

The Soncino Babylonian Talmud



YEVOMOS

Book I

Folios 2a-19b

CHAPTERS I – II

TRANSLATED INTO ENGLISH WITH NOTES

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UNDER THE EDITORSHIP OF

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FOREWORD

BY THE VERY REV. THE CHIEF RABBI Dr J. H. HERTZ

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INTRODUCTION TO SEDER NASHIM BY THE EDITOR

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FOREWORD

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*MARRIAGE, DIVORCE,
AND THE POSITION OF WOMAN,
IN JUDAISM*

MARRIAGE

ITS MEANING

Marriage is that relationship between man and woman under whose shadow alone there can be true reverence for the mystery, dignity and sacredness of life. Scripture represents marriage not merely as a Mosaic ordinance, but as part of the scheme of Creation, intended for all humanity. Its sacredness thus goes back to the very birth of man.

They do less than justice to this Divine institution who view it in no other light than as a civil contract. There is a vital difference between a marriage and a contract. In a contract the mutual rights and obligations are the result of an agreement, and their selection and formulation may flow from the momentary whim of the parties. In the marriage relation, however, such rights and obligations are high above the arbitrary will of both husband and wife; they are determined and imposed by Religion as well as by the Civil Law. The failure of the contract view to bring out this higher sphere of duty and conscience, which is of the very essence of marriage, led a philosopher like Hegel to denounce that view as a *Schaendlichkeit*.

ITS PURPOSE

The purpose of marriage is twofold — *a)* posterity, and *b)* companionship.

a) The duty of building a home and of rearing a family (Gen. I, 28, *Be fruitful and multiply*) figures in the Rabbinic codes as the first of the 613 *Mitzvoth* (ordinances) of the Torah. To this commandment is due the sacredness and centrality of the child in Judaism — something which even the enlightened nations of antiquity could not understand. Tacitus deemed it a contemptible prejudice of the Jews that 'it is a crime among them to kill any child'. What a lurid flashlight these words throw on Graeco-Roman society! It is in such a society that Judaism proclaimed the Biblical view that the child was the highest of human treasures. *O Lord God, what wilt Thou give me, seeing that I go childless?* was Abraham's agonizing cry. Of what value were earthly possessions to him, if he was denied a child who would continue his work after him? This attitude of the Father of the Hebrew people has remained that of his descendants throughout the ages. A

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childless marriage was deemed to have failed of its main purpose; and, in ancient times, was admitted as ground for divorce after ten years. In little children — it was taught — God gives humanity a chance to make good its mistakes. They are 'the Messiahs of mankind' — the perennial regenerative force in humanity. No wonder that Jewish infant mortality is everywhere lower than the non-Jewish — often only one-half of that among the general population.

b) Companionship is the other primary end of the marriage institution. Woman is to be the helpmate of man, [H]. A wife is a man's other self, all that man's nature demands for its completion physically, socially, and spiritually. In marriage alone can man's need for physical and social companionship be directed to holy ends. It is this idea which is expressed by the term *Kiddushin* (hallowing) applied to Jewish marriage — the hallowing of two human beings to life's holiest purposes. In married life, man finds his truest and most lasting happiness; and only through married life does human personality reach its highest fulfillment. *A man shall leave his father and his mother, and shall cleave unto his wife*, says Scripture (Gen. II, 24). Note that it is man who is to cleave to his wife, and not the woman, physically the weaker, who is to cleave to her husband; because, in the higher sphere of the soul's life, woman is the ethical and spiritual superior of man. 'Even as the wife is', say the Rabbis, 'so the husband is'. The celibate life is the unblessed life: Judaism requires its saints to show their sanctity *in* the world, and amid the ties and obligations of family life. 'He who has no wife abides without good, help, joy, blessing or atonement. He who has no wife cannot be considered a whole man' (Talmud). The satisfaction of the needs of physical and social companionship outside the sacred estate of matrimony, unhallowed by Religion and unrestrained by its commandments, Judaism considers an abomination. And such extra-marital relations are prohibited just as sternly with non-Jewish women as with Jewish. Thus, Joseph resists the advances of the *heathen* temptress with the words: *How can I do this great wickedness, and sin against God?* (Gen. XXXIX, 9); and the Book of Proverbs is clear on the attitude of Judaism to the '*strange woman*' — married or unmarried (v. Chaps. II, V-VII). No less emphatically than in Scripture is purity demanded by the Rabbis. The New Testament accepted the Jewish view on the subject in its entirety. The whole of Gospel teaching on this subject, even Matthew V, 28, is to be found in the Talmud.

THE MARRIAGE CEREMONY

The Marriage Service consists of the blessings of Betrothal, the formula of Marriage, the reading of the *Kethubah*, and the seven blessings of Sanctification. In later times was added the breaking of the glass. Originally, a considerable time intervened between the Betrothal by which the bridal couple became bound for all purposes save living together, and the Nuptials proper [H]. Since the sixteenth century, however, Betrothal is always combined with the Nuptials. The solemnization of both the Betrothal and Nuptials opens with the benediction over a cup of wine. Wine is a symbol of joy, joyousness at a wedding being a religious duty; and in the Wedding Grace, 'we bless our God in Whose abode is joy'. The couple drink from both cups of wine — an indication of their resolve henceforth to

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share whatever destiny Providence may allot to them. The Betrothal blessing reads: —

'Blessed art thou, O Lord our God, King of the Universe, who hast sanctified us by thy commandments, and hast given us command concerning forbidden marriages; who hast disallowed unto us those that are betrothed, but hast sanctioned unto us such as are wedded to us by the rite of the canopy and the sacred covenant of wedlock. Blessed art thou, O Lord, who sanctifiest thy people Israel by the rite of the canopy and the sacred covenant of wedlock.'

The commands concerning 'forbidden marriages' are given in Lev. XVIII and XX. The 'rite of the canopy' is the *Chuppah*, under which the bride and bridegroom stand during the Service, and is a symbol of the home-taking of the bride by the bridegroom. After this benediction there follows the bridegroom's Declaration, which constitutes the essence of the ceremony. He places a ring upon the forefinger of the right hand of the bride, and says: 'Behold, thou art consecrated unto me by this ring according to the Law of Moses and of Israel.' The general use of the ring is post-Talmudic; its place was formerly taken by any object of value. The formula is at least 2,000 years old, and expresses the resolve to lead their common life according to the rule and manner of Judaism. After this, the *Kethubah* is read. The *Kethubah* was introduced by Simeon b. Shetach in the first pre-Christian century as a protection to the wife in the event of her becoming widowed or divorced. This document testifies that on such and such a date, the bridegroom said to his bride: 'Be thou my wife according to the Law of Moses and of Israel. I will work for thee; I will honor thee; I will support and maintain thee, in accordance with the custom of Jewish husbands who work for their wives, and honor, support and maintain them in truth.' The husband further undertakes the obligation of a certain fixed sum for her prior claim on his estate. 'All my property, even the mantle on my shoulders, shall be mortgaged for the security of this contract and that sum.' Then begins the solemnization of the Nuptials proper in seven Blessings. The fourth and seventh of these read:

'Blessed art thou, O Lord our God, King of the Universe, who hast made man in thine image, after thy likeness, and hast prepared unto him, out of his very self, a perpetual fabric. Blessed art thou, O Lord, Creator of man.

'Blessed art thou, O Lord our God, King of the Universe, who hast created joy and gladness, bridegroom and bride, mirth and exultation, pleasure and delight, love, brotherhood, peace and fellowship. Soon may there be heard in the cities of Judah, and in the streets of Jerusalem, the voice of joy and gladness, the voice of the bridegroom and the voice of the bride, the jubilant voice of bridegrooms from their canopies, and of youths from their feasts of song. Blessed art thou, O Lord, who makest the bridegroom to rejoice with the bride.'

It is seen that the Blessings cover the whole of Israel's history. Each new home is thus brought into relation with the story of Creation and with Israel's Messianic Hope (I. Abrahams). At the conclusion of the Blessings, a glass is broken by the bridegroom — a reminder of the Destruction of Jerusalem [H]. Another symbolization may also be mentioned: just as one step shatters the glass, so can one act of unfaithfulness forever destroy the holiness and happiness of the Home. The Service concludes nowadays with

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the pronouncement of the priestly benediction.

MONOGAMY

The Biblical ideal of human marriage is the monogamous one. The Creation story and all the ethical portions of Scripture speak of the union of a man with *one* wife. Whenever a Prophet alludes to marriage, he is thinking of such a union — lifelong, faithful, holy. Polygamy seems to have well-nigh disappeared in Israel after the Babylonian Exile. Early Rabbinic literature presupposes a practically monogamic society; and out of 2800 teachers mentioned in the Talmudim, one only is stated to have had two wives. In the fourth century Aramaic paraphrase (*Targum*) of the Book of Ruth, the kinsman (IV, 6), refuses to 'redeem' Ruth, saying, 'I cannot marry her, because I am already married; I have no right to take an additional wife, lest it lead to strife in my home'. Such paraphrase would be meaningless, if it did not reflect the general feeling of the people on this question.

Monogamy in Israel was thus not the result of European contact. As a matter of fact, monogamy was firmly established in Jewish life long before the rise of Christianity. The New Testament does not prohibit polygamy, but only demands that a bishop or presbyter shall have but one wife (I Tim. III, 2). As late as Luther's day, bigamy was not unknown in Western Europe; and in the thirteenth century, for example, monogamy was but a name, at any rate in the upper classes of society. The Church too found it difficult to enforce strict monogamy among Eastern Christians.

DIVORCE

In the first pre-Christian century, there was a fundamental cleavage in the religious schools of Palestine in regard to Divorce. The dispute turned over the interpretation of Deut. XXIV, 1; but, as so often in theological controversy, the words of the Sacred Text were merely the pegs upon which to hang conflicting theories of life on the part of the disputants. The School of Shammai maintained that a marriage could be dissolved only by unchastity on the part of the wife, because adultery alone sapped the whole structure of marriage and made its continuance impossible. The School of Hillel argued that divorce should be permitted for any reason which entailed a rupture of domestic harmony resulting in a daily violation of one of the main purposes of marriage — companionship. The Jewish sectaries (the Essenes, the 'Zadokites' of Damascus, the Samaritans and Jewish Christians) opposed, in addition, marrying a second wife as long as the divorced wife was alive. Official Judaism, throughout the ages, followed the principle of the School of Hillel; and, of course, the unnatural prohibition for the parties to marry again, in any circumstance, is quite unknown to it. We shall see that in recent generations the civilized nations are more and more coming to adopt the Jewish attitude on this basic and vital question.

Not that Judaism ever lost sight of the fact that divorce was a calamitous necessity. '*I hate divorce*', is the Divine message by the Prophet Malachi (II, 16). 'The very altar weeps for one who divorces the wife of his youth,' says the Talmud. The Rabbi was bidden to exhaust every possible expedient to dissuade husband and wife from proceeding to divorce;

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and later legislation made the writing and the delivery of the *Get* difficult and protracted, in order to facilitate attempts at reconciliation. 'If there is a doubt as to the originator of the quarrel, the husband is not believed when he asserts that the wife has commenced the dispute, as all women are presumed to be lovers of domestic peace' (*Shulchan Aruch*).

CHARACTERISTICS OF JEWISH DIVORCE

a) In theory, the power of divorce is in the hands of the husband. However, in the case of the wife's adultery, he is compelled to divorce her; connivance and condonation are not tolerated in Jewish Law. 'Adultery is not merely infidelity towards the conjugal partner, but a violation of a Divine order, a crime which cannot be condoned by the offended party' (Z. Frankel, L. Löw). Divorce is also compulsory where a man has married within one of the secondary prohibited degrees.² Incestuous 'marriages' require no divorce, as these are null and void *ab initio*. There are also a few cases in which the Torah deprives the husband of the right to divorce his wife (Deut. XXII, 13 and 29). Furthermore, the wife might sue for a divorce in the Jewish Courts, which could for certain causes — e.g., loathsome occupation or disease — compel him to free her. The uniform aim of the Rabbis throughout the succeeding centuries was to develop the law in the direction of greater equality between the man and the woman. At last, in the year 1000, Rabbenu Gershom decreed that the wife, unless she was unfaithful, could not be divorced *except of her free will*. Maimonides went even further: 'If a woman says, "My husband is repulsive to me, and I cannot live with him," the husband is compelled to divorce her, because she is not like a captive woman that she should be forced to consort with a man whom she hates.'

Such restriction of the husband's power to divorce was practicable only as long as the Jewish Rabbinic Courts had legal power to enforce their decisions. With the disappearance of that power, hardships have arisen in connection with divorce, difficulties which perhaps only a Central Sanhedrin in Jerusalem will in time be able to remove. The most serious of these is that of the *Agunah*, the woman whose husband has merely vanished. In favor of such a deserted wife, the laws of evidence as to the reported death of her husband have from the first been relaxed, and no effort is spared to free her from her uncertain state. Urgent and sad as is the question of the *Agunah*, it is a pity that in recent decades the *Agunah* problem has become a tool in the hands of men whose sole purpose is the overthrow of Traditional Judaism, and some of whom recoil from no exaggeration in the pursuit of that purpose. Jewish forsaken wives are relatively a very small minority when compared with the vast number of those in other faiths and legal systems who are deserted, are denied divorce or are granted it only on condition that they commit adultery, and those who are divorced without right to remarry.

b) Jewish divorce can take place by mutual consent, even as marriage itself is a matter of mutual consent. In English law, it is difficult to obtain divorce where both parties want it. If both desire to be freed, it savors of 'collusion', and may involve the intervention of the King's Proctor and the denial or revocation of divorce, even though one spouse is innocent of matrimonial offence and the other guilty. Divorce as a result of mutual consent continued to be in force in Europe, including Saxon England, till

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the eighth century. It is today granted in various countries — e.g., Belgium, Switzerland and some of the United States of America.

It must be added that despite the ease with which, in theory, the marriage-tie may be dissolved in Jewish Law, divorce is less frequent among Jews than among the other populations of the various countries; v. *Jewish Encyclopedia*, VIII, 340. Thus in the year 1933, there were in England, 2542 marriages according to Jewish Law, but only 40 decrees *nisi*. In 1934, there were 2589 marriages, and 46 such decrees. The strikingly small number of Jewish divorces is largely due to the fact that, 'among Jews, there is an absence of drunkenness, always a fruitful source of domestic strife and misconduct' (H. Adler).

c) Perhaps the most characteristic feature of the Jewish Law of Divorce is its absolute prohibition of the adulterer to marry the adulteress. Even in cases where such a marriage had, through suppression of the true facts, been entered into, it must be dissolved. A leader of the Anglican Church regrets that the sacred institution of marriage is so often used to whitewash an adulterous pair. 'I should be glad to see the marriage of an adulterer with his or her paramour absolutely forbidden' (W. R. Inge).

NEW TESTAMENT DIVORCE

It is impossible to evade reference to the New Testament position of the question of divorce. According to Matt. XIX, 3, divorce was to be permitted, albeit for the one and sole reason of adultery. But it is now generally recognized that the Founder of Christianity desired the prohibition of divorce to be absolute, and taught that a divorced man or woman who married again was guilty of adultery (Mark X, 2-12). The Roman Catholic Church accordingly refuses in any way to recognize divorce, though in very rare cases it grants decrees of nullity. Outside that Church, however, the conscience of mankind has long been struggling with the problem of divorce as inherited from the Gospels. Nearly all Protestant States, and some Catholic ones, legislate today with due regard to the imperfections of human nature. They not only recognize adultery as a ground for divorce, but realize that there are other causes as well (e.g., drunkenness, disease, felony) that destroy the moral foundations of the family, interfere with the upbringing of the children, embitter the lives of two human beings, and often lead them to degradation and crime.

DIVORCE IN ENGLAND

English law until the other day demanded, in the case of the wife's petition, the committing of adultery, in addition to desertion, cruelty or some other enormity, as the indispensable condition for divorce. It was a definite incentive to perjury and immorality, and gave rise to an infamous class of professional helpers to procure a divorce. The evidence given before the Royal Commission of 1909 confirmed the fact that the Jewish outlook, which recognizes the dissolution of a marriage when the happiness of the home is impossible, was in general harmony with progressive thought, while the Christian outlook was in direct conflict with it. In regard to the Anglo-Jewish population, prior to the passing of the Divorce Act of 1857, the Jewish Ecclesiastical Authorities granted divorces on grounds established by Jewish Law, and continued to do so

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till 1866. Since that date, no Jewish divorce as between parties domiciled in England is given by the London Beth Din, or any responsible Rabbi, unless a divorce, previously decreed by a Court, had been made absolute.

JEWISH MODERNISTS AND DIVORCE

It is well known that not all Jews today follow Rabbinical law in the matter of marriage and divorce. Thus, in 1909, C. G. Montefiore proclaimed that the extreme New Testament utterances on divorce showed 'unerring ethical instinct', whereas it was 'to the eternal dishonor' of Hillel that he favored divorce on other grounds than adultery. This impelled Achad Ha-am to produce one of his most brilliant essays [H] '*Judaism and the Gospels*') and subject Mr. Montefiore's views to an annihilating criticism. Neither the moderate nor the radical wing of Reform Judaism endorses Mr. Montefiore's position in this matter. On the one hand, moderate reformers respect, in regard to marriage, the laws of the prohibited degrees, retain the essentials of the Traditional marriage service, and hold that 'it is logical that the Synagogue which insists upon marriage between Jews being performed in accordance with Jewish rites, should also insist upon the divorce being performed in accordance with the same rites' (L. M. Summons). Radical Reformers in Europe and America have, on the other hand, ever looked upon both marriage and divorce as purely civil acts, and hold that the Civil Law alone in regard to these matters possesses for Jews absolute validity.

Over against this secularist view, the following words of the late Dr Friedländer clearly define the attitude of Traditional Jews to the modern State on the vital questions of marriage and divorce. 'We acknowledge the principle laid down in the Talmud, "The law of the Country is binding upon us" [H], but only in so far as our civil relations are concerned. With regard to religious questions, our own religious Code must be obeyed. Marriage laws include two elements — civil relations and religious duties. As regards the former, we abide by the decisions of the civil Courts of the country. We must, therefore, not solemnize a marriage which the law of the Country would not recognize; we must not religiously dissolve a marriage by *Get* unless the civil Courts of law have already decreed the divorce. On the other hand, we must not content ourselves with civil marriage or civil divorce; religiously, neither civil marriage nor civil divorce can be recognized, unless supplemented by marriage or divorce according to religious forms. Furthermore, marriages allowed by the Civil Law, but prohibited by our Religious Law, cannot be recognized before the tribunal of our Religion.'

In connection with marriage and divorce, a word must be said concerning the Levirate Marriage and its release by means of *Halizah*. To avert the calamity of a family line becoming extinct, and of a man's name perishing and his property going to others, Jewish Law required the surviving brother to marry the widow of such a childless man, so as to raise up an heir to that man's name. Where such a marriage did not take place, the widow obtained her freedom through *Halizah* (Deut. XXV, 7-10). In later centuries, levirate marriage was almost universally replaced by *Halizah*.

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THE POSITION OF WOMAN IN JUDAISM

It is astonishing to note the amount of hostile misrepresentation that exists in regard to woman's position in Jewish life. 'The relation of the wife to the husband was, to all intents and purposes, that of a slave to her master', are the words of a writer in the *Encyclopedia of Religion and Ethics*. That this judgment is radically false may be proved from hundreds of instances throughout Scripture. *God created man in His own image; male and female created He them* (Gen. I, 27) — both man and woman are in their spiritual nature akin to God; and both are invested with the same authority to subdue the earth and have dominion over it. The wives of the Patriarchs are almost the equals of their husbands; later generations regard them as quite alike. Miriam, alongside her brothers, is reckoned as one of the three emancipators from Egypt (Micah VI, 4); Deborah is '*Judge*' in Israel, and leader in the war of independence; and to Hannah (I Sam. I, 8) her husband speaks: *Why weepest thou? am not I better to thee than ten sons?* In later centuries, we find woman among the Prophets (Huldah); and in the days of the Second Temple, on the throne (Queen Salome Alexandra). Nothing can well be nobler praise of woman than Prov. XXXI; and as regards the reverence due to her from her children, the mother was always placed on a par with the father (Ex. XX, 12; Lev. XIX, 3). A Jewish child would not have spoken to his grief-stricken mother as did Telemachus, the hero's son in the *Odyssey*: '*Go to the chamber, and mind thine own housewiferies. Speech shall be for man, for all, but for me in chief; for mine is the lordship in the house*'.

The property rights of woman became clearly defined in the Talmudic period. Her legal status under Jewish law 'compared to its advantage with that of contemporary civilizations' (G. F. Moore). 'In respect to possessing independent estate, the Jewish wife was in a position far superior to that of English wives before the enactment of recent legislation' (I. Abrahams).

A conclusive proof of woman's dominating place in Jewish life is the undeniable fact, that the hallowing of the Jewish home was her work; and that the laws of chastity were observed in that home, both by men and women, with a scrupulousness that has hardly ever been equaled. The Sages duly recognized her wonderful spiritual influence, and nothing could surpass the delicacy with which respect for her is inculcated: '*Love thy wife as thyself, and honor her more than thyself. Be careful not to cause woman to weep, for God counts her tears. Israel was redeemed from Egypt on account of the virtue of its women. He who weds a good woman, it is as if he had fulfilled all the precepts of the Torah*' (Talmud).

The respect and reverence which womanhood enjoyed in Judaism are not limited to noble and beautiful *sayings*. That respect and reverence were translated into life. True, neither minnesingers nor troubadours sang for Jewish women; and the immemorial chastity of the Jewess could

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not well go with courts of love and chivalric tournaments. And yet, one test alone is sufficient to show the abyss, in actual life, between Jewish and non-Jewish chivalry down to modern times. That test is wife-beating. On the one hand, both Rabbenu Tam, the renowned grandson of Rashi, and Rabbi Meir of Rothenburg, the illustrious jurist, poet, martyr and leader of thirteenth-century Judaism, declared: 'This is a thing not done in Israel'; and the *Shulchan Aruch* prescribes it as the Beth Din's duty to punish a wife-beater, to excommunicate him, and — if this be of no avail — to compel him to divorce his wife with full Kethubah (Eben Ha-ezer CLIV, 3). Among non-Jews, on the other hand, no less an authority on the Middle Ages than G. C. Coulton writes: 'To chastise one's wife was not only customary, not only expressly permitted by the statutes of some towns, but even formally granted by the Canon Law.' Even in our own country, as late as the fifteenth century, 'wife-beating was a recognized right of man, and was practiced without shame by high as well as low' (G. M. Trevelyan). In the reign of Charles II, this recognized right of man began to be doubted; 'yet the lower ranks of the people who were always fond of the Common Law still claim and exert their ancient privilege' (Blackstone). Still more strange was the public sale of wives that was not unknown among the very poor. Thomas Hardy wrote his powerful novel, *The Mayor of Casterbridge*, on such a sale. Some years ago, *The Times* (January 4, 8, 11, 17, 1924) traced a number of these sales throughout the nineteenth century: and Prof. A. R. Wright has shown that folk-custom to have survived in various parts of England into the twentieth century.

As to modern times, friend and foe of the Jew alike speak with admiration of his home, and both echo the praise of the heathen seer: '*How goodly are thy tents, O Jacob, thy dwelling places, O Israel.*' The following description may well be quoted here of the Sabbath eve of a humble toiler in the London Ghetto a half-century ago: —

'The roaring Sambatyon of life was at rest in the Ghetto; on thousands of squalid homes the light of Sinai shone.

'The Ghetto welcomed the Sabbath Bride with proud song and humble feast, and sped her parting with optimistic symbolisms of fire and wine, of spice and light and shadow. All around, their neighbors sought distraction in the blazing public-houses, and their tipsy bellowings resounded through the streets and mingled with the Hebrew hymns. Here and there the voice of a beaten woman rose on the air. But no Son of the Covenant was among the revelers or the wife-beaters; the Jews remained a chosen race, a peculiar people, faulty enough, but redeemed at least from the grosser vices — a little human islet won from the waters of animalism by the genius of ancient engineers' (I. Zangwill).

