he who saves one soul of Israel is like unto him who has saved a whole world; and Benjamin the Upright, who has saved a woman with her seven children, should he die in his prime?" Immediately the adverse decree was torn, and a Boraitha states that twenty-two years were added to his life.

The rabbis taught: It happened with the King Monbas, who had distributed his treasure and that of his parents, in the years of famine, that his brothers and the whole household murmured against him, saying: Your parents saved and always added to

the treasure of their parents, and you are distributing all this! And he rejoined: My parents saved their riches in this world, and I save in the heavenly treasury. As it is written [Ps. lxxxv. 12]: "Truth will grow up out of the earth, and righteousness will look down from heaven." My parents saved in their treasury, which brought them no interest, and I have saved in such a treasury as does bring interest. As it is written [Is. iii. 10]: "Say ye to the righteous, that he hath done well; for the fruit of their doings shall they eat." My parents have saved in a place which can be reached by a hand, but I have saved in a place that can be reached by no hand. As it is written [Ps. lxxxix. 15]: "Righteousness and justice are the prop of thy throne: kindness and truth precede thy presence." My parents have saved for their descendants, and I have saved for myself. As it is written [Deut. xxiv. 13]: ". . . and *unto thee* shall it be as righteousness before the Lord thy God." My parents have saved money in their treasury, and I have saved souls in my

treasury. As it is written [Prov. xi. 30]: "The fruit of the righteous is of the tree of life; and the wise draweth souls to himself." My parents have saved for this world, and I have saved for the world to come. As it is written [Is. lviii. 8]: ". . . and before thee shall go thy righteousness; the glory of the Lord shall be thy [reward](#)."

"If, however, he bought a dwelling-house," etc. Our Mishna is not in accordance with R. Simeon b. Gamaliel of the following Boraitha, who says that if one bought a tract of land, however small, he is considered a citizen immediately. But have we not learned in another Boraitha that he taught, if one bought a tract of land which is even only fit to build a house upon? There are two Tanaim who have reported differently in his name.

MISHNA V.: Partners cannot compel each other to divide a courtyard unless each of the parts measures at least four ells; nor can a field be divided unless each part measures at least nine kabs for sowing. R. Jehudah, however, says: Nine half-kabs. Nor can a garden be divided unless each part measures at least half a kab for sowing. R. Aqiba, however, says: A quarter. Neither can one compel his partner to divide a dining-room, a turret, a pigeon-coop, a cloth, a bath-house, or an olive-press house, unless each has enough room to continue his former work. This is the rule: If, after division, each part retains its former name, then one can compel his partner to divide; but not otherwise. All this is said when the partners disagree;

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however, when they do agree, they may do as they please. An exception is the Holy Writ, if they possess it, which must not be divided, even if both agree to do so.

GEMARA: Said R. Assi in the name of R. Johanan: The four ells mentioned must be measured after doors and partitions necessary have been placed. And he may be supported from the following Boraithas: As one of them states that a courtyard is not to be divided unless each part contains eight ells, and another one states, unless four ells; to explain the contradiction, it is to be said that one treats without the doors and partitions, and the other treats with them.

R. Huna said: A yard must be divided in accordance with the doors (it means, he who possesses more doors is to get a greater share). R. Hisda, however, maintains that four ells must be allowed for each door, and the remainder should be divided equally. There is a Boraitha which supports R. Hisda: "All the doors which are in a yard, the owners of them have a right to four ells for each one; if one possesses one door, and another one two, the former takes four, and the latter eight ells; and the remainder is to be divided equally. If, however, one of them possesses a gate which measures eight ells, he has a right to eight ells opposite it, and four ells in the yard." What is meant by the additional four ells? Thus said Abayi: He takes eight ells in the length and four ells in the width of the yard. Amemar said: An excavation in the yard which contains *granum* of fruit for the food of cattle, four ells is to be measured to it on either side. However, this is said when the owner has no separate door for it; but if he has one, four ells to the door only are to be measured. R. Huna said: "To a balcony the law of four ells does not apply, as the four ells which are allowed for each door are for unloading, and to and from the balcony one goes through the door of the house. R. Shesheth objected from the following: Gates of houses, as well as gates of balconies, have a right to four ells? The Boraitha speaks of a balcony which is partitioned with windows; if so, then it is self-evident, as it is a good chamber? It means that the partitions did not reach the ceiling. The rabbis taught: A gate, a balcony, or a gallery to which doors of the upper compartments open, and from which steps lead down to the court,

have each a right to four ells. And even if five houses were open -to this gallery, no more than four ells are allowed. R. Johanan, questioned R. Jannai: Has a chicken-coop a right to four ells,

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or not? And he answered: The four ells are given for unloading, and here he can load and unload through the roof of the chicken-coop. Therefore it has no right to four ells.

Rabha questioned R. Na'hman: In the case of a house which is only half roofed, how is the law about the four ells in question? And he answered: It is not entitled to them--not only when it is roofed from inside, so that it is easy for one to go in to unload; but even when it is roofed from outside, he may take the trouble of entering from inside to unload.

R. Huna questioned R. Ammi: If one of the inhabitants of an alley desires to open the door leading from his yard to another alley, may the inhabitants of that alley prevent him, or not? And he answered: They may. He questioned him also: Lodgings for the government militia, how should they be arranged? In accordance with the number of souls or in accordance with the number of doors? And he answered: In accordance with the number of souls. And so also have we learned in the following Boraitha: Manure in the yard is to be divided in accordance with the doors of the house; and military lodgings, in accordance with the number of souls.

R. Huna said: If one of the inhabitants of an alley desires to make a fence around the entrance, the other inhabitants may prevent him, because he extends their way (making them walk around his fence). An objection was raised from the following: If there were five courtyards open to the alley (which was, in turn, open to the street), all of them may use the place bordering on the fifth yard which is nearest the street (for loading, unloading, etc.). The fifth, however, may use only its own place, but not the places near the other yards. The same is the case with the first three at the place near the fourth yard, the first two at the third, and only the first one at all of them, while none of them have the first one. (Hence we see that to the first one none of them has a right; and this objects to R. Huna's theory, who said that *none* of them have a right to make a fence around their entrance.) Regarding this law, Tanaim. of the following Boraitha differ: One of the inhabitants of an alley who desires to open his door into another alley, the inhabitants of that alley may prevent him. If, however, the door was *there*, only it was shut, and he wanted to open it, they cannot prevent him. So is the decree of Rabbi. R. Simeon b. Elazar, however, maintains, that if there were five yards opening to an alley, all of them may use the places which border upon the yards in

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the alley. And to the question, "Where are yards mentioned?" it was said that this Boraitha is not complete, and should read thus: "And the same is the case with five yards which open into an alley: all of them may use the fifth which is nearest the street, and the fifth can use only its own place, etc. So is the decree of Rabbi. R. Simeon, however, maintains that all of them may use the places alike."

The master says: If there was a door, and it was shut, the inhabitants cannot prevent him. Said Rabha: This law holds good only when he had not broken the hinges; but if he had broken the hinges, it is supposed that he had not intended to open the door again, and the inhabitants can

prevent him from doing so. Said Abayi to him: The following Boraitha supports you: "If there was a house with a closed door, the four ells for unloading applies to it; if, however, the owner broke the hinges from the door, he has lost his right to them." Rabba b. b. Hana, in the name of R. Johanan, said: Alleys which are open to a road which leads to another city, and the inhabitants of this city desire to close them, the inhabitants of that city may prevent them; not only when there is no other road to that city, but even if there was another road, they can also prevent them. As R. Jehudah, in the name of Rabh, declared: A thoroughfare which is occupied by a majority, it is prohibited to spoil.

R. Annan, in the name of Samuel, said: Inhabitants of alleys who desire to make doors to their ends which are open to the street may be prevented by the public. The schoolmen were about to interpret this that it meant only the first four ells which are attached to the public ground, but not beyond this. As R. Zera said elsewhere, in the name of R. Na'hman: The four ells which are attached to the public ground are to be considered as the public ground itself. In reality, however, it is not so, as R. Na'hman's decision there was only regarding the law of defilement; but here it might happen that the street should be crowded and many people would enter beyond the four ells.

"*Nor can afield be divided,*" etc. And R. Jehudah does not differ with the first Tana, as each of them speaks in accordance with the custom in his country. But what is the law in Babylon? Said R. Joseph: It can be divided if there is enough to plough for a day. How is this to be understood? If it means in the days of sowing, when the earth has already been ploughed, then the ploughing will not last two days, and in one day it could not be

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completed; and if in the days of ploughing, then in the time of harvest there will not be a day's work (and it is a trouble to hire laborers for a fraction of a day)? If you wish, it may be said that it means a day of ploughing and sowing together; and if you wish, it may be said that it means a day of sowing and artificial watering. R. Na'hman said: A valley can be divided when there is for each part a day's artificial watering. "A vineyard," says the father of Samuel, "three kabs for each part." And so also we have learned in the following Boraitha: "If one says: 'I sell you a part of the vineyard,' it is no less than three kabs. So is the decree of Symmachos." Said R. Jose: "Such a decree is only prophetic, as I see no ground for this." How is the law in question to be decided in Babylon? Said Rabha b. Qisna: There shall be no less than three bushes, each of them containing no less than twelve branches of grapes, to dig which is a man's day's work.

Said R. Abdimi of the city 'Haifa: Since the Temple was destroyed, prophecy was taken away from the prophets and was given to the wise. (How is this to be understood?) Can a wise man not be also a prophet? In other words, were all the prophets fools? He means to say, that although it was taken away from the prophets who were not wise, it was not taken away from the wise ones. Said Amemar: And a wise man is better than a prophet, as it is written [Ps. xc. 12]: ". . . obtain (*nobbi* [1](#)) a heart endowed with wisdom." And usually, who is dependent upon whom? The smaller is dependent upon the greater. Hence wisdom is greater than prophecy. Said Abayi: This theory may be supported from the fact that one great man declares something new, and exactly the same had been said by another great man. Said Rabha: "What support is this? It may be that both of them are equal in wisdom. Therefore," said he, "it happens frequently that a great man declares something new, and afterwards it is found that Aqiba b. Jose has already declared so (and it is hard to say that he was equal in wisdom to R. Aqiba). R. Ashi, however,

objected also to this: It may happen that in this one case he was equal in wisdom to him. And he supported this from the fact that it very often occurs that a sage declares a Halakha, and afterwards it is learned that the same was already said to Moses on Mount

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[paragraph continues] Sinai. But even then, perhaps it was by chance, as it happens that a blind man accidentally seizes something. It means that he declares also the reason of it.

R. Johanan said: Since the Temple was destroyed, prophecy was taken away from the prophets and was given to lunatics and small children. What is meant by lunatics? Thus it happened to Mar b. R. Ashi, who was standing in the market of Mehuza and heard a lunatic say that the future head of the college in Suria would be Tibumi (Mar's name was Tibumi). And he said: "Who among the rabbis signs his name Tibumi, if not myself? Hence I shall succeed." And he went to Suria. In the mean time the rabbis of the college intended to appoint R. A'ha of Diphthi as their head. However, when they heard that Mar had arrived, they sent to him two of the rabbis to take his advice, and he detained them. Then they sent another two, and he did the same with them. Finally ten of them arrived, and then he began to teach and to lecture, and proclaimed himself as the head of the college. [He did so because one must not begin to lecture if there are less than ten persons present.] R. A'ha then applied to himself the saying of the sages: He to whom harm has been done by heaven, has no hope of relief in the near future, and *vice versa*.

And what in regard to the children? For example, the little daughter of R. Hisda was sitting on the knee of her father, and Rabha and Rami b. Hama were sitting opposite, and to the question of her father, "Whom of them would you like to marry?" she answered, "Both of them." And Rabha immediately rejoined: "I shall be the last one." (And so it was. Rabha married her after the death of her first husband, Rami b. Hama.)

R. Abdimi of Haifa said again: Before one eats and drinks he has two hearts, and after this he has only one, as it is writ ten [Job, xi. 13]. 1 Said R. Huna b. R. Joshua: Who is used to wine, even if his heart is locked like a virgin's, the wine opens it; as it is written [Zech. ix. 17]: ". . . and new wine the virgins."