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The eight volumes of Seder Nashim have been planned on the same lines as those of Seder Nezikin, alike in regard to Text, rendering and cultural Notes. The Editor and his collaborators have again performed with consummate skill a task of stupendous difficulty, and the standard of

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scholarship and accuracy set in the previous volumes has been fully maintained. The Publishers also have left nothing undone to render the Soncino Seder Nashim in every way a worthy continuation of their Seder Nezikin.

J. H. HERTZ

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Footnotes

1. E. V. 'day of rest'.
2. See 1. H. Hertz, Leviticus, p. 175f.

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INTRODUCTION TO SEDER NASHIM

BY

THE EDITOR

GENERAL CHARACTER AND CONTENTS

The name 'Nashim', 'Women', given to the third 'Order' of the Babylonian Talmud is of ancient origin. This 'Order' was so known in the early Talmudic period when it had been also aptly designated '*Hosen*'¹ 'Strength'. As the 'Order' devoted to regulating the relations between husband and wife, its fundamental teachings of the sanctity of marriage, moral sobriety and purity of family life, invested the Jewish home with the 'beauty of holiness', which enabled it to resist the disruptive influences and disintegrating force of centuries, thus proving the saving strength of the Jewish people throughout the long and checkered history of their existence.

With woman as its principal theme, the appellation Nashim as applied to this 'Order', is self-explanatory. It may, however, be noted that in the Cambridge MS. of the Mishnah the opening tractate is entitled Nashim instead of Yebamoth, the title evidently having been derived from the third Hebrew word in the tractate: [H] 'Fifteen women'. Consequently, it has been suggested that Nashim was the name by which the first tractate was originally known and to which tractate it was originally restricted, and that this name was finally used to describe the whole of this 'Order', even as a whole is often made to bear the name of a part.²

The 'Order' is divided into seven tractates arranged according to the separate printed edition of the Mishnah in the following sequence:³

1. YEBAMOTH (Sisters-in-law). Beginning with the Biblical law relating to the duty of a man to marry his deceased brother's childless widow, the Tractate deals

generally with prohibited marriages, the ceremony of *Halizah*, and the right of a minor to have her marriage annulled. 16 Chapters.

2. KETHUBOTH (Marriage Settlements). Treats of the settlement made upon the bride, the fine paid for seduction, the mutual obligations of husband and wife, and the rights of a widow and stepchild. 13 Chapters.

3. NEDARIM (VOWS). Describes the various forms avow may take, the kinds of vows which are invalid, how they may be renounced, and the power of annulling them when made by a wife or daughter. 11 Chapters.

4. NAZIR (Nazirite). Discusses what constitutes a Nazirite's vow, and how it may be renounced; enumerates what is forbidden to a Nazirite and deals finally with the case where the vow is taken by women and slaves. 9 Chapters.

5. SOTAH (Suspected Adulteress). The main theme is the ordeal imposed upon a woman whose husband suspects her of infidelity, and its ritual. Other subjects dealt with are religious formulae which may be made in any language or only in Hebrew, the seven types of Pharisees, the reforms instituted by John Hyrcanus, and the Civil War between Aristobulus and Hyrcanus. 9 Chapters.

6. GITTIN (Bills of divorcement). Treats of the various circumstances attending the delivery of the bill of divorcement to the woman when the marriage is to be

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dissolved. 9 Chapters.

7. **KIDDUSHIN** (Consecrations). Deals with the rites connected with betrothal and marriage, the legal acquisition of slaves, chattels and real estate, and principles of morality. 4 Chapters.

The above sequence has been followed in this publication, the tractates in the eight volume first edition appearing for practical reasons as follows:

- Vols. I and II. Yebamoth.
- Vols. III and IV. Kethuboth.
- Vol. V. Nedarim.
- Vol. VI. Nazir and Sotah.
- Vol. VII. Gittin.
- Vol. VIII. Kiddushin.

For the edition deluxe it was found expedient to follow another arrangement:

- Vols. I, II and III. Yebamoth.
- Vols. IV, V and VI. Kethuboth.
- Vol. VII. Nedarim.
- Vol. VIII. Nazir.
- Vol. IX. Sotah.
- Vol. X. Gittin.
- Vols. XI and XII. Kiddushin.

The inclusion of Nedarim in this 'Order', although it has no particular bearing on the subject of 'Women', is because the Scriptural basis of the tractate is Numbers XXX, 3ff which treats of vows made by women — wives and unmarried daughters. The resemblance of Nazir to Nedarim, both dealing with vows, is responsible for the

inclusion of the former in this 'Order' instead of Kodashim to which it properly belongs (v. [Sot. 2a](#)). Another reason is given in the Talmud for the inclusion of Nazir. Assuming the order of the tractates to be Gittin, Nazir, Sotah, it is explained that Nazir has been included as an antidote to Gittin and Sotah (v. [Naz. 2a](#)). Yet in another place ([Sot. 2a](#)) the order of the tractates is assumed to be Nedarim, Nazir, Sotah. In view of this divergence it is idle to seek any definite logical sequence in the arrangement of the several tractates within the 'Order'. There is, however, common agreement about Yebamoth being assigned the pride of place at the head of this 'Order'. It is said to owe its position to the number of its chapters which is greater than that of any other tractate in Nashim. The opinion may, however, be hazarded that it is because of the fundamental purpose of marriage which under-lies the Levirate laws dealt with in this tractate that it was selected as a fitting introduction to this 'Order'. The primary object of Levirate Marriage was to provide an heir to succeed in the name of the deceased (Deut. XXV, 6). Marriage having been regarded in Judaism as a divine institution ordained primarily for the purpose of the propagation of the human species, a childless marriage was deemed to have been, in a large sense, a failure. To redeem the deceased brother's failure, it was the duty of the eldest surviving brother to marry his widow and raise, so to speak, a son for him. Where the brother was so churlish as to refuse to redeem his brother's memory from failure, he had to submit to *Halizah*.

SOME FUNDAMENTAL PRINCIPLES OF THE LAWS OF MARRIAGE AND DIVORCE IN THE TALMUD

MARRIAGE The Rabbis of the Talmud, unlike the Church Fathers, never attached any stigma to marriage. Being

opposed to asceticism and celibacy as alien to the spirit of Judaism, they did not regard a person who had never married as superior to one 'who had contaminated himself by marriage'. On the contrary, they declared

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that true manhood can be realized only through married life: 'He who has no wife is no man' ([Yeb. 63a](#)). Marriage was natural in purpose, but divine in origin. As a divine institution it was viewed by them in a twofold light: Firstly, as a means intended for the propagation of the human race; secondly, as an ideal state for the promotion of sanctity and purity of life. Whilst prizing chastity above all other virtues, they refused to ascribe anything degrading to the marital union *per se*. Prenuptial connections, whether in the case of men or women, they did truly condemn. Not only was harlotry prohibited by them on the basis of Biblical commands (Lev. XIX, 29, and Deut. XXIII, 18), but they even went so far as to forbid the private association of sexes.⁴ Yet the regulated sexual relations between husband and wife were raised to the dignity of a positive command. Thus it is the unmarried man who was said by them to live in unchastity — at least in the inescapable unchastity of thought if not of action; whereas the married man alone could live in purity. No wonder that they regarded marriage as a holy state, entrance into which carried with it forgiveness of sins.⁵ For this reason they encouraged early marriage, declaring eighteen to be the ideal age, although realists as they were, they insisted on a man being in a position to provide for a wife before venturing into matrimony.⁶

The marriage laws as developed by the Rabbis in the Talmud only served to confirm and deepen the elevated view of married life. Already from time immemorial, a Jewish marriage was contracted by two stages (v. Deut. XX, 7). In the Talmudic period these were designated respectively: *Erusin* and *Nissu'in*. The *Erusin* was an act of betrothal effected by the bridegroom in the presence of two eligible witnesses before whom he declared, 'Be thou consecrated unto me ...', [H]. This phrase is explained in the Talmud (Kid. 2b) as 'a setting aside of the woman like a consecrated object'. The bridegroom, that is to say, by the act of *Erusin* imposes upon the woman the character of a sanctified object

whereby she becomes prohibited to the world. That, however, does not imply that she is forthwith permitted to him without the need of any further rites; just as the mere consecration of an object for the sanctuary does not complete the process of making it acceptable as an offering. The bridegroom still stands to her in a prenuptial relation in which all marital connections are forbidden. The *Erusin* is thus but a legal contract whereby the woman reserves herself for her husband, without however yet becoming permitted to him. In other words, she binds herself to give herself in marriage to him at the nuptials; otherwise neither he nor she has any claim on the other: He neither inherits from her in case of her death, nor has he any title to use her income or earnings; nor has she claim to sustenance or to any other obligation of a Jewish husband to his wife. This undertaking is, however, indissoluble save by divorce or death, and any act of infidelity on her part is treated as adultery.

On the elapse of a certain period after the *Erusin*, twelve months in the case of a maiden, and thirty days in that of a widow, there followed the *fulfillment* of the contract — the *Nissu'in*, at which the bride came to her husband for the consummation of the marriage. But for this consummation, as well as for the contract that preceded it, the consent of both parties was demanded. Indispensable when they had both become of age, consent was deemed an essential factor of marriage; and thus the Rabbis forbade a man to give his daughter in betrothal before she was old enough to express her own feelings on the subject of matrimony, although legally he had the right to contract a marriage on her behalf until she had reached adolescence — twelve years and six months plus one day. For this reason, too, the Rabbis insisted on every betrothal being preceded by *Shiddukin*, a proposal of marriage, the disregard of which involved the infliction of disciplinary measures — flogging.⁷ It is this consideration too that lies behind the institution of *Mi'un* which enabled an orphan

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girl, who had been given in marriage as a minor by her mother or brother, to have her marriage dissolved by a mere declaration of refusal. Whilst anxious to make provision for the marriage of an orphan girl, should circumstances demand it, the Sages refused to bind her against her own wish to the husband who had been chosen for her while she was not yet in a position to make her own choice, but reserved for her the right to regain her freedom without subjecting her to the necessity of a bill of divorce.

Marriage by consent also explains the signification of *Huppah* which forms one of the distinctive ceremonies at the nuptials. Whatever may be the origin of this ceremony, the *Huppah*, which denotes the baldachin or canopy wherein the bridegroom receives the bride, came to signify in the Talmud the voluntary entrance of the bride upon the final stage in her consecration to the task of womanhood begun at the *Erusin*, and her free surrender to her husband for the consummation of marriage.⁸ Thus is the real significance of the term *Kiddushin* revealed. It has two aspects: a negative aspect and a positive one. The *Erusin*, in rendering the woman forbidden to the world, discloses only its negative side; whereas the positive side is released at the *Nissu'in*, which completes the *Kiddushin* and thus perfects it. Both the *Erusin* and *Nissu'in* together constitute the *Kiddushin*, sanctifying the union.⁹

There is still another requisite for the consecration of the union. The *Kethubah* — the deed of marriage settlement¹⁰ instituted primarily with the object of protecting a wife against hasty divorce, had to be drawn up and duly completed before the consummation of marriage. In view of the right vested by the Bible in the husband to divorce the wife at his pleasure — a theoretical right which the Rabbis could not entirely set aside¹¹ — it was felt that no woman could enter upon matrimony with a free and easy mind without being in possession of this safeguard to her marital security. The Sages accordingly

forbade marital relations as long as the *Kethubah* had not been completed. Furthermore, they declared that it was forbidden for husband and wife to live together for a single moment without a *Kethubah* (B.K. 89a); and where the *Kethubah* was lost, they had to abstain from intercourse until another *Kethubah* had been made out.

DIVORCE AND SECOND MARRIAGES

This elevated view of marriage is likewise reflected in the Talmudic law of divorce. It is a commonplace to assert that the New Testament condemns divorce as sinful and thus to oppose this stricter view to the latitude allowed by Judaism. But this categorical assertion is open to question. One searches in vain throughout the New Testament for a denunciation of divorce as divorce. In every instance where the teaching of Jesus on the matter is reported, the emphasis is on remarriage rather than on divorce itself. *Whosoever putteth away his wife and marrieth another committeth adultery; and whosoever marrieth her that is put away from her husband committeth adultery* (Luke XVI, 18). The parallel passages in Mark X, 11-12 and Mat. V, 31-32 vary in phraseology but the emphasis is everywhere the same — viz., remarriage after divorce. Even in Mat. XIX, 3-6 where Jesus, appealing to Genesis, makes his famous declaration, '*What therefore God hath joined together let not man put asunder*', the complementary verses, 7-9, make it clear that what he was concerned with was not the tragedy involved in a divorce — the wrecking of a home — but the remarriage that would follow. Provided there was no remarriage, the mere putting away of a wife does not seem to have evoked his disapproval. This becomes even more evident in Paul: *And unto the married I command, and yet not I but the Lord, Let not the wife depart from her husband. But if she depart let her remain unmarried or be reconciled to her husband.* (I Cor. VII, 10). This attitude is in consonance with the New Testament view that extols celibacy and

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virginity above marriage and married life.¹² As against this attitude, the Talmud with its elevated view of marriage considers the separation of husband and wife which divorce entails, a domestic tragedy for which 'the very altar of God sheds tears', and for this reason declares that 'he who dismisseth his wife is hated by God'.¹³ Yet with all their abhorrence of divorce, the Sages held the continuance of intimate relations between husband and wife after the bonds of affection were snapped to be immoral; and the offspring of such a union was regarded by them as morally unhealthy, belonging to the class of 'rebels' and of such as 'transgress' against God (cf. Ezek. XX, 38).¹⁴ With the result, that whilst the Rabbis instituted a number of measures such as the payment of the *Kethubah* and other minute regulations attendant on the procedure of divorce designed to act as a check against its abuse, they refused to blind themselves to the harsh realities of life, when divorce with freedom to remarry could come as the only happy release from a galling relationship which discordant natures and unequal tempers had rendered intolerable.

Closely related to the attitude of the Talmud on remarriage after divorce is its attitude of remarriage on widowhood. The strong voice of disapproval of second marriages heard in the Church never found an echo in the Beth Hamidrash. 'If a man married in his youth, let him also marry (if necessary) in his old age'.¹⁵ Widows likewise were encouraged to remarry, though they were not likely to find a suitor for a third marriage owing to the popular belief that a widow who had been unfortunate in the loss of two husbands was ill-starred and apt to bring death on him who might venture to marry her.

In the case of a childless marriage, the widow could find a home in the house of her deceased husband's brother by contracting levitate marriage (*Yibbum*), or she could marry a stranger after having secured her freedom by *Halizah*.¹⁶ Where she married the

brother-in-law, the Rabbis enacted, as a safeguard against divorce, that his estate, in the event of divorce, was to be charged with the payment of the *Kethubah*, if the first husband's estate was insufficient for the payment thereof,¹⁷ although according to the earlier law the widow had no claim on the levir beyond the ordinary marital obligations of a husband to a wife.¹⁸

'Of all expositions by the Sages of the commandments in the Torah, none redounds more to their praise than their exposition of the marriage laws'.¹⁹ Such was the verdict of past generations; and such it is confidently anticipated will be the verdict of every diligent student who will endeavor to penetrate the spirit that animated the discussions in the Babylonian and Palestinian schools presented in this 'Order'.

METHOD AND SCOPE

TEXT. The Text used for this edition is in the main that of the Wilna Romm Edition. Note has, however, been taken of the most important variants of manuscript and printed editions some of which have been adopted in the main body of the translation, the reason for such preference being generally explained or indicated in the Notes. All the censored passages appear either in the text or in the Notes.

TRANSLATION. The translation aims at reproducing in clear and lucid English the central meaning of the original text. It is true some translators will be found to have been less literal than others, but in checking and controlling *every line* of the work, the Editor has endeavored not to lose sight of the main aim of the translation. Words and passages not occurring in the original are placed in square brackets.

NOTES. The main purpose of these is to elucidate the translation by making clear the course of the arguments, explaining allusions and technical expressions, thus providing a running commentary on the text. With this in view resort has been made to the standard

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Hebrew commentators, Rashi, the Tosafists, Asheri, Alfasi, Maimonides, Maharsha, the glosses of BaH, Rashal, Strashun, the Wilna Gaon, etc.²⁰ Advantage has also been taken of the results of modern scholarship, such as represented by the names of Graetz, Bacher, Weiss, Halevy, Levy, Kohut, Jastrow, Obermeyer, and — happily still with us — Krauss, Buchler, Ginzberg, Klein and Herford among others, in dealing with matters of general cultural interest with which the Talmud teems — historical, geographical, archaeological, philological and social.

GLOSSARY AND INDICES. Each Tractate is equipped with a [Glossary](#) wherein recurring technical terms are fully explained, thus obviating the necessity of explaining them afresh each time they appear in the text. To this have been added a Scriptural Index and a [General Index](#) of contents.

In the presentation of the tractates the following principles have also been adopted:

- i. The Mishnah and the words of the Mishnah recurring and commented upon in the Gemara are printed in capitals.
- ii. [H] introducing a Mishnah cited in the Gemara, is rendered 'we have learnt'.
- iii. [H] introducing a Baraita, is rendered 'it has been (or was) taught'.
- iv. [H] introducing a Tannaitic teaching, is rendered 'Our Rabbis taught'.
- v. Where an Amora cites a Tannaitic teaching the word 'learnt' is used, e.g., [H], 'R. Joseph learnt'.
- vi. The word tanna designating a teacher of the Amoraic period (v. [Glos.](#)) is written with a small 't'.
- vii. A distinction is made between ...: [H] referring to a Tannaitic ruling and ...: [H] which refers to the ruling of an Amora, the former being rendered 'the *Halachah* is ...' and the latter, 'the law is ...'
- viii. R. stands either for Rabbi designating a Palestinian teacher or Rab designating a Babylonian teacher, except in the case of the frequently recurring Rab Judah where the title 'Rab' has been written in full to distinguish him from the Tanna of the same name.
- ix. [H], lit., 'The Merciful One', has been rendered 'the Divine Law' in cases where the literal rendering may appear somewhat incongruous to the English ear.
- x. Biblical verses appear in italics except for the emphasized word or words in the quotation which appear in Roman characters.
- xi. No particular English version of the Bible is followed, as the Talmud has its own method of exegesis and its own way of understanding Biblical verses which it cites. Where, however, there is a radical departure from the English versions, the rendering of a recognized English version is indicated in the Notes. References to chapter and verse are those of the Massoretic Hebrew text.
- xii. Any answer to a question is preceded by a dash (—), except where the question and the answer form part of one and the same argument.
- xiii. Inverted commas are used sparingly, that is, where they are deemed essential or in dialogues.
- xiv. The archaic second person 'thou', 'thee' etc. is employed only in *Haggadic* passages or where it is necessary to distinguish it from the plural 'you', 'yours', etc.
- xv. The usual English spelling is retained in proper names in vogue like Simeon, Isaac, Akiba, as well as in words like *Halachah*, *Shechinah*, *Shechitah*, etc. which have almost passed into the English language. The transliteration employed for other Hebrew words is given at the end of each tractate.
- xvi. It might also be pointed out for the benefit of the student that the recurring phrases 'Come and hear:' and 'An objection was raised:' or 'He objected:'

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introduce Tannaitic teachings, the two latter in contradiction, the former either in support or contradiction of a particular view expressed by an Amora.

ACKNOWLEDGMENTS

I desire again to express my grateful appreciation of the scholarship and diligence shown by all the collaborators of Seder Nashim. My special thanks are due to Mr. Maurice Simon, M.A., who has assisted in many respects, and to my dear wife for her invaluable help to me in many ways whilst engaged in this work.

I am deeply grateful to Mr. J. Davidson, the Governing Director of the Soncino Press, for the infinite patience and care with which he has seen these volumes of Nashim through the Press.

In conclusion, I must tender my humble thanks to the Almighty God for having given me the strength to carry through, amidst other Labors, this exacting and strenuous task. And on behalf of all those of us who have been closely concerned with this publication, I offer the traditional prayer: [H]

May it be Thy will, O Lord our God, even as Thou hast helped us to complete the *Seder Nashim* so to help us to begin the other *Sedarim*, 'Orders', and complete them.

I. EPSTEIN
Jews' College
Marcheshvan 27, 5697
12 November, 1936

Footnotes

1. [Shab. 31a](#).
2. V. Rengstorf, K. H. *Die Mischna, Jebamot* (Giessen, 1929), Introduction p. 1.
3. This order rests on that of Maimonides except that he places Sotah between Gittin and Kiddushin. In the printed editions of the Babylonian Talmud the tractates appear in the following order: Yebamoth, Kethuboth,

Kiddushin, Gittin, Nedarim, Nazir, Sotah. For other variations v. Strack. H., *Introduction to the Talmud and Midrash* (Philadelphia), 1931, p. 365.

4. V. [Glos. s.v. Yihud](#).
5. J. Bik. III, 3.
6. V. [Sot. 44a](#).
7. Kid. 12b.
8. V. [Yeb. 29b](#).
9. This explains the first benediction at the Jewish marriage ceremony in which *Huppah* is mentioned before *Kiddushin*: 'Blessed art Thou, O Lord, who sanctifieth His people Israel by (the rite of) *Huppah* and *Kiddushin*' (P.B. p. 298).
10. The *Kethubah* guaranteed the wife out of the husband's estate, in the event of his death or divorce, not only a certain sum of money but also the return of her dowry and the property which she brought to him upon her marriage. Apart from the provision in regard to her general maintenance and other rights, there were special clauses providing for the wife's sons to be the sole heirs of her personal property — *Kethuboth Benin Dikrin*; and also for the maintenance and marriage portion of the daughters out of the husband's estate — *Kethubath Benan Nukban*.
11. The tendency of the Rabbis was nevertheless to restrict the freedom of the husband in the matter of divorce. In addition to the Biblical law that took away from the husband the right of divorcing a wife he had ravished, or whom he had falsely accused of infidelity during betrothal (*Erusin*), the Rabbis introduced several other restrictive measures. He could not, for instance, divorce his wife if she had become insane, or if she was too young to take care of the bill of divorce. Some of the minute regulations incident to the drafting and delivery of the bill of divorce were also designed to check the husband against abuse of his power.
12. V. Mat. XIX, 12 and I Cor. Ch. VII.
13. [Git. 90b](#).
14. [Ned. 20b](#).
15. [Yeb. 62b](#).
16. V. pp. xxiii and xxx.
17. V. [Keth. 53b](#) and Eben ha-Ezer, 168.
18. V. [Yeb. 38a](#).
19. B. M. Lewin, *Otzar ha-Geonim, Yebamoth*, p. 24.
20. These names are referred to more fully in the list of Abbreviations at the end of each Tractate.

YEBAMOTH

**TRANSLATED INTO ENGLISH
WITH NOTES, GLOSSARY
AND INDICES**

BY

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INTRODUCTION

The tractate of Yebamoth¹ has its origin in the following Scriptural passages from which branch out the numerous laws and regulations, the arguments and discussions that cover its hundred and twenty odd folios.

If brethren dwell together, and one of them die, and have no child, the wife of the dead shall not be married abroad unto one not of his kin; her husband's brother shall go in unto her, and take her to him to wife, and perform the duty of a husband's brother unto her (Deut. XXV, 5).

And if the man like not to take his brother's wife, then his brother's wife shall go up to the gate unto the elders, and say: 'My husband's brother refuseth to raise up unto his brother a name in Israel; he will not perform the duty of a husband's brother unto me'. Then the elders of the city shall call him, and speak unto him; and if he stand, and say: 'I like not to take her'; then shall his brother's wife draw nigh unto him in the presence of the elders, and loose his shoe from off his foot, and spit in his face; and she shall answer and say: 'So shall it be done unto the man that doth not build up his brother's house' (ibid. 7-9).

Two religious and social institutions, (a) levirate marriage and (b) *Halizah*,² are thus promulgated in their simplest and elemental forms; and a superficial reading of the Biblical text would naturally lead to the conclusion that the former can be effected where the brother-in-law raised no objection against marriage with the widow and the latter where he did raise such an objection. In practical life, however, both marriage and *Halizah* bristle with difficulties and are hedged in by a complexity of problems.

What, for instance, is a court to rule where the levir is willing to marry the woman but the latter is forbidden to him on account of consanguinity? She might be his wife's sister, or his own daughter or granddaughter. Is a brother, who was born after the death of his elder childless brother, subject to the obligations of the levirate marriage or *Halizah*, and who is to perform the one or the other where the deceased is survived by more than one brother? What procedure is to be adopted if two, three or more brothers were married respectively to as many sisters and one or two of the brothers died without issue? What are the mutual privileges and obligations of a levir and his deceased brother's wife in respect of maintenance, handiwork and marital relationship generally during the period in which the latter is awaiting the decision of the former? Is the widow expected to marry the levir if he is of illegitimate birth or is afflicted with a disease? How many judges constitute a court in respect of a *Halizah* ceremonial and what footwear is included in the Biblical term *shoe*? Can the precept be observed where the levir has no foot from which 'to loose his *shoe*' or is deaf and unable to hear the recital of the prescribed formulae? Is a woman subject to the levirate obligations where her husband is reported to have died, and what evidence is admissible in connection with such a report?

Such and similar problems are discussed, solved and decided upon in the following pages on the basis of Scriptural texts, traditional rulings and precedents established by earlier courts. Incidentally other topics relating to matrimony and divorce and questions bearing directly or

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indirectly upon the main theme of the tractate are introduced by way of comparison, illustration, refutation or amplification.

Briefly summarized the sixteen chapters of Yebamoth deal with the following matters.

CHAPTER I enumerates and discusses fifteen categories of women relatives who exempt their rivals, and the rivals of their rivals *ad infinitum*, as well as themselves, from *Halizah* and levirate marriage, and six other relatives, the prohibition to marry whom is of a more stringent character, and levirate marriage with whose rivals is permitted.

CHAPTER II begins with a definition of 'the wife of a brother who was not his contemporary' illustrating the wide application of the laws of exemption from levirate marriage that result therefrom, and indicating the exemptions due to the Rabbinical prohibition of certain marriages. It proceeds to deal with types of brothers who subject or exempt their brothers' widows from the levirate marriage and with the laws of procedure where one of two sisters was betrothed and it is unknown which of them it was. The relative duties of an elder and younger brother in regard to the levirate marriage, the circumstances in which a woman may or may not be married by a man who has been suspected of intercourse with her, or who had brought to her a letter of divorce or supplied the evidence on the basis of which permission was given her to marry again, or who was in any other way connected with her legal separation from her husband, are also among the subjects discussed.

CHAPTER III lays down the laws of the levirate marriage and *Halizah* as they affect two or more brothers whose wives were sisters, a mother and daughter, a grandmother and granddaughter or sisters and a stranger, and indicates the precautions necessary where two women

who were betrothed to two men were exchanged for one another while entering their bridal chambers and it cannot be ascertained who married whom.

CHAPTER IV deals with the legal consequences of a *Halizah* by, or marriage with a widow who was subsequently found to be pregnant; the right of a widow, during the period of her awaiting the decision of the levir, to own, to buy or to sell property; the relative claims of her father's and husband's heirs to the inheritance of her estate; the order of precedence among brothers in respect of the levirate marriage and which of them is the legal heir to the deceased brother's estate; the classes of men and women respectively that are forbidden or permitted to marry the widow or the levir as a result of, or despite the performance of a *Halizah*, and what relatives by marriage are for the same reason exempt from the levirate marriage or *Halizah* or both. Other subjects dealt with include the period that must be allowed between a husband's death and his widow's remarriage or *Halizah*, the procedure to be adopted when more than one wife of the same brother or of two or more brothers survived their husband or husbands respectively, the question of the legitimacy of a child born from a marriage with one's own *Haluzah*³ or divorcee, and the right to live with any such woman. The chapter concludes with a discussion on the term *Mamzer* or illegitimate child.

CHAPTER V is occupied with a discussion on the validity of a *get*,³ a *Ma'amar*,³ intercourse or *Halizah*³ that had been given, declared or performed respectively either after or between any one or two of these.

CHAPTER VI recognizes the validity of all forms and manners of intercourse between levir and widow, and all the disqualifications resulting from any intercourse between persons who are forbidden to marry one another. This is followed by a discussion on whether women whom priests are forbidden

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to marry may eat *Terumah*' while they are betrothed or married to such priests or after they have been divorced by them, the definition of widow whom a High Priest may not marry, whether he may marry a *bogereth*, where his priestly status changed after betrothal, whether he may contract levitate marriage and submit to *Halizah*,³ and under what conditions a priest may marry a barren woman. Other subjects discussed include the number of children, male and female that exempt one from the duty of the propagation of the race, the time limit to living with a woman who bore no child, the effect of a miscarriage on that time limit, the woman's right to marry another man, and the question whether a woman also is subject to the duty of the propagation of the race.

CHAPTER VII discusses the conditions under which a woman's slaves gain or lose the right to the eating of *Terumah*' and in what circumstances she herself is deprived of the privilege.

CHAPTER VIII mentions classes of priests that are forbidden to eat *Terumah* though their wives and slaves may; and those whose slaves, as they themselves, may eat it but whose wives may not, and discusses various types of men and women who, on account of personal defects, illegitimacy of birth or tainted national origin, are forbidden to marry the daughter or the son of an Israelite respectively, are restricted in their choice of a spouse to a limited [page xlv] class of persons, and are also subject to restrictions in respect of *Halizah* and *Terumah*.

CHAPTER IX contains a list of women who are permitted to their husbands but forbidden to their levirs, permitted to the latter but forbidden to the former, and those who are permitted or forbidden to both; and lays down the conditions under which a betrothal or a marriage and the circumstances resulting there-from may

confer upon a woman, or deprive her of the right to eat *Terumah* or tithe.

CHAPTER X sets out the legal, religious or social consequences of a second marriage by a person whose husband or wife respectively was reported to have died in a foreign country and of a marriage or *Halizah* by a young levir of the age of nine years and one day.

CHAPTER XI treats of marriage with a woman or her relatives contracted by a man whose father or son had outraged or seduced her, the inapplicability of a levirate marriage and *Halizah* to the sons of a proselyte or emancipated bondwoman who were converted or emancipated respectively together with their mother, the legal complications and consequences, with special reference to the levirate marriage and *Halizah*, where children of different mothers were mixed up or where a child was born from a marriage his mother contracted within three months of her separation from her first husband and it is unknown whether the child was one of seven or of nine months.

CHAPTER XII determines the number of judges that may constitute a court for the *Halizah* ceremony, the kind of footwear the levir must wear for the occasion, the time, the formulae and other details relating to the performance of a *Halizah* including the advice a court must tender in the interests of the two parties on the choice between *Halizah* and the levirate marriage.

CHAPTER XIII prescribes the various laws relating to, and resulting from *mi'un*,³ the remarriage by a husband of his wife after he had divorced her; brothers who married sisters in their minority; one who married two orphan sisters; a levir who had intercourse with a widow while he and she were in their minority or where she was a minor and he was of age; a dispute between the widow and the levir as to whether intercourse between them had taken place,

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and a widow who vowed to have no benefit from the levir.

CHAPTER XIV is concerned with marriages between persons one of whom was a deaf-mute before the marriage, or became deaf or imbecile after it; and with levirate marriage and *Halizah* where two brothers had married two sisters or two strangers and both husbands and wives were deaf, or only one or other of the parties was afflicted with deafness and the others were of sound senses.

CHAPTER XV defines the circumstances and conditions in which a woman who returns from a country overseas, whither she went together with her husband or with her husband and son, is believed when she states that her husband was dead or that his death took place prior or subsequent to that of his son, and discusses the questions of whether such a woman's testimony entitles her to marriage only or also to her *Kethubah*, and the bearing of her evidence on her *hahzah* and the privilege of eating *Terumah*, what relatives are eligible to act as witnesses in establishing a married man's death, contradictory evidence, betrothal of one of a group of women or robbery from one of a group when it is uncertain which particular individual was betrothed or robbed, and the evidence of a woman that a son or levir was born and died abroad before or after the death of her husband.

CHAPTER XVI embodies a discussion on the laws resulting from a journey of a husband and rival to a country overseas and the former was reported to have died, the evidence of two sisters-in-law that their respective husbands died, and the essential features in the identification of a corpse or in evidence of death on the basis of which a married woman may be set free.

THE AGGADIC MATERIAL is rather scanty and some chapters are entirely devoid of it. The duty of honoring parents is referred to in the

first chapter and, by deduction from Scriptural texts, it is held that it must not be allowed to supersede any other divine commandment, which is incumbent upon both parents and children. A visit of three of the most prominent scholars of the time to R. Dosa b. Harkinas is described, and one gains a glimpse of the keen dialectical powers of R. Dosa's younger brother. Some reasons are given why proselytes from certain localities or peoples must not be accepted (**Chap. I**).

It is stated that no proselytes were received in the days of David and Solomon and that none would be accepted in the days of the Messiah (**Chap. II**) and that, at the present time, before a proselyte is initiated, the sufferings of Israel and their disabilities as well as their heavy responsibilities and duties must be pointed out to him, every effort being made to discourage him from his intended conversion. Manasseh's indictment of Isaiah and the horrible death he inflicted upon him are described (**Chap. IV**).

The blessings and joys of married life, the relative advantages and disadvantages of commerce and agriculture, the curse of a bad wife, some Rabbis who suffered from their wives, and some maxims of Ben Sira are mentioned or described, and the neglect of the propagation of the race is compared to bloodshed and blasphemy. The study of the Torah, however, is accepted as a valid excuse for a bachelor's life (**Chap. VI**).

A discussion is reported between Saul, Doeg and Abner on the eligibility of David, who was a descendant of the Moabitess Ruth, to enter the congregation of Israel, and the story of the executions of the sons of Saul at the request of the Gibeonites (II Sam. XXI) is amplified and its moral lesson is duly drawn (**Chap. VIII**).

The penalty of the Levites for refusing to go up with Ezra to Judea is mentioned (**Chap.**

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[IX](#)), and the merit of reporting a statement in the name of its author is dwelt upon ([Chap. X](#)). Everyone must pursue peace, avoid vows and, when exercising the office of judge, one must act as if a sword lay between his thighs and Gehenna was gaping beneath him ([Chap. XIII](#)).

Women are said to be glad of any type of husband however humble his position or occupation ([Chap. XV](#)). Remarkable escapes from shipwreck are described, and adduced as evidence of the wisdom underlying certain Rabbinic enactments, and these are followed by the story of the miraculous delivery of the daughter of Nehunia the well-digger and his striking premonition ([Chap.](#)

[XVI](#)). This introduction must not be concluded without an expression of heartfelt thanks to those who, in one way or another, were of assistance to me in the preparation of the translation and the notes, and whose names I have duly mentioned in the last paragraph of my introduction to Kethuboth.

I. W. SLOTKI

1. [H] pronounced [H] pl. of [H], deceased brother's widow, or the abstract noun of the same root signifying marriage with a deceased brother's widow.
2. V. [Glos.](#)
3. V. [Glos.](#)

The Indices of this Tractate have been compiled by Judah J. Slotki, M. A.

PREFATORY NOTE BY THE EDITOR

The Editor desires to state that the translation of the several Tractates, and the notes thereon, are the work of the individual contributors and that he has not attempted to secure general uniformity in style or mode of rendering. He has, nevertheless, revised and supplemented, at his own discretion, their interpretation and elucidation of the original text, and has himself added the notes in square brackets containing alternative explanations and matter of historical and geographical interest.

ISIDORE EPSTEIN

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Yebamoth 2a

CHAPTER I

MISHNAH. FIFTEEN [CATEGORIES OF] WOMEN EXEMPT THEIR RIVALS¹ AND THE RIVALS OF THEIR RIVALS² AND SO ON, AD INFINITUM,³ FROM THE HALIZAH⁴ AND FROM THE LEVIRATE MARRIAGE;⁵ AND THESE ARE THEY: HIS DAUGHTER,⁶ THE DAUGHTER OF HIS DAUGHTER⁷ AND THE DAUGHTER OF HIS SON;⁷ THE DAUGHTER OF HIS WIFE,⁸ THE DAUGHTER OF HER SON AND THE DAUGHTER OF HER DAUGHTER; HIS MOTHER-IN-LAW,⁹ HIS MOTHER-IN-LAW'S MOTHER,¹⁰ AND HIS FATHER-IN-LAW'S MOTHER;¹⁰ HIS MATERNAL SISTER,¹¹ HIS MOTHER'S SISTER,¹¹ HIS WIFE'S SISTER AND HIS MATERNAL BROTHER'S WIFE;¹²

1. Heb., *Zarah*, [H] 'rival'. Where a husband has more than one wife, each woman is a *Zarah* in relation to the other. The term is derived from [H] which signifies oppression, hence 'rival', 'adversary', as in I Sam. I, 6 (cf. Kimhi a.l.), or 'to tie up', 'to bind', hence 'associate', 'co-wife'.
2. The co-wives of a rival through a second marriage.
3. [H] lit., 'to the end of the world'.
4. [H] (rt. [H] 'to take off' or 'to loosen'), the ceremony of drawing off the shoe of the brother of her husband who died without issue. According to Biblical law (v. Deut. XXV, 5-9) the brother-in-law must either marry the widow (v. following note) or be subjected to *Halizah*.
5. [H] 'to marry the levir'. Any woman coming under the fifteen categories enumerated below is not only herself exempt from *Halizah* and *Yibbum* but exempts also her own rivals as well as the rivals of her rivals, ad infinitum, as explained anon.
6. Who had been married to his brother who subsequently died childless. Since he is forbidden to marry his daughter he is thereby also forbidden to marry any of her rivals, the

widows of his deceased childless brother. 'HIS DAUGHTER' includes even one born to him as a result of outrage, v. *infra*.

7. Cf. previous note. All the fifteen categories enumerated are among the near relatives whom a man is forbidden to marry in accordance with the explicit and implicit prohibitions in Lev. XVIII, 6ff.
8. From a former husband.
9. Who, after the death of her husband, had married his brother who subsequently died childless.
10. The prohibition to marry in this case is derived in Sanhedrin 75a from Lev. XVIII, 17.
11. Who was married to his paternal brother. The laws of the levirate marriage and *Halizah* are applicable to a paternal, but not to a maternal brother.
12. Who, after the death of her husband, had married his paternal brother.

Yebamoth 2b

THE WIFE OF HIS BROTHER WHO WAS NOT HIS CONTEMPORARY,¹ AND HIS DAUGHTER-IN-LAW.² ALL THESE EXEMPT THEIR RIVALS AND THE RIVALS OF THEIR RIVALS, AND SO ON, AD INFINITUM, FROM THE HALIZAH AND FROM THE LEVIRATE MARRIAGE. IF, HOWEVER, ANY AMONG THESE³ DIED,⁴ OR MADE A DECLARATION OF REFUSAL,⁵ OR WERE DIVORCED, OR WERE FOUND INCAPABLE OF PROCREATION, THEIR RIVALS ARE PERMITTED;⁶ THOUGH, OF COURSE, ONE CANNOT SAY OF A MAN'S MOTHER-IN-LAW, OF THE MOTHER OF HIS MOTHER-IN-LAW AND OF THE MOTHER OF HIS FATHER-IN-LAW THAT THEY WERE FOUND INCAPABLE OF PROCREATION OR THAT THEY MADE A DECLARATION OF REFUSAL.⁷

HOW IS THE EXEMPTION OF THEIR RIVALS [BY THE WOMEN MENTIONED], TO BE UNDERSTOOD? IF A MAN'S DAUGHTER OR ANY OTHER OF THESE FORBIDDEN RELATIVES WAS MARRIED TO HIS BROTHER WHO HAD

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ALSO ANOTHER WIFE [AT THE TIME] WHEN HE DIED, THEN AS HIS DAUGHTER IS EXEMPT SO IS HER RIVAL EXEMPT. IF HIS DAUGHTER'S RIVAL WENT AND MARRIED A SECOND BROTHER OF HIS,⁸ WHO ALSO HAD YET ANOTHER WIFE WHEN HE DIED, THEN AS THE RIVAL OF HIS DAUGHTER IS EXEMPT SO IS ALSO HIS DAUGHTER'S RIVAL'S RIVAL EXEMPT, EVEN IF THERE WERE A HUNDRED [BROTHERS].⁹

HOW [IS ONE TO UNDERSTAND THE STATEMENT THAT] IF THEY HAD DIED, THEIR RIVALS ARE PERMITTED?¹⁰ IF A MAN'S DAUGHTER OR ANY OTHER OF THESE FORBIDDEN RELATIVES WAS MARRIED TO HIS BROTHER WHO HAD ALSO ANOTHER WIFE, THEN, IF HIS DAUGHTER DIED OR WAS DIVORCED, AND HIS BROTHER DIED SUBSEQUENTLY, HER RIVAL IS PERMITTED.¹⁰

THE RIVAL OF ANY ONE WHO IS ENTITLED TO MAKE A DECLARATION OF REFUSAL¹¹ BUT DID NOT EXERCISE HER RIGHT, MUST PERFORM *HALIZAH* [IF HER HUSBAND DIED CHILDLESS], AND MAY NOT CONTRACT LEVIRATE MARRIAGE.¹²

GEMARA. Consider: All these¹³ are deduced from the [exemption of] a wife's sister.¹⁴ Why then was not HIS WIFE'S SISTER mentioned¹⁵ first?¹⁶ And if it be replied that the Tanna enumerated¹⁷ [the forbidden relatives] in the order of the degrees of their respective severity,¹⁸ and that it [our Mishnah] represents the view of R. Simeon who regards burning¹⁹ as the severest,²⁰ [it may be retorted that], if that is the case,²¹ HIS MOTHER-IN-LAW should have been mentioned¹⁶ first, since [Scripture] enunciated the principle of burning in the case of a mother-in-law.²² And, furthermore, HIS DAUGHTER-IN-LAW should have come¹⁵ immediately after HIS MOTHER-IN-LAW, since, next to burning, stoning²³ is the

severest penalty! — But [this in fact is the proper reply]: Since [the prohibition of intercourse with] 'HIS DAUGHTER'²⁴ has been arrived at by exposition²⁵ it is given preference.²⁶

1. Lit., 'in his world', i.e., who died before he was born. Such a brother's widow and her rivals etc. are exempt. If, for instance, C was born after his brother A had died childless, so that his widow, N married (in accordance with the laws of the levirate marriage) a contemporary brother of his, B, who had another wife, or wives, and B also died childless, all B's widows are exempt from *Halizah* and *Yibbum* as far as C is concerned on account of N who is forbidden to him.
2. Who married his brother after the death of his son. The marriage of a daughter-in-law is forbidden for ever, even after the death of one's son.
3. Lit., '(in the case of) all of them'.
4. Prior to the death of her husband who subsequently died childless.
5. Such a declaration, *Mi'un* [H], may be made against her husband (without any further necessity for a divorce) by a wife, while she is a minor, or as soon as she becomes of age, prior to cohabitation, in cases where she was betrothed either (a) as an orphan, by her mother or brothers or (b) even in the lifetime of her father (v. *infra* 109a) if she was once divorced (after her father had contracted for her a betrothal) and was betrothed again while still a minor.
6. I.e., levirate marriage may be contracted, or *Halizah* must be performed.
7. For, having given birth they must be of age.
8. Whenever one of the surviving brothers is not related to either of the widows, but another brother is, it is his duty to perform the levirate marriage or to submit to *Halizah*.
9. Everyone of whom had also another wife or wives and the rival's rival married them in turn, ad infinitum.
10. V. p. 2, n. 7.
11. A minor (V. *supra*, p. 2, n. 6).
12. V. Gemara *infra*.
13. Exemptions enumerated in our Mishnah.
14. V. *infra*.
15. Lit., 'let him teach'.
16. In the list.
17. Lit., 'took'.
18. The degree of the severity of the penalty incurred by sexual intercourse with one of these relatives.
19. The death penalty incurred for sexual intercourse with one of the first eight

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categories enumerated in our Mishnah. V. Sanh. 75a.

20. Of the four death penalties. V. Sanh. 49b.
21. Lit., 'if so'.
22. Lev. XX, 14.
23. The penalty for intercourse with one's daughter-in-law. V. Sanh. 53a.
24. I.e., born as a result of outrage. V. *supra* p. 1, n. 6.
25. V. *infra*.
26. Lit., 'beloved to him'.

Yebamoth 3a

[The law, surely,] concerning all the others also was arrived at¹ by exposition!² — Granted that in respect of [exemption from] the levirate marriage [the law in relation to them] was arrived at by exposition, the principle of prohibition [of sexual intercourse] with them has been explicitly enunciated in Scripture, [while as regards] his daughter³ the very principle underlying the prohibition [of intercourse with her] has been arrived at by exposition; for Raba⁴ stated: R. Isaac b. Abdimi told me, 'Hennah⁵ is derived from hennah⁶ and zimmah⁷ is derived from zimmah'.⁸

Now that it has been stated that preference is given to whatever is arrived at by exposition, the Tanna should have placed⁹ HIS WIFE'S SISTER last!¹⁰ — As he was dealing with a prohibition due to sisterhood¹¹ he mentioned also HIS WIFE'S SISTER. Then let him relegate⁹ the entire passage¹² to the end!¹³ — But [this is really the explanation]: The Tanna follows the order of the respective degrees of kinship. He, therefore, mentions [first] HIS DAUGHTER, THE DAUGHTER OF HIS DAUGHTER AND THE DAUGHTER OF HIS SON because they are his own next of kin; and since he enumerated three generations of his relatives in descending order he enumerated also three generations of her¹⁴ relatives in descending order. Having enumerated three generations of her¹⁴ relatives in descending order he proceeded to enumerate also three generations of her relatives in ascending order. He then mentions HIS SISTER and HIS MOTHER'S SISTER who are his

blood¹⁵ relatives;¹⁶ and while dealing with prohibitions due to brotherhood he also mentions HIS WIFE'S SISTER. And it would indeed have been proper that HIS DAUGHTER-IN-LAW should be placed before THE WIFE OF HIS BROTHER WHO WAS NOT HIS CONTEMPORARY, since it is not on account of kinship¹⁷ that the latter is forbidden, but as he was dealing with a prohibition due to brotherhood he mentioned also THE WIFE OF HIS BROTHER WHO WAS NOT HIS CONTEMPORARY and then mentioned HIS DAUGHTER-IN-LAW.

What argument can be advanced for using¹⁸ the expression EXEMPT¹⁹ and not that of²⁰ 'prohibit'?²¹ — If 'prohibit' had been used it might have been assumed that the levirate marriage only was forbidden but that *Halizah*²² must nevertheless be performed,²³ hence it was taught²⁴ [that *Halizah* also need not be performed]. Let it then be stated,²⁵ 'She is forbidden to perform *Halizah*!²⁶ — No harm, surely, is thereby done.²⁷ But why indeed should not [the expression of prohibition be applicable to *Halizah*]? If you were to say that *Halizah* is permissible, [one might say that] levirate marriage is also permitted!²⁸ — As a rival²⁹ is forbidden only where the commandment [of the levirate marriage] is applicable but is permitted where the commandment is not applicable,³⁰ it was therefore necessary to use the expression, EXEMPT.³¹

What justification is there for stating, FROM THE *HALIZAH* AND FROM THE LEVIRATE MARRIAGE when it would have been sufficient to state³² FROM THE LEVIRATE MARRIAGE only?³³ — If FROM THE LEVIRATE MARRIAGE only had been stated it might have been assumed that she must perform *Halizah*³⁴ though she is exempt from the levirate marriage, hence it was taught³⁵ that whoever is subject³⁶ to the obligation of levirate marriage is also subject to *Halizah* and whosoever is not subject to the obligation of the levirate marriage is not subject to *Halizah*.