R. Huna b. R. Joshua said: It is certain that when a firstborn among his brothers (who is entitled biblically to two shares) comes to inherit his shares in real estate, he is to be given two portions adjoining. But how is it if the first-born has died

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without children, and the surviving brother marries his wife and takes his shares--does the law of preëmption apply to him also, as to the dead brother, or not? Abayi said: He is to be treated just as the dead one. And Rabha said: It is written [Deut. xxv. 6]: "And it shall be that the firstborn," etc., which signifies that he shall be treated as the first-born in that respect, but not respecting the division of a heritage.

There was a man who bought an estate near to the estate of his father-in-law (who had no male children), and when they came to divide the inheritance of the father-in-law, he insisted that the estate at the boundary of the one he bought should be given to him. Said Rabha: Such a claim, if

not listened to, it would be equal to the acts of Sodomites. Therefore they must be compelled to comply with his wish. R. Joseph opposed: Could not his brothers-in-law claim that this estate was pleasant to them as the estate of Bar Marion (which was then known as the best estate)? And the Halakha prevails in accordance with R. Joseph (if the estate needs no artificial watering). Should one of brothers who are about to inherit two estates of dry land, each of which has a pond for watering, buy an estate adjoining one of the two estates in question, and demand that this should be given him as his share--said Rabha: As each of them has a pond for watering, his claim is a right one; and if declined, it would be a Sodomite custom. R. Joseph, however, opposed this, saying: His brother can claim: "It might happen that one pond would become dry and we should be compelled to water both estates from one pond; but as he has bought another estate, the pond will not be sufficient for watering all of them, and mine would remain dry." And the Halakha prevails in accordance with him also in this case.

If the inheritance consists of two estates which are watered from one pond, and one of the brothers has bought an estate adjoining one of these, and demands this adjoining one as his share--said R. Joseph: His claim is a right one, as the above reason cannot apply here; and, therefore, if it should not be listened to, it would be a Sodomite custom. To which Abayi opposed: One can claim: "It is better for me to have my estate between your two, and then it will be better preserved." However, the Halakha prevails again with R. Joseph, as the latter claim is not to be considered. If two brothers inherit an estate which has a river on one side and a pond on the other, the

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estate must be divided diagonally so that each half borders on both the river and the pond.

"*Nor a dining-room,*" etc. But how is it when there is not so much space for each? According to R. Jehudah the law, "Either you concede or I concede," must be applied. One of them can say: "Either I pay you cash for your share, and the whole estate remains for me, or *vice versa.*" And R. Na'hman said: Such a law cannot be applied, and they must remain in partnership. Said Rabha to R. Na'hman: According to your decision, that the law of concession does not apply in such a case, how is it, then, if a first-born and his brother have inherited from their father a slave, or an animal which is not fit for slaughtering--how shall they divide it? (A first-born is entitled to two-thirds; and therefore he took as his instance a first-born, because it is more difficult for them to remain partners.) Answered R. Na'hman: Because I say even then they must remain partners, and the slave or animal in question must serve to one two days, and to the other one.

An objection was raised from the following: If there is a bondsman only in half (as, for instance, he has been a bondsman of two masters and was freed by one of them), he may serve his master one day, and attend to his own business the other day. So is the decree of Beth Hillel. Said Beth Shammai: Such a law is partial, as you have satisfied only the master, but not the bondsman; as the bondsman cannot marry a female slave, for he is half free, nor can he marry a free maiden, because he is half slave, shall it be decided that he shall remain unmarried? This would also be improper, as the world is created for reproduction; as it is written [Is. xlv. 18]: "Not for naught did he create it: to be inhabited did he form it." And therefore he can compel his master to set him free, and accept a note for half his value. And Beth Hillel changed their decision and yielded to that of Beth Shammai. (Hence we see that in such a case the law of concession applies?) Here it is different, as the concession is not an even one for both partners; for the

bondsman can only demand of the master to accept half his value for freeing him; but the master cannot demand of the bondsman to sell him his free half, as this is against the law.

Another objection was raised: Two brothers, one of them rich and the other poor, inherit from their father a bath- or a press-house. If it is rented to somebody, they must certainly divide the rent; but if the bath was made for their private use,

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the rich brother can say to the poor one: You may hire or buy servants who will prepare the bath for your use, but I will not pay for half the work, or buy olives and press them in the press-house. (Hence we see that the law of concession does not apply?) Here also the concession is not even, as the poor one has no money to offer to pay for his share in the inheritance. Come and hear another objection from our Mishna. "If, after the subdivision, each part can retain its former name," etc., but if not, it must be appraised in money and one of the partners must concede his share to the other when he is paid. (Hence the law of concession applies?) On this point Tanaim differ, as we have learned in the following Boraitha: "If one of the partners says to the other: 'Take your share in full, and I will take the remainder,' he must be listened to. R. Simeon b. Gamaliel, however, says that he must not."

Now let us see. If the case be similar to that of our Mishna, why should R. Simeon b. Gamaliel object? We must say, then, that the Boraitha cited is not complete, and it should read thus: "You take the prescribed quantity for your share, and I will take the remainder; or, I will concede or else you concede"--he is to be listened to. And R. Simeon b. Gamaliel said: "Nay." Hence Tanaim differ. The case maybe similar to that quoted in our Mishna, and the reason of R. Simeon why he must not be listened to, is this: He may claim: "I have no money to pay for your share, and I do not want to accept a present from you." As it is written [Prov. XV. 27]: "He that hateth gifts shall live."

Said Abayi to R. Joseph: R. Jehudah's decision, that the law of concession applies, is in accordance with Samuel, who said, concerning the Holy Writ, that if it was a property of two partners "it must not be divided even when both agree," the case being only when it was bound in one volume; but if bound in two parts, they may. And this can also be correct when the law of concession does not apply; for if it were applied, then there would be no difference whether bound in one or in two parts. R. Shalman, however, explained the decision of Samuel: When both partners agree to divide.

Amemar said: The law of concession is to be applied. Said R. Ashi to him: And what about R. Na'hman's decision? And he said: I do not hold with him. "Is that so? Did it not happen to Rabba and R. Dimi, the sons of Hinna, that their father bequeathed unto them two female slaves, one of them

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able to cook and bake, and the other to spin and weave; and they came before Rabha, and he decided that the law of concession did not apply here?" "There was another reason; viz., both brothers needed the services of both slaves. And to decide, 'You take one and I take the other,' would not be the law of concession." But did not Samuel decide that when bound in two parts

they might divide? It is already explained above that he speaks of a case when both partners are willing to do so.

The rabbis taught: One may attach the Pentateuch to the Prophets, and both to the Hagiographa, and keep them in one volume. So is the decree of R. Meir. R. Jehudah, however, said: "Each of them is to be kept separately." The sages said, furthermore, that the book of each Prophet must be kept separately. Said R. Jehudah: It happened with Beithus b. Zonin, that he had eight books of the Prophets attached together, with the permission of R. Elazar b. Azariah. According to others, however, he had the books, but they were each of them kept separately. Said Rabbi: It happened once that the Pentateuch, Prophets, and Hagiographa, attached to one another, were brought to us, and we approved it.

After each book of the Pentateuch, four lines must be left blank when copying. The law is the same regarding each book of the Prophets; except in the case of the books of the Twelve Prophets, three lines after each is sufficient to be left blank. However, if one book ends at the bottom of the page, the next book may be begun right at the top of the next page without leaving any lines blank.

The rabbis taught: "If one wishes to attach the scrolls of the Pentateuch, Prophets, and Hagiographa to one another, he may do so, provided he leaves a whole page blank at the beginning, and at the end enough blank space to wrap around the entire scroll; and he may begin a new book at the top of a page when the previous book ends at the bottom of the page preceding. And if he wishes to separate the books afterwards, he may do so." How is this to be understood? It is self-evident that a separate book is better than if attached. It means to say one may begin at the top of the page; as then, if he decides to separate the books, it will be easier for him to do so. There is a contradiction in the following Boraitha, which states: "There must be blank space at the beginning and at the end of each book, sufficient to wrap it up." To wrap what up? Around

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the whole book? Then it contradicts the former Boraitha which states that at the beginning one page is sufficient; and if it means only one page, then it contradicts the above, which states "enough at the end to wrap around the book"? Said R. Na'hman b. Itz'hak: This Boraitha also means to leave blank space at the beginning and at the end, as prescribed. R. Ashi, however, said: The latter Boraitha speaks of the Holy Scrolls, as we have learned in the following Boraitha: "All scrolls are rolled (around *one* holder) from right to left; the Holy Scrolls are rolled towards the middle (and must be attached to *two* holders); and a blank page must be left both at the beginning and at the end." And R. Eliezer b. R. Zadok said: So wrote the scribes of Jerusalem their Holy Scrolls.

The rabbis taught: The length of the Holy Scrolls must not exceed the circumference; nor must the latter exceed the length.

Rabbi was questioned about the prescribed dimensions of the Holy Scrolls. He answered: Six spans in length when written on double parchment will be equal to the circumference; and when on ordinary parchment, I do not know what length.

R. Huna wrote seventy Pentateuchs, and in only one of them the length happened to be equal to the circumference. R. A'ha b. Jacob wrote only one, on calf-skin, and the measurements happened to be just as prescribed; and the rabbis cast their eyes upon him, and he died.

[Said the rabbis to R. Hamnunah: Is it true that R. Ammi wrote four hundred Pentateuchs? And he answered: Perhaps he wrote only one verse [Deut. xxxiii. 4]: "The law which Moses commanded us, is the inheritance of the congregation of Jacob," four hundred times. Similarly to this, Rabha questioned R. Zera: Is it true that R. Janai had planted four hundred vineyards? And he answered: Perhaps such as contain five trees, two on each side and one behind (which, in regard to the law of Kilaim, is considered a vineyard).]

An objection was raised: The ark which was made by Moses was two and a half ells in length, one and a half in width, and one and a half in height: all these measurements were taken with an ell of six spans. The tablets which were brought down by Moses were six spans square and three spans thick: they were placed in the ark lengthwise. Now, how much space did the tablets occupy in the ark? Twelve spans. Then three spans of space were left. Take off one span for the two walls of the ark, each of which was half a span, then two spans' space

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was left, where the Holy Scrolls were placed. As it is written [I Kings, viii. 9]: "There was nothing in the ark save the two tables of stone," etc. The expressions "nothing" and "save" are an *exclusion* after an *exclusion*; and there is a rule that where such is to be found, it means an *inclusion*; and here the Holy Scrolls are included, which were in the ark. Now the length of the ark is accounted for. How is the width to be accounted for? The tablets occupied six spans in width; and from the remaining three one span must be deducted for the two walls. This leaves two spans of empty space, to the end that the Holy Scrolls should not be crushed while being taken out or returned. So said R. Mair. R. Jehudah, however, maintains that the ell was of five spans. The tablets, which were six spans square and three thick, were placed in the ark lengthwise, and occupied twelve spans, thus leaving only one-half span of space: one finger (a quarter of a span) for each wall. This is for the length. As to the width, the tablets occupied six spans; and from the remaining space of one and a half spans take off half a span--one and a half fingers 1 for each wall--leaving then one span; and this was occupied by the pillars. As it is written [Solomon's Song, iii. 9 and 10]: "The pillars thereof," etc. And also the casket in which the Philistines placed the gift to the God of Israel was put alongside. As it is written [I Sam. vi. 8]: "Ye must put in a casket alongside of it, and then send it away," etc. And upon the casket the Holy Scrolls were placed. As it is written [Deut. xxxi. 26]: "Take this book of the law, and put it at the side of the ark," etc. We see, then, that it was placed at the side and not within the ark. But what is to be *included* from the two *exclusions* mentioned above? The broken tables, which were first broken by Moses. Now, if it is borne in mind that the circumference of the Holy Scrolls was six spans, its diameter must have been two spans, as there is a rule that everything with a circumference of three spans has a diameter of one span. Now, as it was said above, that the Holy Scrolls were rolled toward the middle, then the diameter must exceed two spans, for the space in the middle between the two rolls could not be reckoned in the two spans. How, then, could it get in? Said R. A'ha b. Jacob: "The Holy Scrolls which were written by Moses (of which the king read the portion

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belonging to him, and the high priest read on the Day of Atonement in the court of the Temple) were rolled from left to right only, in one roll." But even then, how can you put in a thing which is two spans in thickness into a space of only two spans? Said R. Ashi: "A piece of the parchment was left, out from the roll, so that it could be put in the two spans, and what was left was lying on the top." But according to R. Jehudah's theory, where were the Holy Scrolls placed before the Philistines sent the casket? A little board was attached to the pillars, and the Holy Scrolls were put upon it.