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Let it [first] be stated,³⁷ FROM THE LEVIRATE MARRIAGE [and then] FROM THE HALIZAH,³⁸ or else only FROM THE HALIZAH?³⁹ — This Mishnah represents the view of Abba Saul who maintains that the commandment of *Halizah* takes precedence over that of levirate marriage.⁴⁰

What [was intended] to be excluded [by the] numeral at the beginning⁴¹ and what [again was intended] to be excluded [by the] numeral at the end?⁴² —

1. In respect to their exemption from the levirate marriage.
2. By deduction from the law of a wife's sister.
3. V. n. 2.
4. Others, 'Rab', who was a disciple of R. Isaac b. Abdimi, v. Tosaf. s.v. [H] a.l.
5. [H] ('they' or 'theirs') in Lev. XVIII, 10 which deals according to Talmudic interpretation with the daughter of his son, or of his daughter that was born from an outraged woman, but not with the daughter herself.
6. Ibid. v. 17 which places a daughter on the same footing as a son's and a daughter's daughter. By this analogy the inference is arrived at that intercourse even with a daughter from an outraged woman is forbidden.
7. [H] ('lewdness' or 'wickedness'), *ibid.* where the penalty of burning is not mentioned.
8. Ibid. XX, 14 where the penalty of burning with fire is explicitly stated. Thus it is shown that the very foundation of the prohibition of sexual intercourse with a daughter from an outraged woman, as well as the death penalty of burning which the crime involves, are entirely dependent on inferences arrived at by exposition, v. Sanh. 51a.
9. Lit., 'let him teach'.
10. In the list in our Mishnah; since, as will be shown *infra*, the exemption from levirate marriage in respect of all the others is derived by exposition from 'his wife's sister'.
11. 'His mother's sister', v. our Mishnah.
12. Which deals with the prohibitions through sisterhood.
13. Of the list.
14. His wife's.
15. Lit., 'his own'.
16. While a daughter-in-law is not consanguineous.
17. A daughter-in-law should, consequently, receive priority.
18. In our Mishnah.
19. Which might imply that the levirate marriage in these cases is not obligatory but optional.
20. v. *supra* p. 4, n. 13.
21. Since, in fact, no marriage with a deceased brother's widow is permitted whenever the obligation of the levirate marriage does not exist.
22. V. Glos.
23. Since a prohibition could not very well apply to *Halizah* which is a harmless act, the expression of 'prohibit' in respect of *Halizah* would have been interpreted as a 'prohibition to be married to anyone before *Halizah* had been performed'.
24. By the use of the expression, 'exempt'.
25. In our Mishnah.
26. And, consequently, the expression 'prohibit' which is preferable to that of 'exempt' (v. *supra* notes 6 and 8) could well be used for the levirate marriage.
27. Lit., 'what does he do', i.e., there is no reason why *Halizah* should be forbidden. Hence the expression of 'prohibit' could not properly be used.
28. The expression of 'prohibit' in relation to *Halizah* could, consequently, properly have been used. Why then was 'exempt' preferred to 'prohibit'?
29. Of one's daughter, for instance.
30. If his daughter, e.g., had married one who was not his near of kin, her rival, on the death of her husband, is not forbidden to marry the father; v. *infra* 13a.
31. 'Prohibit' might have implied that a daughter, e.g., always causes her rival to be prohibited to her father whether the precept of the levirate marriage is applicable or not.
32. Lit., 'let him teach'.
33. It is obvious that if one is exempt from the levirate marriage there could be no question of being subject to *Halizah* which is only the result of a refusal to contract the prescribed marriage.
34. In order that the law of the levirate marriage be not entirely abrogated.
35. By the use of the expression, 'exempt'.
36. Lit., 'goes up' sc. to the gate, i.e., the court (cf. Deut. XXV, 7.)
37. In our Mishnah.
38. The marriage surely is of greater importance than the *Halizah*, the latter being only an alternative of the former. V. Deut. XXV. 7.
39. The exemption from the marriage being then self-evident.
40. *Infra* 39b, 109a. And if only FROM THE HALIZAH had been stated, there would be no basis for this inference.
41. Of our Mishnah, 'FIFTEEN'.
42. Of the list; 'ALL THESE', implying the 'FIFTEEN' mentioned. If nothing were to be

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excluded, there would be no need for the addition of a cardinal at the beginning, or of a reference to it at the end of a list which presumably enumerated all possible cases.

Yebamoth 3b

[They were intended] to exclude the respective rulings of Rab and R. Assi.¹ What, [however, do the numerals] exclude according to Rab and R. Assi? — If they share each other's views, one numeral would serve to exclude the rival of one who made a declaration of refusal,² and the other to exclude the rival of a wife whom [her husband] remarried after having divorced her.³ If they do not share the views of each other, [each would regard] one [numeral as serving] to exclude the ruling of his colleague;⁴ and the other numeral, as serving to exclude either the rival of one who made a declaration of refusal² or the rival of a wife whom [her husband] remarried after having divorced her.³

According to Rab and R. Assi these⁵ should have been enumerated in our Mishnah! — [This could not be done] because the law of the rival's rival⁶ is not applicable [to these cases].⁷

Whence is this law⁸ derived?⁹ — [From] what our Rabbis taught: And thou shalt not take a woman to her sister, to be a rival to her, to uncover her nakedness, 'Aleha [beside her] in her lifetime,¹⁰ what need was there for the expression 'Aleha'?¹¹ Because it was stated, Her husband's brother shall go in 'Aleha [unto her],¹² it might have been imagined¹³ that Scripture¹⁴ speaks even of any of all the forbidden relatives enumerated in the Torah. Hence it was here¹⁰ stated, 'Aleha'¹⁵ and elsewhere¹² it was also stated 'Aleha'.¹⁶ Just as elsewhere it is in the case of a precept¹⁷ so here also it is in the case of a precept;¹⁷ and yet did not the All Merciful say, Thou shalt not take.¹⁸ We are thus in a position to know the law concerning herself;¹⁹ whence do we derive the law concerning her rival? — From the Scriptural expression, To

be a rival to her.¹⁰ We have so far deduced the law concerning her rival only. Whence do we arrive at the law concerning her rival's rival? — From the fact that Scripture uses the expression *li-zeror*²⁰ and not that of *lazor*.²¹ Thus we have deduced the law concerning a wife's sister, whence is the law concerning the other forbidden relatives to be inferred? — It can be answered: As a wife's sister is singled out in that she is a forbidden relative, the penalty for presumptuous intercourse with her is *Kareth*²² and for unwitting intercourse a sin-offering, and she is forbidden to the levir, so also any woman who is a forbidden relative, and the penalty for presumptuous intercourse with whom is *Kareth*²² and for unwitting intercourse a sin-offering, is forbidden to the levir. Now we know the law concerning themselves only;²³ whence is the law concerning their rivals deduced? — It may be answered: As a wife's sister is singled out in that she is a forbidden relative, *Kareth* is incurred by presumptuous intercourse with her and a sin-offering for unwitting intercourse, and she is forbidden to the levir, and her rival is forbidden, so also in the case of any woman who is a forbidden relative, and for presumptuous intercourse with whom is incurred the penalty of *Kareth* and for unwitting intercourse a sin-offering, and who is forbidden to the levir, her rival is forbidden. Hence have the Sages said: FIFTEEN [CATEGORIES OF] WOMEN EXEMPT THEIR RIVALS AND THEIR RIVALS' RIVALS, AND SO ON, AD INFINITUM, FROM THE *HALIZAH* AND FROM THE LEVIRATE MARRIAGE. One might assume that the six more rigidly forbidden relatives²⁴ are also included in the ruling,²⁵ so that their rivals also²⁶ are forbidden,²⁷ hence it must be stated:²⁸ As a wife's sister is singled out in that she is a forbidden relative, *Kareth* is incurred for presumptuous intercourse with her and a sin-offering for unwitting intercourse, she may be married to the other brothers, but is forbidden to the levir, and her rival is forbidden, so also in the case of any woman who is a forbidden relative, for presumptuous intercourse with whom is incurred the

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penalty of *Kareth* and for unwitting intercourse a sin-offering, who may marry one of the other brothers, but is forbidden to the levir, her rival also is forbidden; excluded, however, are the six more rigidly forbidden relatives. Since they may not be married to the other brothers, their rivals are permitted; for [the law of] 'rival'²⁹ is applicable only [to widows] of a brother.³⁰

Thus we have deduced the prohibition. Whence, however, is the penalty inferred? — Scripture said, For whosoever shall do any of these abominations etc. [shall be cut off from among their people.]³¹

The reason,³² then, is because the All Merciful has written, 'Aleha',³³ otherwise it would have been said that levirate marriage may be contracted with the wife's sister; what is the reason? Is it because we assume that a positive precept,³⁴ supersedes a negative precept?³⁵ Surely, it is possible that³⁶ the rule that a positive precept supersedes a negative precept applies only where the latter is a mere prohibition; does it, however, supersede a prohibition involving the penalty of *Kareth*?³⁵ Furthermore, whence is it derived that it may supersede even a mere prohibition?

1. *Infra* 11a and 12a.
2. A minor who was one of the wives of a deceased childless brother, on declaring her refusal to marry the levir, exempts thereby her rivals from the levirate marriage but not from *Halizah*.
3. If one of the widows of a deceased brother was divorced once, and then remarried to him after she had married another man, she causes the exemption of her rivals from the levirate marriage, v. *infra* 11b. The *Halizah*, however, must be performed.
4. According to Rab that of R. Assi, and vice versa.
5. The subjects of their respective rulings, i.e., the Sotah (v. [Glos.](#)) and the barren wife, who, they maintain, *infra* 11a, 11b, exempt their rivals both from the levirate marriage and from *Halizah*.
6. V. our Mishnah.
7. Since neither a Sotah nor a barren woman may marry any one of the brothers.
8. Of our Mishnah, that forbidden relatives as well as their rivals and rivals' rivals, ad infinitum, are exempt from the levirate marriage and from *Halizah*.
9. Lit., 'whence these words'.
10. Lev. XVIII, 18.
11. Which does not add any point to the law enunciated.
12. Deut. XXV, 5.
13. Lit., 'I hear'.
14. Since it drew no distinction between a brother's wife who was a forbidden relative and one that was not forbidden.
15. I.e., 'beside her'.
16. I.e., 'unto her'. In both cases the respective terms 'beside her' and 'unto her' are expressed by the same Heb. word [H].
17. That of levirate marriage.
18. Two sisters, Lev. XVIII, 18. The verse in Lev. thus means that the prohibition of marrying the wife's sister is in force even where she is his dead brother's widow, in regard to whom the precept, 'her husband's brother shall go in unto her', might apply.
19. Lit., 'there is not to me but she', sc. the forbidden relative herself.
20. [H] 'to be a rival',
21. [H] 'to oppress', the longer form *Li-zeror* implies many rivals, i.e., rivals of the rivals. The last question and answer are deleted by R. Tam and Nahmanides. Cf. [H]
22. V. [Glos.](#)
23. The forbidden relatives.
24. Enumerated *infra* 13a.
25. Relating to the other forbidden relatives.
26. If they and their rivals were married to a stranger.
27. To marry the man whom the forbidden relatives themselves are not allowed to marry.
28. Lit., 'say'.
29. I.e., the rival's exemption from the levirate marriage and *Halizah*.
30. Where one of the widows is a forbidden relative of one of the surviving brothers and no forbidden relative of the deceased. As the relative is forbidden to marry the brother, her rival also is forbidden to him as 'his brother's wife'. Where the relative, however, is married to a stranger, her rival is permitted to those to whom the relative herself is forbidden.
31. Lev. XVIII, 29.
32. Why a wife's sister is forbidden the levirate marriage.
33. V. the texts from Lev. and Deut. and the analogy *supra*.
34. The commandment of the levirate marriage.
35. The prohibition to marry one's wife's sister.
36. Lit., 'say'.

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Yebamoth 4a

— Because¹ it is written, Thou shalt not wear a mingled stuff...² Thou shalt make thee twisted cords,³ and R. Eleazar said,⁴ 'Whence is the rule of proximity [of texts] derived from the Torah?'⁵ As it is said, They are established⁶ for ever and ever, they are done in truth and uprightness.⁷ Furthermore, R. Shesheth stated⁸ in the name of R. Eleazar who stated it in the name of R. Eleazar b. Azariah: Whence is it proved that a sister-in-law, who falls to the lot of a levir who is afflicted with boils, is not muzzled?⁹ From the Biblical text, Thou shalt not muzzle the ox when he treadeth out the corn,¹⁰ and in close proximity to it is written If brethren dwell together.¹¹ Furthermore R. Joseph said: Even he who does not base interpretations on the proximity [of Biblical texts] anywhere else does base them [on the texts] in Deuteronomy,¹² for R. Judah who does not elsewhere base any interpretations [on textual proximity], bases such interpretations on the Deuteronomic text.¹³ And whence is it proved that elsewhere he¹⁴ does not advance such interpretation?¹⁵ — From what has been taught: Ben 'Azzai said, It was stated, Thou shalt not suffer a sorceress to live,¹⁶ and it is also stated, Whosoever lieth with a beast shall surely be put to death;¹⁷ one subject was placed near the other to indicate that as the man who lies with a beast is to suffer the death penalty of stoning so also is a sorceress to suffer the death penalty of stoning. Said R. Judah to him: Shall we, because one subject was placed in close proximity to the other, lead out a person¹⁸ to be stoned? In truth¹⁹ [the penalty of the sorceress is derived from the following]: The necromancer and the charmer were included among the sorcerers; why then were they mentioned separately?²⁰ In order that the others may be compared to them, and to tell you that as the necromancer and the charmer are subject to the death penalty of stoning,²⁰ so is a sorceress also subject to the penalty of stoning.

And whence is it proved that in Deuteronomy he²¹ does advance such interpretation?¹⁵ — From what we learned: A man may marry a woman who has been outraged or seduced by his father or his son. R. Judah prohibits in the case of a woman outraged or seduced by one's father.²² And in connection with this, R. Giddal said in the name of Rab: What is R. Judah's reason? Because it is written, A man shall not take his father's wife, and shall not uncover his father's skirt,²³ the 'skirt' which his father saw he shall not uncover. And whence is it inferred that this is written with reference to an outraged woman? — From the preceding section of the text where it is written, Then the man that lay with her shall give unto the damsel's father fifty *Shekels* of silver²⁴ near which it is stated, A man shall not take etc.²⁵ And the Rabbis?²⁶ — If one text had occurred in close proximity to the other the exposition would have been justified;²⁷ now, however, that it does not occur in close proximity²⁸ [it must be concluded that] the context speaks of a woman who is awaiting the decision of the levir²⁹ and that, [in marrying such a woman, a son]³⁰ transgresses two negative precepts.³¹

And what is the reason why [R. Judah] derives laws [from the proximity of texts] in Deuteronomy? — If you wish I might say: Because [there the deduction]³² is obvious; and if you prefer I might say: Because [there the text] is superfluous.³³ 'If you prefer I might say: Because [there the deduction] is obvious', for, otherwise,³⁴ the All Merciful should have written the prohibition in the section of forbidden relatives. 'And if you prefer I might say: Because [there the text] is superfluous', for otherwise³⁵ the All Merciful should have written, A man shall not take his father's wife.²⁵ what need was there for adding,³⁶ And shall not uncover his father's skirt?²⁵

1. This is an answer to the second question. The first is answered *infra* 5b.
2. Deut. XXII, 11.
3. Ibid. 12.
4. V. Ber. 10a.

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5. Heb. Semukim [H] (rt. [H] 'to join'); i.e., the exegetical principle that we deduce laws from the proximity of Biblical texts.
6. 'Semukim'.
7. Ps. CXI, 8. The proximity of the two texts (Deut. XXII, 11 and 12) may consequently be taken to indicate that though the wearing of mingled stuff (linen and wool) is forbidden in ordinary cases (Deut. XXII, 11) it is nevertheless permitted in the case of the performance of a positive precept such as that of the making of 'twisted cords' or zizith (v. [Glos.](#)) on the four corners of a garment (ibid. v. 12).
8. Mak. 23a.
9. I.e., she is not prevented from objecting to the levirate marriage, and is entitled to *Halizah*. 'Muzzled' (rt. [H]) is taken from Deut. XXV, 4 from which this law is derived.
10. Deut. XXV, 4.
11. Ibid. v. 5, forming the introduction to the law of *Halizah*. Thus it has been shown that a law may be based on the proximity of Biblical texts, and this confirms the conclusion in respect of 'mingled stuff' in zizith (v. Deut. XXII, 11).
12. Where the texts of 'mingled stuff' and zizith occur.
13. Ber. 21b. Cf. Pes. 67b.
14. R. Judah.
15. Interpretations based on Semukim or proximity of texts.
16. Ex. XXII, 17.
17. Ibid. 18.
18. Lit., 'this' sc. the sorceress.
19. Lit., 'but'.
20. V. Lev. XX, 27.
21. R. Judah.
22. Ber. 21a, *infra* 97a.
23. Deut. XXIII, 1.
24. Deut. XXII, 29.
25. Deut. XXIII, 1.
26. Represented by the view of the first Tanna who differs from R. Judah. How do they, in view of R. Judah's exposition, allow the marriage of a woman outraged or seduced by one's father?
27. Lit., 'as you said'.
28. Cur. edd. contain within parentheses: 'Since the text, A man shall not take his father's wife is written between them'.
29. Whether he will marry her or consent to *Halizah*.
30. Of the levir for whose decision the woman is waiting.
31. *Infra* 97a. One is that of marrying a woman who is virtually his father's wife being subject still to the levirate marriage, and the other is that of marrying an aunt, the wife of his father's deceased brother.

32. From the proximity of the texts.
33. Lit., 'free', 'disengaged'. i.e., unnecessary for the contexts and consequently free for interpretation and exposition.
34. Lit., 'if so', i.e., if the text was meant to convey its plain meaning only.
35. Cf. previous note.
36. Lit., 'wherefore to me'.

Yebamoth 4b

Hence it must be concluded that the text was meant to provide a superfluous text.¹

Similarly in the case of zizith,² if you wish I might reply:³ Because [there⁴ the deduction] is obvious. And if you prefer I might reply:⁵ Because [there⁶ the text] is superfluous.⁷ 'If you prefer I might say: Because [there the deduction] is obvious', for otherwise,⁸ the All Merciful should have written [the precept] in the section of zizith;⁹ with what other practical rule in view has he written it here?¹⁰ 'And if you prefer, I might reply: Because [there the text] is superfluous', for observe: It is written, Neither shall there come upon thee a garment of two kinds of stuff mingled together.¹¹ What need then was there for stating, Thou shalt not wear a mingled stuff?¹² Hence it must be concluded that the object was to provide a superfluous text.¹³

But [surely] both these texts¹⁴ are required? For if the All Merciful had only written, Neither shall there come upon thee¹⁵ it might have been assumed that all kinds of 'putting on' were forbidden by the All Merciful, even that of clothes dealers,¹⁶ hence the All Merciful, has written, Thou shalt not wear a mingled stuff,¹⁷ [showing that the 'putting on' must be] of the same nature as that of wearing for personal comfort. And if the All Merciful had only written, Thou shalt not wear¹⁸ it might have been assumed that only wear [is forbidden] because the pleasure derived therefrom is great, but not mere 'putting on', hence the All Merciful has written, Neither shall there come upon thee!¹⁹ — If so,²⁰ the All Merciful should have written, 'Thou shalt not wear a mingled stuff' what need was there for adding, 'Wool and

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linen'? For²¹ observe: It is written, Neither shall there come upon thee a garment of two kinds of stuff mingled together,¹⁵ and in connection with this a Tanna of the School of R. Ishmael taught: Whereas garments generally²² were mentioned in the Torah, and in one particular case²³ Scripture specified wool and linen,²³ all must consequently be understood as having been made of wool and linen, what need, then, was there for the All Merciful's specific mention of wool and linen? Consequently it must be concluded that its object was to provide a superfluous text.²⁴

But the text²⁵ is still required [for another purpose]! For it might have been assumed [that the limitation²⁶ applies] only to 'putting on', where the benefit is not great, but that in respect of wear, the benefit from which is great, any two kinds were forbidden by the All Merciful, hence has the All Merciful written, 'wool and linen'!²⁷ — If so, Scripture should have omitted it altogether²⁸ and [the law²⁹ would have been] deduced [by analogy between] 'mingled stuff'³⁰ and 'mingled stuff'³¹ [the latter of which occurs in connection with the law] of 'putting on'.³²

As to the Tanna of the School of R. Ishmael, is the reason [why 'mingled stuff' is permitted in zizith] because the All Merciful has written 'wool and linen', but if He had not done so, would it have been assumed that the All Merciful had forbidden two kinds of stuff in the zizith? But, surely, it is written, And they shall make them fringes in the corners of their garments³³ and a Tanna of the School of R. Ishmael [taught]: Wherever 'garment' [is written] such as is made of wool or flax [is meant], and yet the All Merciful said that in them 'purple' shall be inserted, and purple, surely, is wool. And whence is it deduced that purple is wool? Since linen³⁴ is flax, purple must be wool.³⁵ — [The text] was necessary; for it might have been assumed [that the interpretation is] according to Raba. For Raba pointed out a contradiction: It is written, the corner,³⁶ [which implies that the fringes must be of the same] kind of [material as that of the] corner,³⁷ but then it is also

written, wool and linen.³⁸ How then [are these texts to be reconciled?] Wool and linen discharge [the obligation to provide fringes] both for a garment of the same, as well as of a different kind of material, while other kinds [of material]³⁹ discharge [the obligation for a garment made] of the same kind [of material] but not for one made of a different kind [of material].⁴⁰

But the Tanna of the School of R. Ishmael,⁴¹ surely, does not hold the same view as Raba!⁴² — [The text]⁴³ is still necessary; for it might have been assumed that Raba's line of argument⁴⁴ should be followed: 'The corner' [implies that the fringes must be made of the same] kind of [material as the] corner, and that what the All Merciful meant was this: 'Make wool [fringes] for wool [garments] and linen ones for linen; only when you make wool fringes for wool garments you must dye them'; but no wool fringes may be made for linen or linen fringes for wool, hence the All Merciful has written 'wool and linen' [to indicate] that even wool fringes [may be] made for linen garments or linen fringes for woolen garments.⁴⁵

1. V. *supra* note 10.
2. V. [Glos.](#)
3. To the question why R. Judah expounds Semukim in Deuteronomy.
4. In Deuteronomy.
5. To the question why R. Judah expounds Semukim in Deuteronomy.
6. In Deuteronomy.
7. V. p. 12, n. 10.
8. Lit., 'if so', i.e., if the text was meant to convey its plain meaning only.
9. V. [Glos.](#)
10. None. Consequently it must have been intended for a deduction on the basis of Semukim.
11. Lev. XIX, 19.
12. Deut. XXII, 11.
13. V. p. 12, n. 10.
14. Lev. XIX, 19 and Deut. XXII, 11.
15. Lev. XIX, 19.
16. Who put on garments for mere business display or transport and not for bodily comfort or protection.
17. Deut. XXII, 11, emphasis on wear.
18. Ibid.

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19. Since both texts, then, are required for the purpose mentioned, how could they be employed for the deduction of a new law?
20. That the texts were required only for the purpose mentioned.
21. Should it be suggested that the text was required to indicate that the 'mingled stuff' forbidden was that of wool and linen.
22. Without specifying the material they are made of.
23. With reference to plagues in garments, Lev. XIII, 47, 48.
24. V. p. 12, n. 10, *supra*.
25. 'Wool and linen' (Deut. XXII, 11).
26. Of the materials to wool and linen.
27. How, then, could this text which is required for another purpose be expounded on the basis of Semukim?
28. Lit., 'kept silence from it'.
29. Which has just been enunciated, i.e., that only wool and linen are forbidden.
30. Deut. XXII, 11.
31. Lev. XIX, 19.
32. As the latter applies to wool and linen only, so also the former.
33. Num. XV, 38.
34. In the description of the materials of the High Priests' garments (Ex. XXXIX, 1ff).
35. As the garments were either of wool or flax, and linen (flax) was specified in the case of one, all the others must have been wool. Now since it has been shown that purple is wool, it obviously follows that woolen zizith or fringes are permissible in a garment of flax. What was the need, then, for a specific text to prove the permissibility of mingling wool and flax in zizith?
36. Num. XV, 38.
37. I.e., if the material of the corner is wool the fringes must be wool; if of flax the fringes must be of flax.
38. Cf. Deut. XXII, 11f: Mingled stuff, wool and linen thou shalt make the twisted cords, which shows that the fringes may be made either of wool or of flax whatever the material of the corner might be.
39. Silk for instance.
40. So also according to the Tanna of R. Ishmael's school, (as will be explained in the Gemara anon) if Scripture had not specified 'wool and linen' it might have been assumed that in a woolen garment the fringes must be made of wool while in a garment of flax they must be made of flax, hence wool and linen were specified to show on the basis of Semukim that mingled stuffs also are allowed in zizith.
41. At the moment it is assumed that the suggestion is that he is in agreement with Raba's argument in all respects.

42. For, according to him, since 'garment' denotes only such as is made of wool and linen, garments made of other materials require no fringes (zizith). What need, then, was there for the expression of wool and linen to differentiate these from other materials?
43. Wool and linen.
44. Though not his view, applying his method of reasoning only in regard to a garment made of wool or linen.
45. I.e., that mingled stuffs are permissible in the performance of the precept of zizith.

Yebamoth 5a

This¹ is satisfactory according to the view of the Tanna of the School of R. Ishmael;² as to the Rabbis,³ however, how do they arrive at the deduction?⁴ — They derive it from his head;⁵ for it was taught: [Scripture stated], 'His head';⁵ what need was there for it?⁶ — Whereas it has been stated, Ye shall not round the corners of your head,⁷ one might infer that [this law⁸ applies to] a leper also, hence it was explicitly stated, his head;² and this Tanna is of the opinion that rounding all the head is also regarded as 'rounding'.¹⁰ This [conclusion, however,] may be refuted: The reason why the prohibition of¹¹ 'rounding' [may be superseded is] because it is not applicable to everybody!¹² — But [the inference] is derived from his beard;¹³ as it was taught: 'His beard';¹³ what need was there for stating it?¹⁴ — Whereas it was said, Neither shall they shave off the corners of their beard,¹⁵ one might infer that this prohibition applies also to a leprous priest,¹⁶ hence it was explicitly stated, 'his beard'.¹⁷ And since there is no object in applying it to a prohibition which is not incumbent upon everybody,¹⁸ let it be applied to a prohibition which is incumbent upon all.¹⁹ But this²⁰ is still required [for its own context]! For since it might have been assumed that as priests are different from [other people]. Scripture having imposed upon them additional commandments, and so even a prohibition which does not apply to everybody is not superseded in their case; [therefore] it was necessary to teach us that it does supersede.²¹ — In truth the inference comes from 'his head' [in the manner deduced by] the

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following²² Tanna. For It was taught: His head:²³ what need was there for mentioning it?²⁴ Whereas Scripture had stated, There shall no razor come upon his head,²⁵ one might infer that the same prohibition is applicable to a leprous Nazirite²⁶ also, hence it was explicitly stated, 'his head'.²⁷ This,²⁸ however, may be refuted: The reason why a [leprous] Nazirite [may shave his head] is because he is also in a position to obtain absolution.²⁹ For, were not this the reason,³⁰ what then of the accepted rule,³¹ that no positive precept may supersede a negative and positive precept combined; why not deduce the contrary from the law³² of the [leprous] Nazirite?³³ Consequently, [it must be conceded that] the reason why no deduction may be made [from the law of the Nazirite is] because it may be refuted [on the grounds] that in his case absolution is possible; so here also the refutation may be advanced, 'Since in his case absolution is possible'!³⁴ — The deduction, in fact, is made

1. The deduction from Semukim that a positive precept supersedes a negative one.
2. Since on the lines of his interpretation the text, 'wool and linen' is superfluous and consequently free for the deduction mentioned.
3. Who do not interpret 'garment' as denoting such as is of wool and flax.
4. The text, 'wool and linen', being required for the completion of the plain meaning of the text, there remains no superfluous expression for the deduction. V. *supra* n. 2.
5. Lev. XIV, 9, dealing with the purification of the leper.
6. It was previously stated, and shave off all his hair (Lev. XIV, 8) which obviously includes that of the head.
7. Lev. XIX, 27.
8. The prohibition to round the corners of the head.
9. Indicating that, despite the general prohibition, it is the leper's duty to round his head.
10. Though the text speaks of rounding the corners. Such a rounding then, though generally forbidden, is in the case of a leper, permitted, because Scripture explicitly stated 'shave all the hair of his head' (Lev. XIV, 9). Thus it has been proved that the positive precept of the shaving of the leper supersedes the prohibition of rounding off one's head.

Similarly, in the case of the levirate marriage, it might have been assumed that the positive precept of marrying the deceased brother's widow supersedes the prohibition of marrying a wife's sister; hence the necessity for a special text (v. *supra* 3b end and p. 10, n. 7) to prove that it does not.

11. Lit., 'what as to the negative (command)'.
12. Lit., 'equal in all'; women being exempt. (V. Kid. 35b). The prohibition of the marriage of a wife's sister, however, is applicable to the man and to the woman, the brother-in-law as well as the sister-in-law.
13. Which also occurs in the regulations for the purification of the leper. (V. Lev. XIV, 9).
14. Seeing that it was previously mentioned (Lev. XIV, 8) that the leper must 'shave off all his hair', which obviously includes that of his beard.
15. Lev. XXI, 5.
16. The prohibition of shaving the corners of one's head having been addressed to the priests. V. Lev. XXI, 1ff.
17. Indicating that in the case of a leprous priest the precept of shaving supersedes the prohibition of 'shaving'.
18. That such a prohibition is superseded by a positive precept having been deduced *supra* from 'his head'.
19. Thus it has been proved that a positive precept supersedes any prohibition even if the latter is generally applicable. Marriage between a levir and his deceased brother's widow who is his wife's sister might, consequently, have been assumed to be permitted had not an explicit text pointed to its prohibition.
20. The text, 'his beard'.
21. How, then, can the same text which is required for the purpose mentioned also be used for a general deduction.
22. Lit., '(manner) of that'.
23. Lev. XIV, 9.
24. Cf. *supra*, p. 16, n. 7.
25. Num. VI, 5 dealing with the laws of the Nazirite.
26. So Rashal. Cur. edd. read, 'leper and Nazirite'.
27. Thus it is proved that a positive precept supersedes a prohibition. Cf. *supra*, note 7.
28. The deduction from the Nazirite.
29. Heb. [H] 'request', i.e., the Nazirite may request a qualified person to disallow his vow and thus avoid the prohibition of shaving.
30. Lit., 'if you will not say so'.
31. Lit., 'that which is established for us'.
32. Lit., 'let it be deduced'.
33. The shaving of a Nazirite's head is forbidden (a) by the precept that he must grow his hair long and (b) by the prohibition of allowing a razor to come upon his head.

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34. Whence, then, is it proved that a positive precept supersedes a prohibition?

Yebamoth 5b

from the first cited text:¹ Since² Scripture could have used the expression, Thou shalt make thee fringes,³ what need was there for that of 'twisted cords'? Consequently it must have been intended for the purpose of allowing that text to be used for the deduction.⁴ But this⁵ is required for the determination of the number [of threads, thus]:⁶ 'Twisted cord' implies two threads,⁷ [and so] 'twisted cords'⁸ implies four threads, therefore,⁹ one twisted cord is to be made [of the four] and from the middle of it separate threads¹⁰ are to hang down!¹¹ — If so,¹² Scripture should have stated, Thou shalt not wear a mingled stuff wool and linen:¹³ what need was there to add 'together'?¹³ Consequently it must have been intended for the purpose of allowing a free text for the deduction.¹⁴ But this text too¹⁵ is required for the deduction that two stitches¹⁶ form a combination¹⁷ and that one stitch does not! — If so, the All Merciful should have written, Thou shalt not wear wool and linen together; what need was there for inserting 'mingled stuff'? Hence it must be concluded that the purpose was to allow a free text for deduction.¹⁸ But is not this text¹⁹ still required [for the deduction that 'mingled stuff'²⁰ is not forbidden] unless it was hackled, spun and twisted?²¹ — But [the fact is that] all this is deduced from the expression of 'mingled stuff'.²²

So far it has been shown that a positive precept supersedes a mere prohibition;²³ where, however, do we find that it supersedes also a prohibition involving *Kareth*,²⁴ and that in consequence [the explicit expression] "Aleha"²⁵ should be required to forbid it?²⁶ And if it be replied that this²⁶ might be deduced from circumcision,²⁷ [it may be retorted]: Circumcision stands in a different category,²⁸ for concerning it thirteen covenants²⁹ were made!³⁰ From the paschal lamb?³¹ — The paschal lamb also stands in a

different category³² since it too involves *Kareth*!³⁰ From the daily offering?³¹ — The daily offering also stands in a different category³³ since it is also a regular [offering]!³⁰ [Now though] it³⁴ cannot be derived from one³⁵ it might be derived from two. From which shall it be derived? [If the reply is]: Let it be derived from circumcision and the paschal lamb, [it may be retorted]: These also involve *Kareth*.³⁶ From the paschal lamb and the daily offering? — Both are also intended for the Most High.³⁷ From circumcision and the daily offering? — Both were also in force before the giving of the law,³⁸ this being according to the view of him who holds that the burnt-offering which Israel offered in the wilderness was the daily burnt-offering.³⁹ Nor [can the derivation be made] from all of them, since they were all in force before the giving of the law.⁴⁰

But [this is the reason for] the need of a special text:⁴¹ It might have been assumed⁴² that this⁴³ should be derived from the precept of honoring one's father and mother; for it was taught: Since one might have assumed that the honoring of one's father and mother should supersede the Sabbath, it was explicitly stated, Ye shall fear every man his mother and his father, and ye shall keep My Sabbaths,⁴⁴ it is the duty of all of you⁴⁵ to honor Me. Now is not the case in point one where the parent said to him, 'Slaughter for me',⁴⁶ or 'Cook for me';⁴⁶ and the reason [why the parent must not be obeyed is] because the All Merciful has written, 'Ye shall keep my Sabbaths',⁴⁴ but had that not been so⁴⁷ it⁴⁸ would have superseded?⁴⁹ — No;

1. 'Mingled stuff' in the case of *zizith*. (V. Deut. XXII, 11, 12 and *supra* p. 15, n. 3).
2. Lit., 'if so', i.e., if according to the Rabbis the expression, 'wool and linen', is required for its own context and that text, therefore, is not available for deduction.
3. The expression used in Num. XV, 38 in the section dealing with the precept of the fringes.
4. That a positive precept supersedes a prohibition. Cf. *supra*, p. 10, n. 13.
5. The expression of 'twisted cords', [H], Deut. XXII, 12.

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6. In the fringes.
7. The twisted cord cannot be made of less than two threads.
8. The plural, i.e., twice two.
9. To harmonize this text (Deut. XXII, 12) which implies twisted cords, with that of Num. XV, 38, and that they put with the fringe of each corner a thread of blue, which implies only twisted threads.
10. The four threads are inserted into the corner of the garment and, having been folded to form a fringe of eight threads, they are joined (by winding one of the threads round the others) into one twisted cord which extends over a section of length and is then separated again into eight separate threads.
11. Men. 39b. Now, since the expression, 'twisted cords', is required for the determination of the number of the threads, how could the Rabbis deduce from it the law of 'mingled stuff' in the fringes?
12. That the law of 'mingled stuff' in the fringes was not to be deduced from the text cited.
13. Deut. XXII, 11.
14. Cf. *supra* p. 18, n. 10.
15. Together, in Deut. XXII, II.
16. Combining a material made of wool with one made of flax.
17. Of 'mingled stuff' which is forbidden.
18. Cf. *supra* p. 18, n. 10.
19. Mingled stuff, Deut. XXII, 11.
20. Of wool and flax.
21. An etymological explanation of, or a play upon, the words 'mingled stuff' [H], in Deut. XXII, 11. [H] is assumed to be an abbreviation of [H].
22. The use of the peculiar expression, [H], and not the usual [H], implies both (a) the deduction mentioned, (v. previous note) and (b) the deduction that a positive precept supersedes a prohibition (v. *supra* p. 10, n. 13).
23. Cf. 3b end and p. 10, n. 7.
24. V. [Glos.](#)
25. Lev. XVIII, 18.
26. The marriage by the levir of the widow of his deceased childless brother, when she happens to be a forbidden relative. V. p. 8, n. 9.
27. Which must be performed on the eighth day of the child's birth even though that day happens to be a Sabbath when manual work is forbidden under the penalty of *Kareth*.
28. Lit., 'what in respect of circumcision'.
29. The expression 'covenant' (in various grammatical forms) occurs thirteen times in Gen. XVII, the section dealing with the precept of circumcision, v. Ned. 31b.
30. Hence it may also supersede the Sabbath. It supplies, however, no proof that a positive precept which is not so stringent (such as the marriage with the levir) also supersedes a prohibition involving *Kareth*.
31. The slaughtering of which (a positive precept) supersedes the Sabbath though slaughtering is manual work which is forbidden on the Sabbath under the penalty of *Kareth*.
32. Lit., 'what in respect of the paschal lamb'.
33. Lit., 'what in respect of the daily offering'.
34. V. p. 19, n. 16.
35. Circumcision, the paschal lamb, or the daily offering alone.
36. Cf. *supra* n. 1.
37. They are offered on the altar. Cf. *supra* n. 1.
38. On Mount Sinai. Lit., 'speech' i.e., of the Deity. 'revelation', and as such are deemed of greater stringency.
39. V. Ex. XXIV, 5 and Hag. 6a. Circumcision was ordained in the time of Abraham. V. Gen. XVII.
40. V. *supra* nn. 9 and 10. The law of the paschal lamb also was given in Egypt prior to the date of the Revelation. V. Ex. XII.
41. Beside her (Lev. XVIII, 18), to indicate that levirate marriage is forbidden when the widow of the deceased brother is the surviving brother's forbidden relative.
42. Had not that text (in Lev. XVIII, 18; v. previous note) been written.
43. That a positive precept supersedes a prohibition involving *Kareth* and that consequently a levir may marry his deceased childless brother's widow even if she happens to be a forbidden relative of his.
44. Lev. XIX, 3.
45. Parents and children.
46. I.e., to desecrate the Sabbath by an action the penalty for which is *Kareth*.
47. Had no such text been available.
48. A parent's order, (the positive precept of honoring one's parents.)
49. The prohibition of work on the Sabbath, though it is one involving *Kareth*. Similarly in the case of the levirate marriage. Cf. *supra* p. 20, n. 14.

Yebamoth 6a

this is a case¹ of ass driving.² And [you say that] it does not supersede³ even in such a case?⁴ But then what of the generally accepted rule that a positive precept supersedes a prohibition. Should it not be inferred from this case that it does not supersede!⁵ And if it be replied that the prohibitions of the Sabbath are different⁶ because they are more stringent,⁷ surely the following Tanna, [it may be pointed out,]

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speaks of prohibitions generally⁸ yet no one advances any objection.² For it was taught: Since it might have been assumed that if his father had said to him,¹⁰ 'Defile yourself',¹¹ or if he said to him, 'Do not restore,'¹² he must obey him, it was explicitly stated, Ye shall fear every man his mother, and his father, and ye shall keep my Sabbaths,¹³ it is the duty of all of you to honor Me!¹⁴ — The real reason¹⁵ is because this objection may be advanced: Those¹⁶ are in a different category¹⁷ since they are also essentials in the execution of the precept.¹⁸

But [the reason¹⁹ is because] it might have been assumed that this²⁰ should be derived from the precept of the building of the Sanctuary. For it was taught: Since it might have been assumed that the building of the Sanctuary should supersede the Sabbath, it was explicitly stated, Ye shall keep My Sabbaths, and reverence My Sanctuary;²¹ it is the duty of all of you to honor Me. Now is not the case in point one of [a father's order to his son to] build or to demolish,²² and yet the reason [why it does not supersede the Sabbath is] because the All Merciful has written, 'Ye shall keep My Sabbaths',²³ but had that not been written it would have superseded?²⁴ — No; the case in point is one of ass driving.²⁵

And [you say] that it²⁶ does not supersede a prohibition even in such a case?²⁷ But what of the generally accepted rule that a positive precept supersedes a prohibition? Should we not infer from this case that it does not supersede! And if it be replied that the prohibitions of the Sabbath are different²⁸ because they are of a more stringent nature,²⁹ surely the following Tanna [it may be pointed out] speaks of prohibitions generally³⁰ yet no one advances any refutation.³¹ For it was taught: Since it might have been assumed that if his father had said to him,³² 'Defile yourself',³³ or if he said to him, 'Do not restore,'³⁴ he must obey him, hence it was explicitly stated, Ye shall fear every man his mother, and his father etc.,³⁵ it is the duty of all of you to honor Me!³⁶ — The true reason³⁷

is because this objection may be advanced: Those³⁸ are in a different category³⁹ since they are also essentials in the execution of the precept.⁴⁰ [But the law relating to] essentials in the execution of a precept could be derived from the previously cited text!⁴¹ — That is so indeed. What need, then, was there for the text, Ye shall keep My Sabbaths, and reverence My Sanctuary?⁴² — It is required for the following deduction:⁴² As it might have been imagined that a man should reverence the Sanctuary, it was explicitly stated in the Scriptures, Ye shall keep My Sabbaths, and reverence My Sanctuary;⁴³ the expression of 'keeping' was used in relation to the Sabbath and [in the same verse] that of 'reverence' in relation to the Sanctuary [in order that the following comparison may be made]: As in the case of 'keeping' used in relation to the Sabbath

1. Lit., 'negative precept'.
2. I.e., where a father ordered his son to desecrate the Sabbath by driving an ass; a prohibition which, unlike slaughtering or cooking, does not involve the penalty of *Kareth*. V. Shab. 154a.
3. Lit., 'and even thus', sc. even the mere prohibition of ass driving.
4. A mere prohibition not involving the penalty of *Kareth*.
5. Even a mere prohibition which does not involve the penalty of *Kareth*.
6. From other prohibitions.
7. Since the infringement of any one of the laws of the Sabbath is regarded as the sin of idolatry (v. 'Er. 69b), even a mere prohibition which does not involve *Kareth*, cannot be superseded by a positive precept.
8. Lit., 'stands in the world', i.e., he compares with the prohibitions of the Sabbath others which have no connection with it.
9. That the prohibitions of the Sabbath being more stringent than others should not be compared with them.
10. His son who was a priest.
11. For the dead, which is forbidden to a priest. V. Lev. XXI, 1ff.
12. A lost animal. V. Deut. XXII, 1.
13. Lev. XIX, 3.
14. Thus it has been shown that prohibitions generally may be compared with those of the Sabbath. The suggestion, therefore, that the parents' order *supra* concerned the performance of the act of ass driving is untenable. If, consequently, the order must

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have consisted of a request to perform an act involving the penalty of *Kareth*, that case well supplies a satisfactory answer to the question (*supra* 5b) as to what need was there for the text, '*Aleha*', in Lev. XVIII, 18.

15. Why no satisfactory reply to the question, what need is there for the text '*Aleha*', may be obtained from the precept of honoring one's parents.
16. A father's orders to his son to slaughter or to cook on the Sabbath.
17. From such a precept as the levirate marriage.
18. Lit., 'it is a preparation of the precept'. The precept of honoring a father cannot possibly be performed by the son unless he actually executes the act of slaughtering or of cooking, which he has been ordered by his father to do, so that the fulfillment of the positive precept (honoring one's parents) is entirely dependent on its superseding the prohibition (that, e.g., of cooking). Hence it was necessary to have an explicit text to indicate that, even in such a case, a positive precept does not supersede a prohibition. In the case of the levirate marriage, however, the infringement of the prohibition is not absolutely essential to the fulfillment of the precept, since, instead of the marriage, *Halizah* may be arranged, and the question remains, what need is there of the verse '*Aleha*'.
19. Why the text, '*Aleha*' (Lev. XVIII, 18) was needed to indicate that wherever the deceased childless brother's widow was the living brother's forbidden relative no levirate marriage must take place.
20. That a positive precept supersedes a prohibition involving *Kareth* and consequently that the levirate marriage may take place even in such a case (v. previous note).
21. Lev. XIX, 30.
22. Actions which are among the principal classes of Labor that are forbidden on the Sabbath under the penalty of *Kareth*.
23. Lev. XIX, 30.
24. Thus it follows that a positive precept does supersede a prohibition even though the latter involves *Kareth*.
25. Which does not involve *Kareth*.
26. A positive precept.
27. Which does not involve *Kareth*.
28. From other prohibitions.
29. Cf. *supra* p. 21, n. 13.
30. Cf. *supra* p. 21, n. 14.
31. Cf. *supra* p. 21, n. 15.
32. His son who was a priest.
33. Cf. *supra* p. 21, n. 17.
34. Cf. *supra* p. 21, n. 18.
35. Lev. XIX, 3.
36. Cf. *supra* p. 22, n. 2.
37. Cf. *supra* p. 22, n. 3.

38. Cf. *supra* p. 22, n. 4.

39. Cf. *supra* p. 22, n. 5.

40. Cf. *supra* p. 22, n. 6.

41. Lit., '*from there*', from Lev. XIX, 3, and this superfluous text serves to extend the principle of a positive precept superseding a negative precept involving *Kareth* to a case such as levirate marriage. Hence the need of the text '*Aleha*'.