The rabbis taught: "The order of the prophets is as follows: Jehoshua, Judges, Samuel, Kings, Jeremiah, Ezekiel, Isaiah, and the Twelve Prophets." Let us see: Hosea, of the Twelve Prophets, was before Isaiah, as it is written [Hosea, i. 2]: "The beginning of the word of the Lord," etc. This certainly cannot be understood that he was the first of the prophets to whom the Lord spoke since the time of Moses, as there were many prophets after Moses preceding Hosea. And therefore R. Johanan explains that he was the first of the four prophets who prophesied at that period; viz.: Hosea, Isaiah, Amos, and Micah. Hence he was before Isaiah. Why is he placed after? Because his book is counted among the Twelve, among whom were Haggai, Zechariah, and Malachi, who were the last of the prophets: therefore his book is placed together with theirs. But why was the book of Hosea not separated, and placed first? Because his book is small, and if it were placed separately it would become lost. However, was not Isaiah before Jeremiah and Ezekiel? Why is he not placed first? Because "Kings" ends with the destruction of the Temple, and the whole book of Jeremiah speaks of the destruction, and that of Ezekiel at the beginning speaks of the destruction and at the end of consolation, while Isaiah's entire book speaks of consolation: destruction was put next to destruction, and consolation next to consolation.

The order of the Hagiographa is as follows: Ruth, Psalms, Job, Proverbs, Ecclesiastes, Song of Solomon, Lamentations, Daniel, Book of Esther, Book of Ezra, and Chronicles. [1](#)

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And who wrote all the books? Moses wrote his book and a portion of Bil'am [Numbers, xxii.], and Job. Jehoshua wrote his book and the last eight verses of the Pentateuch beginning: "And Moses, the servant of the Lord, died." Samuel wrote his book, Judges, and Ruth. David wrote Psalms, with the assistance of ten elders, viz.: Adam the First, Malachi Zedek, Abraham, Moses, Hyman, Jeduthun, Asaph, and the three sons of Korach. Jeremiah wrote his book, Kings, and Lamentations. King Hezekiah and his company wrote Isaiah, Proverbs, Songs, and Ecclesiastes. The men of the great assembly wrote Ezekiel, the Twelve Prophets, Daniel, and the Book of Esther. Ezra wrote his book, and Chronicles--the order of all generations down to himself. [This may be a support to Rabh's theory, as to which, R. Jehudah said in his name, that Ezra had not ascended from Babylon to Palestine until he wrote his genealogy.] And who finished Ezra's book? Nehemiah ben Chachalyah.

There is a Boraitha in accordance with him who said that the last eight verses of the Torah were written by Joshua; namely: "It is written [Deut. xxxvi. 5]: 'And Moses the servant of the Lord died,' etc. Is it possible that Moses himself should have written 'and he died'? Therefore it must be said that up to this verse Moses wrote, and from this verse forward Joshua wrote. So said R. Joshua, according to others R. Nehemiah." Said R. Simeon to him: Is it possible that the Holy Scrolls should not have been complete to the last letter, and nevertheless it should read [ibid., xxxi. 26]: "Take this book of the law," etc. Therefore, we must say that up to this verse the Holy One, blessed be He, dictated, and Moses repeated and wrote it down; and from this verse

forward He dictated, and Moses with tears in his eyes wrote it down; as thus it is read [Jer. xxxvi. 18]: "Then said Baruch unto them, With his mouth did he utter clearly all these words unto me, and I wrote them in the book with ink."

According to whom, then, is the following--that R. Joshua b. Aba, in the name of R. Gidel, quoting Rabh, said: "The last eight verses of the Pentateuch, when read from the Holy Scrolls, must be read by one person without any interruption"?

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[paragraph continues] Should it not be in accordance with R. Simeon? It may be also in accordance with R. Simeon; and the reason for the exception of these eight verses is because, as there was already a change at the writing by Moses (as said above), the change is made also here. "Joshua wrote his book"; but is it not written there: "And Joshua died"? This was written by Elazar. But is it not written there: "And Elazar died"? The book was finished by his son Pinchas.

"Samuel wrote his book." But is it not written: "And Samuel died"? The book was finished by Gad the seer and Nathan the prophet.

"David wrote the Psalms," etc. But why did the Boraitha not enumerate also Ethan the Ezrachite? Said Rabh: "The latter and Abraham are identical." It enumerates Moses, and also Hyman; did not Rabh say that by Hyman is meant Moses? There were two Hymans.

"Moses wrote his book," etc. This is a support to R. Levy b. Lachma, who said that Job lived in the time of Moses. 1 Rabha, however, said: Job lived in the time of the spies which were sent by Moses to investigate Palestine.

One of the rabbis was sitting before R. Samuel b. Na'hmeni and said: Job never existed; and is mentioned in the Scripture only for an example. Said he to him: The Scripture is against your theory, as it states plainly [Job, i. 1]: "There was a man," etc. But according to your theory it is also written [II Sam. xii. 3]: "But the poor man had nothing," etc. Was it so in reality? It was written only for an example! The same may be said concerning Job? If it were so, why, then, his name and the name of the country he came from?

R. Johanan and R. Elazar both said that Job was among the ancestors of the Babylonian exiles; and his college was in Tiberias.

An objection was raised: There is a Boraitha: "Job's age was from the time when Israel came to Egypt until he left it." Read: "As many years as the Israelites were in Egypt." Another objection was raised. There were seven prophets who have prophesied to the nations, viz.: Bil'am and his father, Job, Eliphaz the Themanite, Bildad the Shuchite, Zophar the Na'amathite, and Elihu ben Barachel the Buzite. (Hence we

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see that Job was a Gentile?) And according to your theory, was then Elihu, just mentioned, a Gentile? He was certainly an Israelite, as it is written, "of the family of Ram." And why is he

called a prophet of the nations? Because his prophecies were for the nations. The same can be said concerning Job. But did not the Jewish prophets also prophesy for the nations? The Jewish prophets prophesied to Israel, and to the nations also, but the above-mentioned seven have prophesied for the nations only.