42. Lit., 'for as it was taught'.

Yebamoth 6b

one does not reverence the Sabbath but Him who ordered the observance of the Sabbath, so in the case of 'reverence' used in relation to the Sanctuary, one is not to reverence the Sanctuary but Him who gave the commandment concerning the Sanctuary. And what is regarded as the '*reverence of the Sanctuary*'? — A man shall not enter the Temple mount¹ with his stick, shoes or money bag² or with dust upon his feet, nor may he use it for making a short cut;³ and spitting [is there forbidden] by inference a *minori ad majus*.⁴ This, however, might apply⁵ only to the time when the Sanctuary was in existence; whence is it deduced that the same holds good of the time when the Sanctuary no longer exists? It was expressly stated in Scripture, Ye shall keep My Sabbaths, and reverence My Sanctuary;⁶ as the 'keeping' that was used in relation to the Sabbath holds good forever, so also the 'reverence' used in relation to the Sanctuary must hold good forever.⁷

Really [the reason⁸ is because] it might have been assumed that this⁹ should be derived from the prohibition of kindling a fire [on the Sabbath]. For a Tanna of the School of R. Ishmael taught: Wherefore was it stated, Ye shall kindle no fire throughout your habitations?¹⁰ 'Wherefore 'was it stated!'¹¹ Surely if one is to follow R. Jose, it was to intimate that [kindling a fire on the Sabbath is] a prohibition only;¹² and, if one is to follow R. Nathan, it was to intimate that even a single transgression involves one in the prescribed penalties;¹³ for it was taught: 'The prohibition of kindling a fire [on the Sabbath]

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was mentioned separately¹⁴ in order to [indicate that its transgression is] a prohibition only;¹⁵ so R. Jose, while R. Nathan maintains that the intention was to intimate that even a single transgression involves the offender in the prescribed penalties!¹³ And Raba explained that the Tanna¹⁶ found difficult the expression of habitations,¹⁷ [arguing thus]: What need was there for Scripture to state 'habitations'? [Is not this¹⁸ obvious?] For consider: The observance of the Sabbath is a personal obligation, and any personal obligation is valid both in the Land [of Israel] and outside the land;¹⁹ what need, then, was there for the All Merciful to write it²⁰ in connection with the Sabbath? This was explained by a disciple in the name of R. Ishmael: Whereas it was stated in the Scriptures, *And if a man have committed a sin worthy of death, and he be put to death,*²¹ one might infer [that the death penalty may be executed] both on week-days and on the Sabbath and, as regards the application of the text, *Everyone that profaneth it*²² *shall surely be put to death,*²³ this might be said to refer to the several kinds of Labor other than the execution of a judicial death sentence; or again it might be inferred²⁴ that it²⁵ refers even to a judicial execution of a death sentence and, as regards the application of *He shall surely be put to death*²³ [this might be said to refer] to week-days but not to the Sabbath; or again it might be thought²⁶ to apply also to the Sabbath; hence it was expressly stated, *Ye shall kindle no fire throughout your habitations,*²⁷ and further on it is stated, *And these things shall be for a statute of judgment unto you throughout your generations in all your habitations;*²⁸ as the expression of 'habitations' mentioned below²⁸ refers to the *Beth din*, so the expression 'habitations' mentioned here²⁷ refers also to the *Beth din*, and concerning this the All Merciful said, *'Ye shall kindle no fire'*.²⁹ Now, are we not to assume this statement to be in agreement with the view³⁰ of R. Nathan who holds that the object was to intimate that even a single transgression involves the offender in the prescribed penalties,³¹ and the reason³² is

because the All Merciful has written, *Ye shall kindle no fire,*²⁷ but had that not been the case it would have superseded the [Sabbath]!³³ — No; this may be according to R. Jose.³⁴

Granted, however, [that it is according to the view of] R. Jose, might it not be suggested that R. Jose said that 'kindling a fire [on the Sabbath] is mentioned separately in order to indicate that it is a mere prohibition' [in the case only of] ordinary burning; the burning by the *Beth din*,³⁵ [however, is surely a case of] boiling of the metal bar³⁶ concerning which R. Shesheth said that there is no difference between the boiling of a metal bar and the boiling of dyes?³⁷ — R. Shimi b. Ashi replied: This Tanna³⁸ [requires Scriptural texts] not because elsewhere he holds that a positive precept supersedes a prohibition, but because this³⁹ might have been obtained by inference a minori ad majus; and it is this that he meant to say: 'As regards the application of the text, Every one that profaneth it⁴⁰ shall surely be put to death,⁴¹ it might have been said to apply to the several kinds of Labor other than that of the execution of a judicial death sentence, but that a judicial death sentence does supersede the Sabbath, by inference a minori ad majus:

1. On which the Sanctuary stood.
2. [H], Lat. funda. Others, 'a hollow girdle in which money is kept'.
3. [H], cf. compendiaría.
4. Bet. 54a. For an explanation of the inference, v. ibid. 62b.
5. Lit., 'it is not (known) to me'.
6. Lev. XIX, 30.
7. And since there is no superfluous verse to extend the principle in such a case as levirate marriage, the question remains, what need was there for the text "'Aleha'.
8. Cf. *supra* p. 22, n. 7.
9. Cf. *supra* p. 22, n. 8.
10. Ex. XXXV, 3.
11. The prohibition of kindling a fire, surely, is included in the general prohibition of Labor on Sabbath.
12. I.e., only a negative commandment the transgression of which does not, like the other Sabbath offences, involve the penalties of stoning or *Kareth*. The former, if the offender was warned beforehand of the consequence of

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- his offence, the latter, where no such warning had been given.
13. Lit., 'to divide', i.e., one of the thirty-nine kinds of Labor that are forbidden on the Sabbath was singly specified in order to indicate that to incur the prescribed penalties it is not necessary to commit all the thirty-nine transgressions (as the one general, all-embracing prohibition of about might have seemed to imply). The mention of one prohibition (kindling of fire) separately breaks up, so to speak, (divides), all the others into single units, indicating that, as in its own case, so in that of all the others first mentioned together with it, every single transgression involves the penalty of stoning, *Kareth*, or a sin-offering.
 14. Lit., 'went out'.
 15. V. p. 24, n. 12.
 16. Who asked, *supra*, 'wherefore was it stated?'
 17. Ex. XXXV, 3.
 18. That the prohibition is in force in all 'habitations'.
 19. I.e., throughout *all habitations*.
 20. The phrase, '*throughout your habitations*', Ex. XXXV, 3.
 21. Deut. XXI, 22.
 22. The Sabbath.
 23. Ex. XXXI, 14 which prohibits all kinds of Labor on the Sabbath.
 24. Lit., 'or it is not but'.
 25. The prohibition of Labor.
 26. Lit., 'or it is not but'.
 27. Ex. XXXV, 3.
 28. Num. XXXV, 29, referring to the death penalties of murderers.
 29. I.e., execute no death penalty of burning on the Sabbath. The death penalty of 'burning' was executed by pouring molten lead through the condemned man's mouth into his body, thus burning his internal organs.
 30. Lit., 'what, (is it) not?'
 31. Of death or *Kareth*. V. *supra* p. 25, n. 1.
 32. Why the death penalty of burning — a kind of work — which according to R. Nathan would involve *Kareth* must not be executed on the Sabbath.
 33. Though the penalties involved include that of *Kareth*. Thus it follows that a positive precept may supersede even such a prohibition. So also in the case of the levirate marriage it might have been assumed that the precept of marrying one's deceased childless brother's widow supersedes the prohibition of marrying a consanguineous relative despite the fact that such a transgression involves elsewhere the penalty of *Kareth*; hence it was necessary for Scripture to add, 'Aleha' (Lev. XVIII, 18), to indicate that even a levirate marriage is in such a case forbidden. (V. *supra* 3b and 5b).

34. V. *supra* p. 24, n. 12.
35. The death penalty of burning.
36. Cf. *supra* note 4.
37. Lit., 'what (difference is it) to me', Shab. 106a. The dyes were boiled in connection with the construction of the Tabernacle that was made by Moses, and any kind of Labor that was there performed is included among the thirty-nine principal kinds of Labor which are forbidden on the Sabbath (v. Shab. 73a) and involve the penalty of *Kareth*. Cf. *supra* p. 26, n. 8.
38. Who deduced from Scriptural texts that a judicial death sentence may not be executed on the Sabbath.
39. The assumption that the execution of a judicial death sentence might supersede the Sabbath.
40. The Sabbath.
41. Ex. XXXI, 14.

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If the Temple service which is of high importance and supersedes the Sabbath¹ is itself superseded by [a death sentence for] murder, as it is said, Thou shalt take him from Mine altar, that he may die,² how much more reasonable is it that the Sabbath which is superseded by the Temple service should be superseded by [a death sentence for] murder'. How, then, could it be said, 'Or it might rather [etc.]'?³ — He means this: The burial of a Meth Mizwah⁴ might prove [the contrary], since it supersedes the Temple service⁵ and does not nevertheless supersede the Sabbath.⁶ Then⁷ he argued: It might be inferred a *minori ad majus* that the burial of a Meth Mizwah should supersede the Sabbath, [thus]: If the Temple service which supersedes the Sabbath is superseded by the burial of a Meth Mizwah, by deduction from Or for his sister,⁸ how much more should the Sabbath which is superseded by the Temple service be superseded by the burial of a Meth Mizwah; hence it was explicitly stated, Ye shall kindle no fire,⁹ [etc].¹⁰

According to our previous assumption, however, that a positive precept supersedes a prohibition, what is meant by, 'Or it might rather [etc.]'?¹¹ — It is this that was meant: 'As regards the application of the text, Every

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one that profaneth it¹² shall surely be put to death,¹³ it might have been said to apply to the several kinds of Labor other than the execution of a judicial death sentence, but that a judicial death sentence does supersede the Sabbath, for a positive precept¹⁴ supersedes the prohibition. Then¹⁵ he argued: It might be suggested that a positive precept supersedes a prohibition in the case of a mere prohibition only; has it, however, been heard to supersede a prohibition which involves *Kareth*? Then he concluded: 'Even where¹⁶ a positive precept supersedes a prohibition, is not the prohibition of a more serious nature than the precept?¹⁷ And yet the positive precept comes and supersedes the prohibited; on what grounds, then, should a distinction be made between a minor and a major prohibition?¹⁸ Hence it was explicitly stated, Ye shall kindle no fire⁹ [etc.].'¹⁹

But²⁰ [this is the reason why a specific text] was needed:²¹ It might have been assumed that this [case of a] brother's wife should be regarded as a subject which was included in a general proposition²² and was subsequently singled out in order to predicate another law,²³ the predication of which is not intended to apply to itself alone but to the whole of the general proposition. For it was taught: 'A subject which was included in a general proposition and was subsequently singled out, etc. How [is this to be understood]? But the soul that eateth of the flesh of the sacrifice of peace-offerings [that pertain unto the Lord], having his uncleanness upon him;²⁴ were not peace-offerings included among the other holy things?²⁵ Why, then, were they subsequently singled out? In order that [the others] may be compared to them, and in order to tell you that as peace-offerings are distinguished by being consecrated objects of the altar so must also all other things²⁶ be consecrated objects of the altar, the objects consecrated for Temple repair only being excluded.'²⁷ Similarly here it might have been argued:²⁸ Since a brother's wife was included among all the other forbidden relatives, why was she singled out? In order that [the others] may be compared to her, and in order to tell

you that as a brother's wife is permitted²⁹ so also are all the other forbidden relatives permitted.³⁰

Are these, however, similar? There,³¹ both the general proposition³² and the particular specification²⁴ relate to a prohibition, but here³³ the general proposition relates to a prohibition while the particular specification relates to something which is permitted!³⁴ This, surely, is rather to be compared to an object that was included in a general proposition and was subsequently singled out in order to be made the subject of a fresh statement, which you cannot restore to the restrictions of the general proposition unless Scripture specifically restores it; for it was taught: Anything which was included in a general proposition and was subsequently excluded in order to be made the subject of a fresh statement, cannot be restored to the restrictions of the general proposition unless Scripture has explicitly restored it.³⁵ How³⁶ [may this principle be illustrated]? And he shall kill the he-lamb in the place where they kill the sin-offering and the burnt-offering in the place of the Sanctuary; for as the sin-offering is the priest's so is the guilt-offering.³⁷ Now since there was no need to state, 'As the sin-offering so is the guilt-offering.'³⁸ why did Scripture explicitly state. As the sin-offering so the guilt-offering? Because seeing that the guilt-offering of the leper was singled out³⁹ in order to impart a new law concerning the thumb of the right hand and the great toe of the right foot,⁴⁰ it might have been assumed that it required no application of blood to, and no burning of the prescribed portions of the sacrifice upon the altar;

1. Labor prohibited on the Sabbath may be performed in connection with the service of the Temple.
2. Ex. XXI, 14. This is taken to mean that he may be removed from the altar even if he has to perform service thereon.
3. *Supra* 6b. Since the inference was made a *minori ad majus* how could anyone dispute it?
4. V. [Glos.](#)
5. A priest may defile himself by the burial of a Meth Mizwah though he thereby becomes

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- disqualified from performing the Temple service. V. Meg. 3b.
6. Burial is forbidden on the Sabbath. So also, it could be argued, the execution of a death sentence, though it supersedes the Temple service, need not necessarily supersede the Sabbath.
 7. Saying again, 'Or it might rather etc.', *supra* 6b.
 8. Num. VI, 7; v. Meg. 3b.
 9. Ex. XXXV, 3.
 10. For the continuation, v. *supra* 6b.
 11. Cf. *supra* p. 27, n. 8. How, in view of this assumption, could any other conclusion be arrived at?
 12. The Sabbath.
 13. Ex. XXXI, 14.
 14. That the man worthy of death be put to death (v. Deut. XXI, 22).
 15. By saying again, 'Or it might rather', *supra* 6b.
 16. Cf. BaH, a.l.
 17. A transgression of the prohibition involves the serious penalty of flogging, while the non-performance of the precept is no punishable offence.
 18. As a positive precept supersedes an ordinary prohibition so it should also supersede one which involves *Kareth*.
 19. V. *supra* note 3.
 20. Now that it is concluded that the need of the Scriptural text prohibiting the execution of a death sentence on Sabbath is because otherwise the permissibility thereof might have been argued a *minori*, and not on the ground of the principle that a positive command supersedes a prohibition, there is no proof available for the assumption that a positive precept supersedes a prohibition which involves *Kareth*, and thus the original question again arises: What need was there for the specific text of Lev. XVIII, 18, 'Aleha' (*supra* p. 8), to indicate the obvious? (i.e., that the positive precept of the levirate marriage does not supersede the prohibition of marrying a consanguineous relative).
 21. V. previous note.
 22. The prohibition of incest, Lev. XVIII, 29.
 23. The marriage of the widow of a deceased childless brother.
 24. Lev. VII, 20.
 25. Lev. XXII, 3, where the penalty of *Kareth* is pronounced for eating consecrated things during one's uncleanness.
 26. For the eating of which during one's uncleanness the penalty of *Kareth* is incurred.
 27. Ker. 2b. If these were eaten by one in a state of uncleanness no obligation is incurred.
 28. Reading with BaH [H]. Cur. edd. retain [H] with no sign of abbreviation.
 29. To be married to the levir if her husband died childless.
 30. Cf. previous note. A text was consequently needed to intimate that the law was not so,
 31. The case of consecrated objects.
 32. Lev. XXII, 3.
 33. Levirate marriage and forbidden relatives.
 34. How, then, could the two be compared?
 35. Now, as the case of a brother's wife has not been restored to the general proposition, what need was there for the specific text of Lev. XVIII, 18?
 36. This is the continuation of the quotation.
 37. Lev. XIV, 13, dealing with the leper's guilt-offering.
 38. Since the place of killing was indicated at the beginning of the verse while the other regulations concerning this sacrifice are found in the laws of the guilt-offering in Lev. VII, 1ff.
 39. From the laws relating to other guilt-offerings.
 40. V. Lev. XIV, 14.

Yebamoth 7b

hence it was explicitly stated, 'As the sin-offering so is the guilt-offering': As the sin-offering¹ requires application of the blood to, and burning of the prescribed portions upon the altar, so does the guilt-offering also require application of the blood to, and burning of the prescribed portions upon the altar.² Had Scripture not restored it,³ however, it would have been assumed that it was singled out only in respect of what was explicitly specified but not in any other respect;⁴ so also here,⁵ I would assume, only a brother's wife who was explicitly mentioned [can be said] to be permitted⁶ but not any of the other forbidden relatives!⁷

But⁸ it might have been assumed that the law of a wife's sister² should be deduced from what has been found in the case of a brother's wife; as a levir may marry his brother's wife so he may also marry his wife's sister.¹⁰

Are, however, the two cases¹¹ similar? In the one case¹² there is only one prohibition; in the other¹³ there are two prohibitions!¹⁴ — It might have been assumed that since she¹⁵ was permitted¹⁶ [in respect of one prohibition]¹⁷ she was also permitted [in the case of the

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other].¹⁸ And whence is it derived that we assume that 'since something was permitted [in one respect] it was also permitted [in the other]'? — From what was taught: In the case of a leper whose eighth day [of purification]¹⁹ fell on the Passover eve,²⁰ and who, having observed a discharge of semen on that day,²¹ had taken a ritual bath, the Sages said: Although no other Tebul Yom²² may enter [the Temple mount],²³ this one²⁴ may enter, for it is better that the positive precept,²⁵ the non-observance of which involves *Kareth*, shall supersede a positive precept²⁶ the infringement of which involves no *Kareth*.²⁷ And in connection with this R. Johanan said: According to the Torah, not even [the infringement of] a positive precept is involved,²⁸ for it is said, And Jehoshaphat stood in the congregation of Judah ... before the new court.²⁹ What is meant by the new court? Rabbi³⁰ replied: That they enacted therein new laws, ordaining that a Tebul yom³¹ must not enter the camp of the Levites.³² And 'Ulla said: 'What is the reason?'³³ Since he was given permission³⁴ in respect of his leprosy,³⁵ permission was also given to him in respect of his discharge of the semen.³⁶ But is this case³⁷ similar to that of 'Ulla?

1. Of a leper.
2. Zeb. 49a.
3. The leper's guilt-offering and brought it into line with other guilt-offerings.
4. Lit., 'to what it went out, it went out; and to what it did not go out, it did not go out'.
5. The case of the levirate marriage.
6. Lit., 'that was permitted is permitted'.
7. The question consequently arises again: What need was there for 'Aleha' in Lev. XVIII, 18. (Cf. *supra* p. 30, n. s).
8. The reason why a superfluous text (v. previous note) was needed.
9. For this reading v. BaH.
10. Hence it was necessary to have the superfluous text, 'Aleha' (v. *supra* n. 4) to show that the law was not so.
11. Brother's wife and wife's sister.
12. Lit., 'there', a brother's wife.
13. Lit., 'here', a wife's sister.
14. The prohibitions to marry (a) a brother's wife and (b) a wife's sister. How then could the one be deduced from the other?

15. A brother's wife who is also one's wife's sister and whose husband died childless.
16. By the positive precept of the levirate marriage.
17. That of marrying a brother's wife.
18. The prohibition of marrying one's wife's sister. Hence etc. V. *supra* note 7.
19. On which he completes the days of his purification and brings the prescribed sacrifices, presenting himself (whither as a leper he was till that day forbidden to enter) on the Temple mount at the entrance to the Nikanor gate of the Sanctuary, from where he extends his thumb and great toe into the Sanctuary (whither he is not yet allowed to enter) for the priest to apply to them some of the sacrificial blood, v. *Nazir*, Sonc. ed. p. 165ff.
20. When the paschal lamb is sacrificed to be eaten in the evening.
21. Such a discharge ordinarily disqualifies a man from entering the Temple mount.
22. [H] one who has had his ritual bath and is awaiting nightfall for the completion of his purification.
23. Before nightfall.
24. The leper in the circumstances mentioned.
25. That of the paschal lamb.
26. That a leper like certain other unclean persons must be sent out from the Levitical camp in which the Temple mount is included.
27. If he were not allowed to enter the Temple mount his purification from leprosy could not have been completed (cf. *supra* p. 31, n. 16) and he would in consequence have been prevented from participating in the paschal lamb. By allowing him to enter he is enabled to complete his purification, while nightfall would also terminate the uncleanness due to the discharge, and thus he is in a position to participate in the evening in the paschal lamb which during the day is prepared for him by a deputy.
28. In allowing the leper in the conditions mentioned to enter the Temple court.
29. II Chron. XX, 5, referring to a day when Israel completed a period of purification.
30. This is the reading also in Zeb. 32b. Cur. edd. enclose in parentheses 'R. Johanan'.
31. V. [Glos.](#)
32. Which proves that the prohibition for a Tebul Yom to enter the Levitical camp was not of Pentateuchal origin, having been first enacted in the days of Jehoshaphat.
33. Why was a leper in the circumstances mentioned permitted to extend his hands into the Sanctuary whither an unclean person, according to 'Ulla, may not project even part of his body?
34. To project his hands into the Sanctuary.

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35. Despite the prohibition for an unclean person, though the days of his purification have been duly observed, to enter the Sanctuary even partially, prior to the offering of the prescribed sacrifices.
36. Thus it is proved that since something was permitted in one respect the permission remains in force even when another prohibition may be involved in another respect. The same argument might have also applied to a wife's sister or widow of a deceased brother. Hence the need of the text, 'Aleha'.
37. A brother's wife who is also one's wife's sister.

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[The comparison] might well be justified where the deceased brother married [first]¹ and the surviving brother married [his brother's wife's sister] afterwards,² for, in this case, since the prohibition of brother's wife was removed,³ that of wife's sister⁴ is also removed; but where the surviving brother had married [first] and the deceased brother had married subsequently, the prohibition of wife's sister was Surely in force first.⁵ Furthermore, even where the deceased had married [first], [the comparison] would be justified in the case where the deceased had married and died, and the surviving brother had married afterwards so that [the widow] was eligible in the interval;⁶ where, however, the deceased had married, and before he died his wife's sister was married by his surviving brother, [his widow] was never for a moment eligible for his brother! Does not 'Ulla admit that if the leper observed semen on the night preceding the eighth day⁷ of his purification he must not project his hand into the Sanctuary on account of his thumb⁸ because at the time he was eligible to bring the sacrifice [of the cleansed leper]⁹ he was not free from uncleanness?¹⁰

But [this is really the explanation]: If 'Aleha' was at all needed, [it was for such a case as] where the deceased brother had married [first] and died, and the surviving brother married [the widow's sister] subsequently.¹¹

If you prefer I can say [that the reason¹² is because] it¹³ might have been deduced by means of R. Jonah's analogy. For R. Jonah — others say, R. Huna son of R. Joshua — said: 'Scripture stated: For whosoever shall do any of these abominations shall be cut off,¹⁴ all forbidden relatives were compared to a brother's wife';¹⁵ [so in this case also it might have been said], as a brother's wife is permitted¹⁶ so also are all other forbidden relatives permitted; hence the All Merciful has written, 'Aleha'.¹⁷

Said R. Aha of Difti¹⁸ to Rabina: Consider! All forbidden relatives¹⁹ might be compared to a brother's wife²⁰ and might equally be compared to a wife's sister,²¹ what reason do you see for comparing them to a wife's sister?²¹ Compare them rather to a brother's wife!²⁰ — If you wish I might say: When a comparison may be made for increasing as well as for decreasing restrictions, that for increasing restrictions must be preferred. If you prefer, however, I might say: In the former cases²² there are two prohibitions in the one as well as in the other,²³ and a double prohibition may justly be inferred from a double prohibition; in the latter case, however,²⁴ only one prohibition is involved,²⁵ and a double prohibition may not be inferred from a single one.

Raba said: [That] a forbidden relative herself²⁶ [may not contract the levirate marriage] requires no Scriptural text to prove it, since no positive precept can supersede a prohibition which involves *Kareth*; if a Scriptural text was at all needed it was for the purpose of forbidding a rival.

And in the case of a forbidden relative is no Scriptural text required [to prohibit her levirate marriage]? Surely it was taught, 'Thus we are in a position to know the law concerning herself!'²⁷ — On account of her rival.²⁸ Was it not taught, however, 'Now we know the law concerning themselves'?²⁹ — On account of their rivals.³⁰

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Come and hear: Rabbi said: [Instead of] and take, [Scripture stated], and take her,³¹ [and instead of] and perform the duty of a husband's brother [Scripture stated], and perform the duty of a husband's brother unto her,³¹ in order to prohibit³² [the levirate marriage of] forbidden relatives and their rivals!³³ — Read, 'To forbid [the levirate marriage of] the rivals of the forbidden relatives'. But two texts, surely, were mentioned;³⁴ was not one for the forbidden relative and the other for her rival? — No; both were for the rival, but one indicates prohibition³⁵ of a rival where the precept³⁵ is applicable, and the other indicates permission to marry the rival where the precept³⁵ is not applicable.³⁶ What is the reason? — [Because instead of] 'And perform the duty of a husband's brother' [Scripture stated] And perform the duty of a husband's brother UNTO HER, [which indicates that] only where levirate marriage is applicable is a rival forbidden³⁷ but where levirate marriage is not applicable³⁶ a rival is permitted.³⁷ R. Ashi said: [This³⁸ may] also be inferred from our Mishnah where it was stated, FIFTEEN [CATEGORIES OF] WOMEN EXEMPT THEIR RIVALS, but it was not stated, 'are exempt³⁹ and exempt [their rivals]'. This proves it.

In what respect does the case of a forbidden relative differ⁴⁰ that it should require no text?⁴¹ Obviously because no positive precept may supersede a prohibition which involves *Kareth*. But then the case of a rival also should require no text,⁴¹ since no positive precept may supersede a prohibition which involves *Kareth*!⁴² — Said R. Aha b. Bebai Mar to Rabina, Thus it has been stated in the name of Raba: In the case of a rival also no Scriptural text⁴¹ was needed; if a text was needed at all

1. His wife thus becoming a forbidden relative to his brother as 'brother's wife'.
2. Thus adding to the one prohibition (v. previous note) the other of 'wife's sister'.
3. By the precept of the levirate marriage, owing to the childlessness of the deceased.
4. Since it was added subsequently.