There is an objection from the following: A pious man was among the nations, and Job was his name; and he came to this world only for the purpose of receiving his reward. The Holy One, blessed be He, however, brought chastisements upon him, and he began to blaspheme; the Lord then doubled his reward in this world, so that he should have no share in the world to come. (Hence we see that Job was a Gentile?) On this point Tanaim of the following Boraitha differ: R. Elazar said: Job was in the time of the judges; as it is written [Job, xxvii. 12]: ". . . deal in such vanities?" And which generation was one entirely of vanities? It is the generation of the Judges. R. Joshua b. Karha said: Job was in the time of Ahasuerus; as it is written [Job, xlii. 15]: "And there were not found such handsome women as the daughters of Job," etc. And in which generation were handsome women searched for, if not in the generation of Ahasuerus? [But perhaps it was in the time of David, when handsome women were also searched for [I Kings, i. 3]? There they searched only among the daughters of Israel, but in the time of Ahasuerus it is written, "in all the land."] R. Nathan said that Job was in the time of the Queen of Sheba, as it is written [Job, i. 15]: "When the Sabeans made an incursion." [And R. Samuel b. Na'hmeni said in the name of R. Jonathan: He who translates *Malchas Sheba* "the queen of Sheba" is in error, as the right translation is "the government of Sheba."] And the sages said: He was in the time of the Chaldea, as it is written [ibid., ibid. 17]: "The Chaldeans posted themselves," etc. Still others said that Job was in the time of Jacob and has married Dinah, Jacob's daughter. (They infer it from an analogy of expression, *Nebala*.) And all the just mentioned sages hold that Job was an Israelite, except the last, who maintains that he was a Gentile. R. Johanan said: It is written [Ruth, i. 1]: "And it came to pass in the days when the judges judged," etc. It means it was a generation that

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judged the judges. If, *e.g.*, the judge said to them: "Takeout the toothpick from thy tooth," they answered: "If thou wilt take the beam out of thy eyes, I will remove the toothpick." If, *e.g.*, the judge said to one: "Thy silver is become dross," the answer was: "Thy wine is drugged with water" [Is. i. 22] (*i.e.*, if the judge accused one of a small transgression, the accused said to him: "Thou thyself art a greater sinner than I am").

It is written [Job, i. 6-9]: ". . . that the accuser (Satan) also came in the midst of them," etc. Satan said before the Lord: "I have sped all over the world, and found no trusty man like thy servant Abraham, to whom thou didst say [Gen. xiii. 17]: 'Arise, walk through the land in the length of it and in the breadth of it; for unto thee will I give it.' And not withstanding this, when he searched for a grave to bury his wife Sarah, and did not find one until he bought it for four hundred silver shekels, he did not murmur or bear in mind anything against thee." "Then said the Lord to Satan," etc. Said R. Johanan: That which was said about Job is more important than that which was said about Abraham, as regarding the latter it is written [ibid., xxii. 12]: "Now I know that thou fearest God," etc. And regarding the former it is written [Job, i. 1]: "And this man was perfect and upright, and fearing God and eschewing evil." What is meant by "eschewing evil"? Said R. Aba b. Samuel: Job was liberal with his money; it is customary, if a laborer has done some service to the value of half the smallest coin, that the employer takes him to the storekeeper, buys something for this coin, and gives the laborer the half due him. Job, however,

gave him the whole coin for such services. "Then Satan answered, Is it for nought that Job feareth God? . . . the work of his hands hast thou blessed." What does this mean? Said R. Samuel b. R. Itz'hak: "Any one who took a coin from Job for business, has succeeded." And what means, "And his cattle are far spread out in the land"? Said R. Jose b. Hanina: His cattle have changed the order of the world. Usually wolves kill goats; Job's goats, however, killed wolves.

"But only stretch forth thy hand," etc. [ibid. 11-19]: "The oxen were ploughing, and the she asses were feeding beside them." How is this to be understood? Said R. Johanan: From this is to be inferred that the Holy One, blessed be He, gave Job a foretaste of the world to come (as about the world

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to come it is written [Jer. xxxi.] that pregnancy and birth in a woman occurred together). "A fire of God," etc. [to ii. 5]. Satan again answered the Lord, as said above.

"And Thou hast incited me against him," etc. Said R. Johanan: If this were not written it would be impossible for a human being to conceive it: the Scripture speaks of the Lord as if He were a human being who can be influenced through incitement.

There is a Boraitha: Satan descends and tempts human beings; then ascends and accuses them; then takes the order and takes the soul of him whom he has tempted.

"Then the accuser answered the Lord," etc. [ibid., ibid. 4-8], Said R. Itz'hak: Satan was more afflicted than Job himself. It is similar to a master who says to his servant: "Break the barrel, but save the wine" (without letting him have a vessel to save it in). So was it with Satan; the Lord told him to take Job's body, but to save his soul. Said Resh Lakish: From this we see that he who is called Satan is himself the evil spirit who tempts one to sin; and he himself is the Angel of Death, as he was told to save the life: from which it is to be seen that the life of man was in his hands.

R. Levi said: Satan and Peninnah both intended (with their accusation) to please heaven. Satan, who had seen that the Lord was favorable toward Job, feared that through the justice of Job Abraham's merits would be forgotten, and, therefore, he spoke as above. And Peninnah, as it is written [I Sam. i. 6]: "And her rival also provoked her continually, in order to make her fret," etc. It means for the purpose of making her pray and have a child. R. A'ha lectured the same in the city of Papuniah, and Satan came and kissed his feet for this.

"With all this, did not Job sin with his lips." Said Rabha: "With his lips he did not sin, but he sinned in his heart." What was it? [Job, ix. 24]: "Is a land given up to the wicked? He covereth the faces of its judges: if this be not the truth, who is it then? 1 Said Rabha. Job was about to turn the dish face downwards (*i.e.*, to deny the might of the Lord).

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[paragraph continues] Said Abayi to him: Job spoke only about Satan. On this point Tanaim differ. About the just cited verse R. Elazar said: Job was about to turn the dish face downwards. And R.