5. And could not consequently be removed by the removal of a prohibition which took effect subsequent to it.
6. Between the death of her husband and the marriage of her sister by his surviving brother. This case would be analogous to that of the leper who was eligible to bring his sacrifices on the eighth day of his purification during the interval between the beginning of the day and the hour on that day he contracted a new uncleanness by his discharge.
7. The night is reckoned as the beginning of the day following it.
8. V. *supra* p. 31, n. 16.
9. The eighth day of his purification.
10. Owing to the discharge of the semen which occurred in the night. As a sacrifice must be brought in the day time only, there was not a single moment during which he was eligible to bring the sacrifices as being clean in all respects. The prohibition consequently remains in force. So also in the case of a wife's sister as regards the levirate marriage. The question, therefore, arises again, what need was there for the superfluous text of Lev. XVIII, 18. V. *supra* p. 30, n. 2.
11. So that there was an interval during which he was permitted to marry the widow. V. p. 33. n. 11.
12. Why the superfluous 'Aleha' in Lev. XVIII, 18 was required.
13. The law that forbidden relatives may be married in the case of a levirate marriage.
14. Lev. XVIII, 29.
15. Having been grouped together in this text.
16. In the case of a levirate marriage.
17. Lev. XVIII, 18; to intimate that they are not permitted.
18. Dibtha, below the Tigris, S.W. of Babylon.
19. That were enumerated in our Mishnah.
20. And levirate marriage with all of them would thus be permitted.
21. With whom the levirate marriage is forbidden by the text 'Aleha' (v. *supra*).
22. Lit., 'here', (a) in that of a wife's sister and (b) all the other forbidden relatives (other than a brother's wife).
23. Lit., 'and here two prohibitions', (a) forbidden relatives and (b) brother's wife.
24. Lit., 'but here,' a brother's wife who is not a consanguineous relative.
25. That of a brother's wife.
26. So BaH.
27. I.e., the forbidden relative, *supra* 3b.
28. Whose case had to be proved, it was necessary to begin with this introduction.
29. I.e., the forbidden relatives.
30. Cf. *supra* n. 3.
31. Deut. XXV, 5.

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32. By the use of 'her' and 'unto her' which implies 'but no other'.
33. Which shows that a Scriptural text is required, even in the case of forbidden relatives themselves, to prove that levirate marriage is prohibited.
34. Lit., 'he took.'
35. Of the levirate marriage.
36. As, for instance, in the case of a rival of a forbidden relative who married a stranger, v. *infra* 13a.
37. To be married by the man to whom the relative herself is forbidden.
38. Raba's statement that the prohibition to contract levirate marriage with a forbidden relative is so obvious that no Scriptural text is required to prove it.
39. Which shows that the exemption of the forbidden relatives themselves from the levirate marriage (i.e., the prohibition ever to marry them) was taken in our Mishnah for granted.
40. From the case of her rival.
41. To prove its prohibition even in the case of the levirate marriage.
42. *Kareth* being the penalty in both cases.

Yebamoth 8b

it was for the purpose of permitting a rival where the precept¹ is not applicable. What is the reason?² — Scripture stated, 'Aleha',³ to indicate that only in the case of 'unto her'⁴ is she⁵ forbidden,⁶ where the other, however, may not, she is permitted.

Said Rami b. Hama to Raba: Might it not be suggested⁷ that the forbidden relative⁸ herself is permitted⁹ where the precept¹⁰ is not applicable? — Is not [such an argument contrary to the principle of inference] a *minori ad majus*? Being forbidden where the precept¹⁰ is applicable, would she be permitted where the precept is not applicable? — ['The case of a] rival', the first replied, 'could prove it, since she is forbidden⁹ where the precept¹⁰ is applicable, and is permitted⁹ where the precept¹⁰ is not applicable'. 'It is for your sake,' the other replied, 'that Scripture states, In her life-time,¹¹ so long as she¹² lives'.¹³ But is not the expression,¹⁴ In her life-time,¹¹ required for the exclusion [of the prohibition of marriage] after her¹² death?¹⁵ — This is deduced from

the text, And a woman to her sister.¹¹ If [the deduction were only] from the text. 'And a woman to her sister',¹¹ it might have been said that if she¹⁶ was divorced the sister would be permitted, hence it was expressly stated, 'In her life-time.'¹¹ So long as she¹⁶ is alive, even though she has been divorced, [her sister must] not [be married]!¹⁷ — But, said R. Huna b. Tahlifa in the name of Raba, two Scriptural texts are available; it is written, Thou shalt not take a woman to her sister, to be a rival to her¹⁸ [implying two],¹⁹ and it is also written, To uncover her nakedness,²⁰ which implies that only one is forbidden; how then [are the two texts to be reconciled]? Where the precept²¹ is applicable both are forbidden;²² where the precept²¹ is not applicable she²³ is forbidden but her rival is permitted. Might not the deduction be reversed: Where the precept²¹ is applicable she²³ is forbidden but her rival is permitted, but where the precept is not applicable both are forbidden!²² — If so, 'Aleha' should not have been stated.²⁴

Said R. Ashi to R. Kahana: Whence is it derived that the expression 'Aleha'²⁵ indicates prohibition? Is it not possible that it implies permission, and that it is this that the All Merciful meant to imply: Thou shalt not take a woman to her sister, to be a rival to her,²⁵ neither herself nor her rival where 'unto her'²⁶ is not applicable,²⁷ but where 'unto her'²⁶ is applicable²⁸ both are permitted!²⁹ — If so, how could the 'uncovering of the nakedness' of one³⁰ be possible? If in the case where the precept³¹ is applicable, both are permitted;³² and if where the precept is not applicable both are forbidden!³³

[Reverting to] the [above] text, Rabbi said: Instead of And take, Scripture stated, 'And take her' and instead of 'And perform the duty of a husband's brother', Scripture stated, 'And perform the duty of a husband's brother unto her', in order to prohibit [the levirate marriage of] forbidden relatives and their rivals. Are, then, rivals mentioned here at all? And, furthermore, the law of rivals has

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been derived from the expression To be her rival!³⁴ — The expression To be her rival is employed by Rabbi for R. Simeon's deduction.³⁵ Where,³⁶ however, is the rival mentioned?³⁷ — What he meant is this: If so,³⁸ Scripture should have stated, And take; why then did it state, 'And he shall take her'?³⁹ To indicate that wherever there are two to be taken,⁴⁰ he⁴¹ having the choice of marrying whichever he prefers⁴² both are permitted,⁴³ but if not,⁴⁴ both are forbidden; And perform the duty of a husband's brother unto her,⁴⁵ indicates that where levirate marriage is applicable there is the rival forbidden, where, however, levirate marriage is not applicable the rival is permitted.

As to the Rabbis,⁴⁶ to what do they apply the verse 'And he shall take her'? — They require it for the deduction of R. Jose b. Hanina. For R. Jose b. Hanina said: 'And he shall take her'⁴⁵ teaches that he⁴⁷ may divorce her with a letter of divorce⁴⁸ and that he may remarry her;⁴⁹ And he shall perform the duty of a husband's brother unto her, even against her will.⁵⁰ And Rabbi?⁵¹ — The law of R. Jose b. Hanina is deduced from To a wife,⁴⁵ and that the marriage may take place against her will is deduced from Her husband's brother shall go in unto her.⁴⁵

What does Rabbi do with [the expression], 'Aleha'? — He requires it [for another deduction], as we learnt: The *Beth din*⁵² are under no obligation⁵³ unless [they ruled] concerning a prohibition the punishment for which is *Kareth*, if the transgression was willful, and a sin-offering if the transgression was unwitting; and so it is with the anointed High priest.

1. Of the levirate marriage.
2. I.e., how is the permissibility deduced?
3. Lev. XVIII, 18.
4. Lit., 'in the place of [H] with reference to the verse 'Her husband's brother shall go in unto her' (v. *supra* p. 8, n. 9) i.e., where the command of levirate marriage would otherwise apply.
5. The rival.
6. To be married, cf. *supra* p. 35, n. 12.
7. On the lines of the argument just advanced.

8. I.e., the wife's sister.
9. To be married.
10. Of the levirate marriage.
11. Lev. XVIII, 18.
12. One's wife.
13. Her sister must not be married. (Other forbidden relatives, as has been shown *supra*, are deduced from one's wife's sister).
14. Lit., 'that'.
15. I.e., that the prohibition of a wife's sister which on the present assumption is limited to cases where the precept of levirate marriage is applicable, applies only during the lifetime of one's wife.
16. The wife.
17. But it can still be maintained that where no levirate marriage is applicable, there is no prohibition of marrying the wife's sister.
18. Lev. XVIII, 18.
19. I.e., that both the wife's sister and her rival are forbidden to be married. (This, as will be shown *infra*, is deduced from the expression Li-zeror.)
20. Lev. XVIII, 18, emphasis on her (sing.).
21. Of the levirate marriage.
22. To be married.
23. The forbidden relative herself.
24. Since even without this additional phrase the two contradictory texts would have been naturally reconciled by applying the former (prohibition of both) to a case where the precept of the levirate marriage is inapplicable, and the latter (permission of the rival) to a case where it is applicable. The addition of the phrase must consequently have been intended to impart a new law, viz. that a rival is forbidden, like the forbidden relative herself, where the precept of the levirate marriage is applicable.
25. Lev. XVIII, 18.
26. V. *supra* p. 8, n. 9.
27. I.e., where the law of the levirate marriage does not apply.
28. Where levirate marriage does apply.
29. The concluding part of the verse [H] meaning where he has to go 'unto her', the sister of his wife who is the widow of his brother, he may do so even in her (his wife's) life-time.
30. V. Lev. XVIII, 18, implying, as explained *supra*, the prohibition of one only.
31. Of the levirate marriage.
32. So that there are two, not only one.
33. And there is none.
34. Heb. Li-zeror (Lev. XVIII, 18), *supra* 3b. How then could it be said to be derived from a different text?
35. V. *infra* 28b.
36. V. Emden a.l. Cur. edd. read 'here'.
37. In Deut. XXV, 5, the text cited by Rabbi. Clearly, it was not mentioned at all; how then

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could Rabbi derive from the text a law concerning a subject of which no mention was made?

38. That the text refers to the forbidden relative only and not to a rival.
39. Deut. XXV, 5.
40. Lit., 'takings', i.e., when the deceased childless brother is survived by two widows, and the levir has to decide which of them to marry.
41. The levir.
42. I.e., when neither of the two is a forbidden relative.
43. The emphasis on 'her' in And take her implies that there is a choice between two, and the phrase 'and take her' is taken to imply that the levir is in a position to choose whichever he pleases, since either of them must be capable of having the phrase 'and take her' applied to her.
44. If one cannot be married by him on account of her being his forbidden relative.
45. Deut. XXV, 5.
46. Who made the deduction from Li-zeror.
47. The levir.
48. After he married her; and she requires no *Halizah*.
49. Though the precept of the levirate marriage has been fulfilled and she might have been assumed to be forbidden to him as a brother's wife. The text is interpreted as follows: And he takes her to him to wife, as soon as he has taken her, she is regarded henceforth in all respects as his wife, i.e., as if she had never been forbidden to him as a brother's wife.
50. Emphasis on 'unto her' (v. Tosaf).
51. Whence does he derive the law deduced by R. Jose b. Hanina?
52. Who are guilty of an erroneous ruling.
53. To bring the sacrifice prescribed in Lev. IV, 13ff.

Yebamoth 9a

Nor [are they liable] in respect of idolatry unless [they ruled] concerning a matter the punishment for which is *Kareth*, if it was committed willfully and a sin-offering if committed unwittingly;¹ and we also learnt: [For the unwitting transgression of any] commandment in the Torah the penalty for which, if committed willfully, is *Kareth* and, if committed unwittingly a sin-offering, the private individual brings a sin-offering of a lamb or a she-goat; the ruler brings a goat; and the anointed High Priest and the *Beth din* bring a bullock. In the case of idolatry the

individual and the ruler and the anointed High Priest bring a she-goat while the *Beth din*² bring a bullock and a goat, the bullock for a burnt-offering and the goat for a sin-offering. Whence is this deduced? From the following. For our Rabbis taught: When the sin wherein they have sinned is known:³ Rabbi said, here⁴ we read 'Aleha⁵ and further on⁶ we also read 'Aleha;⁷ as further on⁸ the prohibition involves the penalty of *Kareth* if the transgression was willful and that of a sin-offering if it was unwitting, so here⁸ also, [the ruling must be concerning] a prohibition which involves the penalty of *Kareth* if the transgression was willful and that of a sin-offering if it was unwitting.⁹

Proof has thus been adduced for the case of the congregation; whence for that of the anointed High Priest? — It is written in relation to the High Priest, So as to bring guilt upon the people;¹⁰ this shows that the anointed High Priest is like the congregation. And for an individual and a ruler? — The inference is made by a comparison of Things¹¹ with Things.¹² 'Nor [are they liable] in respect of idolatry unless [their ruling] concerned a matter the punishment for which is *Kareth* if it was committed willfully, and a sin-offering if committed unwittingly'. As regards the congregation in the matter of idolatry, deduction¹³ is made by comparison between From the eyes¹⁴ and From the eyes.¹⁵ [The law¹⁶ of] a private individual, a ruler and an anointed High Priest [is deduced] from, And if one soul¹⁷ which implies that there is no distinction between a private individual, a ruler and an anointed High Priest, while the *waw*¹⁸ connects them with the previous subject,¹⁹ and consequently the latter²⁰ may be deduced from the former.²¹

Whence, however, do the Rabbis²² arrive at this inference?²³ — They deduce it from the Biblical interpretation which R. Joshua b. Levi taught to his son: Ye shall have one law for him that doeth aught in error. But the soul that doeth aught with a high hand etc.,²⁴ all the Torah is compared to the prohibition of idolatry;²⁵ as in regard to idolatry

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[obligation is incurred only where] the offence involves the punishment of *Kareth*²⁶ when it was committed willfully and a sin-offering²⁷ when committed unwittingly, so also in the case of any other transgression [it must be such] as involves *Kareth* when committed willfully and a sin-offering when committed unwittingly.

Proof has thus been found for the case of a private individual, a ruler and an anointed High Priest²⁸ both in regard to idolatry and the rest of the commandments; whence, however, [is it proved that the same law applies also to] the congregation in the case of idolatry? — Scripture said, And if one soul,²⁹ and the former³⁰ may be deduced from the latter.³¹ Whence, however, [is it deduced that the same law applies to] the congregation in the case of the other commandments? — Deduction is made by comparison between 'From the eyes' and 'From the eyes'.³²

And what does Rabbi do with the text of One law?³³ — He applies it to the following.³⁴ Whereas we find that Scripture made distinction between individuals and a group,³⁵ individuals being punished by stoning and their money, therefore, being spared, while a group are punished by the sword and their money is consequently destroyed, one might also assume that a distinction should be made in respect of their sacrifices; hence it was explicitly stated, Ye shall have one law.³³

R. Hilkiyah of Hagronia³⁶ demurred: Is the reason³⁷ because the All Merciful has written, Ye shall have one law,³³ so that had it not so been written it might have been thought that a distinction should be made [in respect of their sacrifices]? What, however, could they bring! Should they bring a bullock? The congregation,³⁸ surely, brings a bullock for the transgression of any one of all the other commandments!³⁹ [Should they bring] a lamb? An individual, surely, brings a lamb if he transgressed any of the other commandments!⁴⁰ A he-goat? A ruler brings one in the case of transgression of any of the other commandments!⁴⁰ A bullock for a

burnt-offering and a goat for a sin-offering? Such, surely, are brought by the congregation in the case of idolatry!⁴⁰ Should they, then, bring a she-goat? This, surely, is also the sin-offering of a private individual!⁴¹ — [The text]⁴² was required, because it might have been suggested that whereas the congregation, in the case of an erroneous ruling, brings a bullock for a burnt-offering and a he-goat for a sin-offering, these⁴³ should also bring the same sacrifices, but] in the reverse order;⁴⁴ or [it might have been assumed to be] necessary⁴⁵ but that there was no remedy;⁴⁶ hence it was necessary to teach us.⁴⁷

Said Levi to Rabbi: What ground is there for stating⁴⁸ FIFTEEN? Sixteen should have been stated! — The other replied: It seems to me that this man has no brains in his head. 'Do you mean', he continued, 'a man's mother who had been outraged by his father?'⁴⁹ The case of a man's mother who has been outraged by his father is a matter in dispute between R. Judah and the Rabbis,⁵⁰ and the author of our Mishnah does not deal with any controversial matter'. But does he not? Surely, the prohibition due to a Rabbinical ordinance and the prohibition due to the levir's sanctity,⁵¹ concerning which R. Akiba and the Rabbis are in dispute,⁵² are mentioned! — We mean, in our chapter. But, surely it was taught,⁵³ 'Beth Shammai permit rivals to the other brothers and Beth Hillel prohibit them!'⁵⁴ — The view of Beth Shammai where it is in contradiction to that of Beth Hillel is of no consequence.⁵⁵

Is there not the case of the wife of a man's brother who was not his contemporary.⁵⁶

1. Hor. 8a.
2. So in Hor. 9a. Cur. ed. 'congregation'.
3. Lev. IV, 14.
4. Concerning an erroneous ruling of the *Beth din*.
5. [H], Lev. *loc. cit.* ('wherein').
6. Concerning marrying two sisters.
7. Ibid. XVIII, 18, E.V., 'Beside the other'.
8. Concerning an erroneous ruling of the *Beth din*.

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9. Thus it has been shown that Rabbi requires the text Beside the other for another deduction.
10. Lev. IV, 3.
11. Heb. [H] 'commandments'.
12. Lev. IV, 22 and IV, 13.
13. That the transgression must be one which involves *Kareth* if done willfully, and a sin-offering if done unwittingly.
14. Num. XV, 24, dealing with idolatry.
15. Lev. IV, 13, referring to an erroneous ruling.
16. V. note 12.
17. Num. XV, 27.
18. 'And', in We'im [H], and if).
19. The congregation.
20. Individual, ruler and High Priest.
21. The congregation, concerning whom deduction has previously been made from the law relating to an erroneous ruling.
22. Who, unlike Rabbi, require the expression 'Aleha (beside her) for deduction in connection with the laws of incest and rival wives, *supra* 3b.
23. That obligation is incurred only where the prohibition involves *Kareth* where it was transgressed willfully and a sin-offering when transgressed unwittingly.
24. Num. XV, 29, 30.
25. The text, according to Rabbinical exposition, refers to idolatry and in relation to it the expression Law (Torah) is used.
26. E.g., offering of a sacrifice.
27. V. Num. XV, 30. Where willful transgression involves *Kareth*, unwitting transgression is atoned for by a sin-offering.
28. By deduction from soul (Nefesh, Num. XV, 27) which includes all ranks of individuals.
29. Num. XV, 27, referring, as has just been pointed out, to individuals of all ranks.
30. Congregation.
31. Individuals.
32. V. *supra* p. 40, n. 13 and p. 40, n. 14.
33. Num. XV, 29.
34. Lit., 'requires it for as it was taught'.
35. Lit., 'many', i.e., the inhabitants of a city condemned for idolatry (Deut. XIII, 13ff).
36. A suburb of Nehardea.
37. Why the sin-offerings of a group and of individuals are the same in the case of idolatry (v. previous note).
38. I.e., a majority of all the tribes of Israel.
39. What distinction, then, would there be between the sin-offerings of a 'condemned city' and those of the 'congregation'? (V. previous note). If a distinction is to be made between the sacrifices of a 'condemned city' and those of individuals, how much more should such a distinction be made between the former and those of the 'congregation'!
40. Cf. n. 7, *supra*.
41. Now, since no distinction in the sacrifice could possibly be made, what need was there for the text of Num. XV, 29?
42. V. previous note.
43. The men of a 'condemned city'.
44. A bullock for a sin-offering and a he-goat for a burnt-offering.
45. For the men of a 'condemned city' to bring a special sin-offering.
46. If the sin was committed unwittingly since an offering peculiar to themselves is an impossibility.
47. That the sacrifices are the same (cf. *supra* p. 42, n. 5) as deduced from Num. XV, 27. For further notes v. Hor., Sonc. ed. pp. 53ff.
48. In our Mishnah, *supra* 2a.
49. I.e., that the Mishnah should have included as a sixteenth forbidden relative, a man's mother who was not the lawful wife of his father, and who, having been subsequently married by his paternal brother who died childless, is now subject to the levirate marriage or *Halizah* of her own son, the brother of her second husband.
50. Whether she may be married to his paternal brother, *supra* 4a.
51. איסור a prohibition not included in the Biblical laws of incest, but ordained by the Rabbis. [H], a prohibition due to sanctity in the case, e.g., of a widow whose levir is a High Priest. (For this and an alternative explanation v. *infra* 20a).
52. *Infra loc. cit.*
53. In our very chapter, *infra* 13a.
54. Which shows that even laws which are in dispute are recorded in the chapter.
55. Lit., 'is not a teaching'; the view of Beth Hillel is accepted as law, and can consequently be included in our chapter.
56. Lit., 'in his world', i.e., who was born after the death of his childless brother.

Yebamoth 9b

concerning which R. Simeon and the Rabbis are in dispute,¹ and which is nevertheless mentioned? — R. Simeon does not dispute the case where the birth² was first, and the levirate marriage³ later.⁴ Did not R. Oshaia, however, say¹ that R. Simeon disputed the first case also?⁵ — Surely. R. Oshaia's view was refuted.

Did not, however, Rab Judah state in the name of Rab, and R. Hiyya also taught: In the case of all these⁶ it may happen that she who is forbidden to one brother may be

YEVOMOS – 2a-19b

permitted to the other¹ while she who is forbidden to the other brother may be permitted to the one, and that her sister who is her sister-in-law may be subject either to *Halizah* or to the levirate marriage.² And Rab Judah interpreted [it³ as referring to those]² from one's MOTHER-IN-LAW onwards but not to the first six categories. What is the reason? Because in the case of a daughter this¹⁰ is possible only [with one born] from a woman who had been outraged but not [with one born] from a legal marriage,¹¹ [and the author of our Mishnah] deals only with cases of legal matrimony and not with those of outraged women.¹² And Abaye interpreted it³ [as referring] also to a daughter from a woman who had been outraged, because, since [the application of Rab's statement] is quite possible in her case, it matters not whether she was born from a woman who was legally married or from one that had been outraged; but not to the wife of a brother who was not his contemporary. What is the reason? Because [the application of Rab's statement in this case] is possible only according to the view of R. Simeon and not according to that of the Rabbis, [the author of our Mishnah] does not deal with any matter which is in dispute. And R. Safra interprets it¹³ as referring also to the wife of a brother who was not his contemporary, and [in his opinion] it¹³ is possible in the case of six brothers in accordance with the view of R. Simeon.¹⁴

1. *Infra* 18b.
2. Of a third brother. (V. *infra* n. 4).
3. Between the second brother and the widow of the first brother who died without issue (V. following note).
4. In such a case, R. Simeon agrees that the third brother must not marry the widow, because at the time when he was born the widow was forbidden to him as 'the wife of his brother who was not his contemporary'. R. Simeon's disagreement with the Rabbis is limited to the case where the first brother, A, died childless and his widow was married to the second brother, B, prior to the birth of the third brother, C. If subsequently B died also childless, R. Simeon, contrary to the opinion of the Rabbis, allows the levirate marriage between the widow and C, because when C

was born the widow was already the wife of B, and C's levirate marriage now is not due to A whose widow was a married woman when he was born, but to B whose contemporary he is.