Joshua said to him: Job spoke only with regard to Satan. It is written [ibid. x. 7]: "Still it is within thy knowledge that I am not wicked, and there is none that can deliver me out of thy hand." Said Rabha: Job wanted to free the whole world of a trial. He said thus: Lord of the Universe, Thou hast created an ox with parted hoofs, and us without (and Thou hast commanded that only creatures with the parted hoofs shall be eaten, but Thou couldst have made it the reverse). Thou hast created Paradise, and Thou hast created Gehenna; Thou hast created the upright, and Thou hast created the wicked. Who can prevent Thee? (Hence no reward and no punishment should be dealt, as all was done according to Thy will!) And what have Job's colleagues answered to this? [ibid. xv. 4]: "Yea, thou truly makest void the fear (of God), and diminishest devotion before God." Which means that the Holy One, blessed be He, has created the evil spirit, and He has created wisdom as a remedy against him.

Rabha lectured: It is written [ibid. xxix. 13]: "The blessing of him that was ready to perish came upon me; and the heart of the widow I caused to sing for joy." From the first half of this verse we learn that he used to rob a field belonging to orphans, improved it, and returned it to them; and in the latter half we learn that if there was a widow whom no one wished to marry, he put his name upon her, saying that she was his relative, and then it was easy for her to marry. It is written [ibid. vi. 2]: "Oh, that my vexation could be truly weighed, and my calamity," etc. It was said by or to Rabh: The earth may cover Job's mouth for this. He makes himself a comrade of providence [ibid. ix. 33]: "There is no one who can decide between us, who could lay his hand upon us both." Said Rabha: For this also his mouth may be covered with earth: should a slave rebuke his master? [ibid. xxxi. 1]: "A covenant had I made with my eyes: how, then, should I fix my look on a virgin?" Said Rabha: He had not looked upon strange women, but Abraham had not looked even at his own wife; as it is written [Gen. xii. 11]: "*Now* I know that thou art a woman of handsome appearance," from which it is to be inferred that *before* that time he knew not that.

[Job, vii. 9]: "As the cloud vanisheth and passeth away:

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so will he that goeth down to the nether world not come up again." Said Rabha: From this we see that Job denied resurrection. [Ibid. ix. 17]: "He that bruise me with his tempest, and multiplieth my wounds without a cause." Said Rabba: Job has blasphemed by the tempest, and by the tempest he was answered. Blasphemed by the tempest--as he said: "Lord of the Universe! Perhaps a tempest passed before Thee, and changed to Thee the word Iyabh to Oyabh." 1 And by the tempest he was answered--as it is written [ibid. xxxviii. 1]: "Then did the Lord address Job out of the storm-wind. . . . Do but gird up like a mighty man thy loins: and I will ask thee, and do thou inform me."

So said He: "I have created many hairs on human beings, and for each hair I have created a separate hole; for if two should be nourished from one hole, it would blind the eyes of men; now from one hole to another it was not changed to me; and from Iyabh to Oyabh, should it be changed?" [Ibid., ibid. 25]: "Who hath divided off water-courses," etc. "There are many drops that I have created in the clouds, and for each drop there is a separate place; for if two drops should go into one, they would make the earth too soft, and it could not produce; these places were not changed to me." ". . . And a way for the lightning (that is followed by) thunders." "Many thunders have I created in the clouds, and for each thunder there is a separate track; for if two should go along the same track, they would destroy the world. The tracks were not changed

to me; and from Iyabh to Oyabh, should it be?" [Ibid. xxxix. 1]: "Knowest thou the time when the chamois of the rock bring forth?" "The chamois of the rock is cruel towards its offspring, and when the time of bearing comes she ascends to the top of the mountain, so that the offspring should fall and die. And I send an eagle which receives it with its wings." "Markest thou when the hinds do calve?" "The hind has a narrow womb, and when the time of bearing comes, I procure a snake that bites her in the womb, so that she is able to bring forth the offspring. In both cases it must happen at the exact moment; for if it occurs a second before or a second later, the young in the first case, and the mother in the latter, would die. Now, from one second to the other

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there never is a change; and from Iyabh to Oyabh, should it be changed?" [Ibid. xxxiv. 35]: "Job hath not spoken with knowledge, and his words are without intelligence." Said Rabha: From this it may be deduced that one is not to be made responsible for his words at a time when he is afflicted. [Ibid. ii. 11-13]: "When, now, the three friends of Job . . . and they met together," etc. What is meant by "they met together"? Said R. Jehudah in the name of Rabh: They all entered at one time the gate of the city where Job lived; although a Boraitha states that each of them lived three hundred parsas away from the others. But who informed them? According to some, each of them had a crown on which were engraved the pictures of his three colleagues; and if one of them became afflicted, the picture was changed. And according to others, they had in their garden three trees, each of which bore the name of one of the friends; and if one became afflicted, the tree was changed. Said Rabha: This is what people say: "Either to have colleagues like Job's, or death."

It is written [Gen. vi. 1]: "And it came to pass when men began to multiply . . . and daughters," etc. R. Johanan said: With a daughter, multiplication comes into the world, as in Chaldaic a girl is called *rabhia*; literally, *multiply*. Resh Lakish, however, maintains that with a daughter strife comes into the world, as *rabhia* means also *strife*. Said Resh Lakish to R. Johanan: According to your opinion, multiplication comes with daughters; why was not Job doubly rewarded with daughters, as he was with sons and with all his property? And he answered: Although they were not doubled in number, they were in beauty; as it is written [Job, xlii. 13-15]: "He had also fourteen 1 sons and three daughters," etc. And farther on it is written: "And there were not found such handsome women," etc. 2

To R. Simeon, Rabbi's son, a daughter was born; and he became dejected. Said his father to him: With thy daughter came multiplication (*rabhia*). Said Bar Kapara to him: The

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consolation of your father is very poor. The following Boraitha states: "The world cannot be without males and females. However, happy is he whose children are male, and woe to him whose children are female. The world cannot be without a spice dealer and a tanner (*burseus*); happy is he who is a spice dealer, and woe to him who is a tanner." On this point, however, the Tanaim of the following Boraitha differ. It is written [Gen. xxiv. 1]: "The Lord has blessed Abraham *bakhol* (in all things)." What does the word *bakhol* mean? R. Meir said: He was blessed in not having any daughters. R. Jehudah, however, said: He was blessed in having a daughter. Anonymous teachers say: He had a daughter with the name *Bakhol*. R. Elazar the Modai said: Abraham, our father, was an astrologer; and therefore all the kings from the West

and the East came to his door to ask his advice. ¹ R. Simeon b. Johanan said: A diamond was hanging on Abraham's neck, and when a sick man looked upon it, he was cured. And when Abraham passed away, the Lord sealed it in the planet of the sun. Said Abayi: This is what people say: When the day arrives, the sick become better. There is another explanation of the word *bakhol*--that as long as Abraham was alive Esau did not rebel. According to still others: "Because Ishmael repented in his days." That Esau did not rebel in his days is stated in a Boraitha to explain the verses Gen. xxv. 29-34 as referring to that day on which Abraham died. And that Ishmael had repented is explained by Rabha, in the name of R. Johanan, to Rabhina and to R. Hama b. Buzi thus: It is written [ibid., ibid. 9]: "And his sons Isaac and Ishmael," etc. And from the fact that Isaac is named first, although Ishmael was older, it is to be understood that Ishmael had repented and, knowing that Isaac was better than he, given him the preference. But perhaps the verse only does it because it was so, and Ishmael had nothing to do with it? Then the Scripture [ibid. xxxv. 29] would also say Jacob and Esau, and not according to the age, as it is now. Hence the previous construction is correct.

The rabbis taught: There are three to whom the Holy One, blessed be He, gave a taste of the world to come in this world; namely, Abraham, Isaac, and Jacob: Abraham--

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because regarding him is written *bakhol*; Isaac--because regarding him is written *mikhol*; and Jacob--regarding whom is written *khol*. The same three overruled the evil spirit, as the words just mentioned are written regarding them.

The rabbis taught: There are six whom the Angel of Death has not dominated: the former three, and Moses, Aaron, and Miriam--the three former, because of the words mentioned; and the three latter, because it is written [Num. xxxiii. 38]: "By the order of the Lord," etc. There are seven whom the worms have not devoured: the former six, and Benjamin ben Jacob; according to others, also David--the former six, because of the reasons stated above; and Benjamin, because it is written [Deut. xxxiii. 12]: "The beloved of the Lord (is he), he shall dwell in safety," etc. There are four who died without sin, but because it was so decreed at the time when the serpent made Eve eat the fruit of the tree of wisdom; viz., Benjamin b. Jacob, Amram father of Moses, Jesse father of David, and Khilab b. David--to all of them traditionally, except Jesse the father of David, which is also deduced from the verse. ¹

Footnotes

^{5:1} The Hebrew expression is, "Me'ainai hoaida," literally, "from the *eyes* of the congregation"; hence the leaders are called the *eyes* of the congregation.

^{5:2} The expression in Hebrew is "Ma'hmad Ainechem," literally, the *delight* of your eyes.

^{7:1} In the text it reads that R. Na'hman said there can be made a sign by *Sinuphi Irikhi*. Luria corrected it to read *Ribhi* instead of *Irikhi*, but failed to give any explanation. The explanation of Rashi is so complicated that we cannot understand it. Ashri, however, and Rabono Gershon omit

all this, and we therefore have followed their example.

[16:1](#) In ancient times promissory notes were written mostly by witnesses.

[20:1](#) The expression in Hebrew is *Yoqor*, which has two meanings--"dear" and "grievous": the Talmud takes the former meaning and Leeser takes the latter.

[23:1](#) Their Bibles must have been written differently, as in ours the spelling of the word is as it is pronounced.

[28:1](#) The Hebrew term is *zedaka*; Leeser translates it "equity," according to the sense.

[36:1](#) The expression in the Bible is *ve'nobbi*, which has; two meanings--"to obtain," and also "a prophet." The Talmud takes it literally, that a prophet has a heart of wisdom. Leeser translates according to the sense.

[37:1](#) The expression in this verse is *nabub yilabab*; literally, "The empty one shall receive two hearts." Leeser's translation does not correspond.

[43:1](#) One and a half fingers"--meaning the little finger, of which there are six to a span.

[44:1](#) Rashi explains the reasons of the order of the Hagiographa, which, in his opinion, was arranged in order of time, and maintains that Job was written after Ruth and Psalms, the two latter having been written, according to him, by David; and concerning the Songs, he says: "It seems to me that Solomon said or wrote them in his old age." However, the order of our Scriptures is different, and they are certainly [p. 45](#) not in the order of time, as modern critics ascribe a much later period of time to almost all the books, and we are still ignorant of the reason why the order was changed in the canons we possess from that in the Talmud, and who it was that substituted the existing order.

[46:1](#) His support is from an analogy of expression; and the Gemara discusses the analogy, but it is too complicated, and therefore omitted. The same is the case with the saying of Rabha farther on.

[49:1](#) This is the exact translation of Leeser, which we follow in our edition. The Bible commentaries differ in the explanation of this passage, which is very complicated, and Leeser, following one of them, explains it all as a question. The latest commentator, Dr. Benjamin Szold of Baltimore, interprets it according to the Talmud, that the first half should not be understood as a question, but as a fact; and it seems to us he is right.

[51:1](#) Job in Hebrew is spelled *Iyabh*: *Oyabh* means enemy; and this means that perhaps the vowels were changed, thus rendering, instead of *Job*, *enemy*.

[52:1](#) *Shibha* in Hebrew means seven; so it is written in Job ii. In this passage it is written *shibhnah*, which, according to the Talmud, means *fourteen*; and double what was before, as all

his property was doubled. Leeser has translated *seven*, giving no attention to the letter *nun* added in this word.

[52:2](#) in the text it is deduced from the names of the daughters; *e.g.*, Yememah, *beautiful as the day*, etc. We have omitted this, as it is difficult, with the Hebrew words, each of which has several meanings, to point out which meaning it bears, and to discuss it. And it is also unimportant.

[53:1](#) The term in the text for this is *aiztagninuth*, and the commentators explain this to mean *astrologer*. According to Schönhak, however, it is composed of two Greek words, στεγω, νοοω, which mean one who can fathom the mysteries of mankind.

[54:1](#) This also is deduced from different verses in the Scripture, in a very complicated way which would be of no interest to the English reader, and has therefore been omitted.

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