5. I.e., where C (v. note 4) was born before the levirate marriage between A's widow and B took place.
6. The fifteen forbidden categories enumerated in our Mishnah, *supra* 2af.
7. For full explanation of this statement V. *infra* 26a and 28b.
8. Rab's statement.
9. Forbidden categories.
10. The full application of Rab's statement.
11. Who would be forbidden to all the brothers.
12. And since the case of a daughter could not be included, the other five cases also, bearing on a daughter, were excluded.
13. Rab's statement.
14. V. *infra* 28b for explanation.

Yebamoth 10a

And your mnemonic is, 'Died, born, and performed the levirate marriage; died, born, and performed the levirate marriage'!¹ — Rabbi² does not accept these rules.³

R. Adda Karhina stated before R. Kahana in the name of Raba: Rabbi, in fact, does accept these rules,⁴ but it was this that he meant to say to [Levi]:⁵ [The application of the statement⁴ to] a woman outraged by one's father is possible only in one [of its parts]; it is impossible, however, to apply it in [both its parts], for if Jacob outraged his two sisters,⁶ it is possible [to apply that part of the statement relating to] 'her sister who is her sister-in-law',⁷ but not that of 'she who is forbidden to one brother may be permitted to the other',⁸ and if he outraged two strangers,⁹ it is possible [to apply the statement], 'she who is forbidden to one brother may be permitted to the other'¹⁰ but not that of 'her sister who is her sister-in-law'.¹¹

R. Ashi said: Rabbi, in fact, does not accept these rules¹² and [our Mishnah] does deal with matters in dispute, and as to the meaning¹³ of 'It seems to me that this man has no brains in his head' which he¹⁴ addressed to him,¹⁵ what he meant was this:

YEVOMOS – 2a-19b

'Why did you not carefully consider our Mishnah? For our Mishnah represents the view of R. Judah who forbids the marriage of a woman that was outraged by one's father,¹⁶ as it was taught: Six forbidden relatives come under greater restrictions,¹⁷ since they are to be married to strangers only,¹⁸ and their rivals are permitted.¹⁹ [These are:] his mother, his father's wife and his father's sister [etc.].²⁰ Now, what is meant by "his mother"? If it be assumed to mean one who was legally married to his father, such a woman surely is "his father's wife".²¹ Must it not consequently mean one who was outraged by his father? And yet it was stated, "since they are to be married to strangers only", implying "to strangers only but not to the brothers". Now, who has been heard to hold such an opinion? Surely it was R. Judah who forbids marriage with a woman who was outraged by one's father.²² Hence²³ it was not included in our Mishnah.²⁴

Said Rabina to R. Ashi: [Such a levirate relationship]²⁵ is possible even according to R. Judah if and when one had married²⁶ illegally!²⁷ — The author of the Mishnah is not concerned with an 'if'.²⁸ Said R. Ashi to R. Kahana: This²⁹ is also possible without the 'if',³⁰ where Jacob³¹ outraged his daughter-in-law, begat from her a son, and then Reuben³² died without issue, and she thus came into levirate relationship with her son,³³ and since she is forbidden to him,³⁴ her rival also is likewise forbidden!³⁵ — The other replied: [The author of our Mishnah] deals only with lawful brotherhood but not with brotherhood which is due to a forbidden act.

Levi nevertheless³⁶ inserted it³⁷ in his Mishnah. For Levi taught: One's mother sometimes exempts her rival³⁸ and sometimes she does not exempt her. If his mother, for instance,³⁹ was lawfully married to his father, and then she was married⁴⁰ to his paternal brother⁴¹ who subsequently died, such a mother does not exempt her rival.⁴²

1. Now, since in the case of 'the wife of a brother who was not his contemporary' the application

of Rab's statement is only possible according to the view of R. Simeon but not according to that of the Rabbis, and since the statement is based on our Mishnah, it is obvious that our Mishnah deals also with a case which is in dispute.

2. Cf. BaH. Cur. edd. insert, 'but'.
3. Of Rab and R. Hiyya. Our Mishnah consequently deals only with that case in which R. Simeon and the Rabbis are in agreement. (V. *supra* 9b top).
4. Of Rab and R. Hiyya, *supra* 9b.
5. Whom he addressed *supra* 9a.
6. And after one of them had given birth to a child, C, and the other to one, D, the first was married by A and the second by B, two of Jacob's sons from another wife.
7. For should A and B die childless their wives who are sisters as well as sisters-in-law come under the law of the levirate marriage in relation to C and D the brothers of A and B.
8. Both being forbidden to C as well as to D. The mother of C is forbidden to C as mother and to D as mother's sister, and the mother of D is similarly forbidden to D and C.
9. Cf. n. 8.
10. Since the women are strangers and the restrictions mentioned in note 10 do not apply.
11. The women being sisters-in-law only but not sisters. Thus it has been shown that the statement could not be applied in its entirety to the case of an outraged woman. Hence it was excluded from the enumeration in our Mishnah.
12. Of Rab and Hiyya.
13. Lit., 'and what'.
14. Rabbi.
15. Levi, *supra* 9a.
16. Hence it is impossible for a mother, whether legally married or outraged, ever to come into levirate relationship with her son. (Cf. *supra* p. 45, n. 8.)
17. Than those relating to the fifteen enumerated in our Mishnah.
18. No paternal brother of the person concerned may ever marry them.
19. To marry the brother of their deceased husband who had been married to their rival (one of the six relatives) illegally (Maimonides). If the marriage was with a stranger the permissibility of marriage is obvious since the laws of rivals apply only to a brother's widow.
20. *Infra* 13a.
21. Who was specifically mentioned.
22. So that it is impossible for one ever to be subject to levirate marriage with his brother's wife whose legitimate or illegitimate son he is.
23. Since R. Judah holds such an opinion and the Mishnah represents his view.

YEVOMOS – 2a-19b

24. Lit., 'he did not teach it'.
25. Cf. *supra* p. 46, n. 13.
26. The woman his father had outraged and who is also the mother of his brother.
27. *Infra* 78a. In such a case it is surely possible for a mother to come into the levirate relationship with her son.
28. Lit., 'when if he does not teach', i.e., he is not concerned with a levirate relationship that may arise out of a possible and unlikely breach of the law.
29. Levirate relationship with a mother. Cf. *supra* p. 46, n. 13.
30. I.e., even if the deceased brothers did not transgress the law.
31. The father of the deceased.
32. Her husband, Jacob's son.
33. Lit., 'and she fell before her son', who is the paternal brother of her deceased husband, Reuben.
34. As his mother.
35. Why then was not this case included in our Mishnah?
36. Despite Rabbi's abusive reply, *supra* 9a.
37. [H] lit., 'examined it', i.e., revised our Mishnah and added the case under discussion. [Levi drew up a collection of teachings like those of R. Hiyya and R. Oshaia, v. B.B., Sonc. ed. p. 216].
38. From *Halizah* and the levirate marriage.
39. Lit., 'how so?'.
40. Unlawfully.
41. Which is a marriage forbidden under the penalty of *Kareth* and is, therefore, illegal and invalid.
42. The marriage having been invalid, the woman is not regarded as his brother's wife.

Yebamoth 10b

If his mother, however, was a woman that had been outraged by his father and was then married to his paternal brother who subsequently died, such a mother does exempt her rival.¹ And though the Sages taught in our Mishnah FIFTEEN we must add a case like this as a sixteenth.

Resh Lakish said to R. Johanan: According to Levi who maintains that an 'if'² is also included,³ let our Mishnah also include⁴ the case of a levir who gave *Halizah* to his sister-in-law⁵ and later betrothed⁶ her and died without issue, for since [the widow of such a one] is forbidden,⁷ her rival also is forbidden!⁸ — The other replied: Because in

this case the law of the rival of the rival⁹ cannot be applied.¹⁰ But could he¹¹ not have answered¹² him¹³ [that the brothers] are only subject to the penalties of a negative precept,¹⁴ and that those who are subject to the penalties of a negative precept are¹⁵ under the obligations of *Halizah* and the levirate marriage?¹⁶ — He¹⁷ answered him¹⁸ in accordance with the view he¹⁸ holds. 'According to my view,' he¹⁹ argued, [the brothers] are only subject to the penalties of a negative precept,²⁰ and those who are subject to the penalties of a negative precept are²¹ under the obligations of *Halizah* and the levirate marriage,²² but even according to your view that they are subject to the penalty of *Kareth* [the case could not have been included in our Mishnah] because the law of the rival's rival cannot be applied'.²³

It has been stated: Where [a levir] had performed the ceremonial of *Halizah* with his sister-in-law, and then betrothed her, Resh Lakish holds that he is not subject to the penalty of *Kareth* for the *Haluzah*,²⁴ but the other brothers are subject to *Kareth* for the *Haluzah*.²⁵ In the case of the rival,²⁶ both he²⁷ and the other brothers are subject to *Kareth* for a rival.²⁸ R. Johanan, however, holds that neither he²⁷ nor the other brothers are subject to *Kareth* either for the *Haluzah* or for her rival.²⁹ What is the reason of Resh Lakish? — Scripture stated, That doth not build,³⁰ since he has not built he must never again build.³¹ He himself is thus placed under the prohibition of building no more,³² but his brothers remain in the same position in which they were before.³³ Furthermore, the prohibition to build no more applies only to herself,³⁴ her rival, however, remains under the same prohibition as before.³³ And R. Johanan?³⁵ — Is it inconceivable³⁶ that at first *Halizah* should be allowed to be performed by any one of the brothers³⁷ and with either of the widows of the deceased brother³⁸ and that now one or other of these persons should³⁹ be involved in *Kareth*!⁴⁰ But [in point of fact] he⁴¹ merely acts as agent for the brothers while she⁴² acts as agent for her rival.⁴³

YEVOMOS – 2a-19b

R. Johanan pointed out to Resh Lakish the following objection: 'If a levir who submitted to *Halizah* from his sister-in-law, later betrothed her and died,⁴⁴ [the widow] requires *Halizah* from the surviving brothers'. Now, according to me who maintains that [the surviving brothers]⁴⁵ are subject to the penalties of a negative precept only, one can well understand why she requires *Halizah* from the other brothers.⁴⁶ According to you, however, why should she require *Halizah*?⁴⁷ — Explain, then, on the lines of your reasoning, the final clause, 'If one of the brothers⁴⁸ actually⁴⁹ betrothed her, she has no claim upon him!'⁵⁰ R. Shesheth replied: The final clause represents the opinion of R. Akiba who holds that a betrothal with those who are subject thereby to the penalties of a negative precept is of no validity.⁵¹ Should it not then have been stated, 'according to the view of R. Akiba she⁵² has no claim upon him!'⁵³ —

1. Since her marriage with the deceased brother was not unlawful, her rival (any other wife of her husband) is subject to the same laws as any other rival in the case of the fifteen relatives of our Mishnah.
2. Cf. p. 47, n. 4, *supra*.
3. By R. Judah who, as has been shown *supra*, is the author of our Mishnah. Though he prohibits the marriage of a woman that was outraged by one's father, he nevertheless, according to Levi's recital, included the case in our Mishnah.
4. Lit., 'teach'.
5. Whom he is in consequence forbidden to marry.
6. Since the marriage in such a case is forbidden under a negative precept the transgression of which does not involve the penalty of *Kareth*, the betrothal is legally valid.
7. To the brothers of the levir who gave the *Halizah*: this prohibition, according to Resh Lakish *infra* involving the penalty of *Kareth*.
8. To the brothers. Why then was not this case also added to the fifteen?
9. V. our Mishnah.
10. Her rival (as well as herself), being forbidden to all the other brothers (as brother's wife or as the *Haluzah* of one of the brothers), can never have any of the wives of the brothers as her rival. In the case of the forbidden relatives in our Mishnah, they are forbidden to one of the brothers only, hence they or their rivals

are not otherwise precluded from marrying one of the other brothers.

11. R. Johanan.
12. Lit., 'and he should say'.
13. Resh Lakish.
14. If they married the *Haluzah*, their deceased brother's widow, with whom *Halizah* had been performed by one of them. According to R. Johanan, *infra*, contrary to the view of Resh Lakish, no penalty of *Kareth* is involved in such a marriage, whether the transgressor be the brother who performed the *Halizah* or any of the other brothers.
15. Unlike those subject to the penalty of *Kareth* who are exempt from *Halizah* and from the levirate marriage.
16. I.e., though the marriage with them is forbidden by a negative precept, they remain nevertheless under the obligations of the levirate relationship and must, therefore, undergo the ceremonial of *Halizah*. Why, then, did not R. Johanan give Resh Lakish this reply which would well account for the omission from our Mishnah of the case he mentioned?
17. R. Johanan.
18. Resh Lakish.
19. R. Johanan.
20. V. p. 48, n. 13.
21. V. p. 48, n. 14.
22. Cf. previous note.
23. Cf. *supra* p. 48, n. 9.
24. V. [Glos.](#) I.e., for having intercourse with her. Consequently the betrothal is valid.
25. Consequently should any of the other brothers betroth the *Haluzah*, the betrothal is invalid.
26. Of a *Haluzah* (v. previous note). A rival is exempt from *Halizah* and the levirate marriage by the action of the *Haluzah*.
27. The levir who participated in the *Halizah*.
28. V. *infra* 53a.
29. *Infra* 40b and l.c.
30. Deut. XXV, 9.
31. The imperfect [H] may be rendered as a present as well as a future.
32. I.e., under a negative precept only which involves no *Kareth*.
33. I.e., under the prohibition to marry a brother's wife, which involves the penalty of *Kareth*.
34. The *Haluzah*.
35. What reason does he advance for his opinions?
36. Lit., 'is there (such) a thing'?
37. Lit., 'if he prefers, this one participates in the *Halizah* and if he prefers etc.'
38. Lit., 'and if he prefers he performs the *Halizah* with that one and if he prefers etc'.
39. In case of a betrothal.
40. Though the others are not.

YEVOMOS – 2a-19b

41. The brother who participated in the *Halizah*.
42. The widow who performed the *Halizah* ceremonial.
43. Hence all the brothers as well as all the rivals are in this respect in exactly the same position. As the brother and the widow who between them carried out the *Halizah* ceremonial are in a case of subsequent marriage exempt from *Kareth* and are subject only to the penalties of a negative precept, so also are all the others on whose behalf they acted.
44. Without issue.
45. In subsequently marrying the *Haluzah*.
46. Since the negative precept which bars them from the levirate marriage does not supersede *Halizah*.
47. Marriage with them would involve the penalty of *Kareth*, and whenever such a penalty is involved the parties are not subject to the laws of *Halizah*!
48. Other than the one who participated in the *Halizah*.
49. Lit., 'stood'.
50. I.e., the betrothal is invalid, she receives no *Kethubah*, and no divorce is needed. This obviously proves that the penalty for such an ensuing marriage is *Kareth*, as Resh Lakish maintains; for had it been, as R. Johanan asserts, that of a negative precept only, the betrothal should have been valid.
51. Keth. 29b, Kid. 64a, 68a, Sot. 18b, *infra* 52b, 69a.
52. So BaH, a.l. Cur. edd., 'he'.
53. Since it is the general opinion that such a betrothal is valid.

Yebamoth 11a

This is rather a difficulty.

R. Ashi holds the same opinion as Resh Lakish¹ and explains it² in accordance with the ruling of R. Simeon.³ Rabina holds the same opinion as R. Johanan⁴ and explains it⁵ in accordance with the ruling of the Rabbis.⁶ 'R. Ashi holds the same opinion as Resh Lakish and explains it in accordance with the ruling of R. Simeon', thus: If [a levir] who submitted to *Halizah* from his sister-in-law had subsequently betrothed her, she⁷ requires *Halizah* from the brothers. Who are these brothers? Those born [subsequently].⁸ According to whose view? According to that of R. Simeon.⁹ If one of the previously born¹⁰ brothers, however, betrothed her, she has no

claim upon him.¹¹ According to whose view? According to that of Resh Lakish.¹¹

'Rabina holds the same opinion as R. Johanan and explains it in accordance with the ruling of the Rabbis', thus: If [a levir] who submitted to *Halizah* from his sister-in-law had subsequently betrothed her, she requires *Halizah* from the brothers. Who are these brothers? Those born [prior to the *Halizah*]. According to whom? According to R. Johanan.¹² If one of the subsequently¹³ born brothers, however, betrothed her, she has no claim upon him. According to whose view? According to that of the Rabbis.¹⁴

It has been stated: In the case where [the levir] had intercourse with his sister-in-law¹⁵ and one of the other brothers had intercourse with her rival, there is a difference of opinion between R. Aha and Rabina. One said: [It involves¹⁶ a transgression subject] to *Kareth* and the other said: [The transgression] of a positive precept.¹⁷ He who said, '[A transgression subject] to *Kareth*' follows Resh Lakish;¹⁸ and he who said, '[The transgression] of a positive precept' follows R. Johanan.¹⁹

Rab Judah said in the name of Rab: The rival of a Sotah²⁰ is for bidden.²¹ What is the reason?²² — Because uncleanness is ascribed to her²³ as to the cases of incest.²⁴ R. Hisda raised an objection:²⁵ R. Simeon²⁶ said, the intercourse²⁷ or *Halizah* of the brother of the first husband exempts her rival!²⁸ — Rab can answer you, 'I speak of a Sotah that is Biblically forbidden,²⁹ and you talk of a Sotah that is only Rabbinically forbidden'.³⁰

But as to him who raised this objection, what did he imagine?³¹ — He thought that Rabbinical provisions were given the same force as Biblical laws.³²

R. Ashi raised an objection: If she³³ entered with the man into a private place and remained with him for a period sufficient for the consummation of defilement, she is forbidden to her house,³⁴ she may not eat of

YEVOMOS – 2a-19b

Terumah,³⁵ and if he died she must undergo the ceremony of *Halizah*

1. That any brother, other than the one who submitted to the *Halizah*, who married the widow after she had performed the *Halizah* is subject to the penalty of *Kareth* (v. *supra* 10b).
2. The first clause of the statement cited in the discussion between R. Johanan and Resh Lakish, according to which *Halizah* is required.
3. Who maintains that a brother born after the levirate marriage of his elder brother is not subject, in relation to the deceased brother, to the restriction of a 'brother who was not his contemporary'. The first clause then, which requires *Halizah*, may consequently refer to brothers born after both the *Halizah* and the betrothal had taken place. The widow of the levir not being forbidden to them on account of her first deceased husband, is subject to *Halizah* on account of the second. (The final clause which clearly agrees with the view of Resh Lakish requires of course no explanation).
4. Who maintains that the brother who performed the *Halizah* as well as all the other brothers are forbidden to marry the widow subsequent to the *Halizah*, not under the penalty of *Kareth* but under that of a negative precept. Hence the ruling in the first clause that *Halizah* is required.
5. The final clause. (Cf. n. 2 *supra*).
6. Who hold that even a brother born after the levirate marriage (v. n. 3 *supra*) is subject to the restrictions of 'a brother who was not his contemporary'. The final clause may accordingly refer to such brothers to whom the widow is forbidden for this reason (not on account of the *Halizah* that had been performed) and the marriage or betrothal with whom is consequently invalid. (The first clause obviously is in agreement with R. Johanan).
7. In the case where the levir who betrothed her also died without issue.
8. After the *Halizah* and the betrothal. Having been born after the *Halizah* they have never been subject to the levirate relationship on account of the first deceased brother and the *Halizah* of the levir had, therefore, imposed no restrictions upon them in relation to the widow.
9. V. *supra* n. 3. Hence it is the duty of one of these brothers to submit to *Halizah* which is incumbent upon them as brothers of the levir who also died without issue.
10. Prior to the performance of the *Halizah*.
11. Since according to Resh Lakish the performance of the *Halizah* by one of the brothers had caused the prohibition of the widow upon all other contemporary brothers under the penalty of *Kareth*, such a betrothal is invalid.
12. V. *supra* p. 51, n. 4.
13. After the performance of the *Halizah*.
14. V. *supra* p. 51, n. 6.
15. The widow of his deceased childless brother.
16. For the other brother.
17. The precept is to perform one levirate marriage but not more than one, a transgression to which no penalty is attached.
18. In whose view (*supra* 10b) the levir who marries, or participates in *Halizah* with the widow, does not act as the agent of the other brothers. Hence, despite the fact that in the levir's own case the prohibition to marry the rival is regarded as having the force of a positive precept, in that of the other brothers the original prohibition to marry a brother's wife remains in force and marriage with her involves, therefore, the penalty of *Kareth*.
19. Who regards the levir as the agent of the brothers (*supra* 10b). Hence they are subject to the same prohibition. As in the levir's own case so in that of the other brothers the levirate obligations supersede the prohibition of marrying a brother's wife, and with it the original penalty of *Kareth*.
20. [H], a married woman suspected of adultery, who is subject to the ordeal prescribed in Num. V, 12ff. V. [Glos.](#)
21. To the levir; in the case where there are witnesses that the Sotah had committed the crime and her husband subsequently died childless. The rival and certainly the Sotah herself are in such a case exempt from both the levirate marriage and the *Halizah*.
22. So BaH. Cur. edd. omit.
23. She being defiled. Num. V, 13.
24. Defile ye not yourselves. Lev. XVIII, 24. As the rival in the latter case is forbidden, so is she in the former.
25. The following refers to a case where a woman married a second husband on the basis of a report by one witness that her first husband had died in a foreign country. If later it was discovered that her first husband was alive, she must be divorced by both. If both died childless prior to the divorce she requires *Halizah* from a brother of each but may not, according to the Rabbis, marry either of them.
26. Disagreeing with the Rabbis in one point.
27. Her second marriage having been entered into through an innocent error, no penalty is incurred by her as far as her relationship with the levir from the first marriage is concerned.

YEVOMOS – 2a-19b

Hence, in the opinion of R. Simeon, either marriage or *Halizah* is permitted, v. *infra* 87a.

28. From this it follows that the rival of a married woman who had intercourse with another husband is permitted to the levir both according to R. Simeon and according to the Rabbis (the latter having only disputed the case of the married woman herself). Why, then, did Rab state that the rival of a Sotah is forbidden?
29. A woman that was faithless to her husband. (Num. V, 12ff).
30. The woman who married a second husband under an honest misapprehension. Biblically she is permitted to live again with her husband since her second marriage was entered into on the basis of a report by a witness, on the strength of which she was by Biblical law fully permitted to contract the marriage.
31. He must surely have known that the one was Biblical and the other only Rabbinical! [H] rt. [H] or [H] (cf. [G]) 'to speak', 'enquire', 'argue'.
32. Lit., 'all that the Rabbis provided, like that of the Torah they provided'.
33. A woman suspected by her husband who warned her not to seclude herself with a certain man.
34. I.e., to her husband.
35. V. [Glos.](#); in the case where the husband is a priest.

Yebamoth 11b

though she may not marry the levir!¹ — Rab can answer you. 'I speak of a definite Sotah, and you speak of a doubtful one'. But why should a definite Sotah be different? Obviously because in relation to her the expression of 'uncleanness' is used;² is not, however, the expression of 'uncleanness' also used in relation to a doubtful Sotah! For it was taught: R. Jose b. Kipper said in the name of R. Eleazar, The remarriage by a husband of his divorced wife is forbidden after marriage³ and permitted after betrothal,⁴ because it is stated in the Scriptures. After that she is defiled.⁵ The Sages, however, say, the one as well as the other⁶ is forbidden,⁷ and the expression⁸ 'After that she is defiled' implies the inclusion of a Sotah who secluded herself with a man!² — The underlying meaning of 'secluded herself' is 'sexual intercourse'. Why then did he say 'secluded herself'? — In order to

employ a euphemism.¹⁰ But in relation to sexual intercourse, [surely,] uncleanness was actually mentioned in the Scriptures. She being defiled secretly!¹¹ — To subject the offence¹² to a negative precept.¹³ And R. Jose b. Kipper?¹⁴ — He does not hold the view that a negative precept is applicable to a Sotah, even in the case where she had actually committed adultery. What is the reason? — [Because in reference to the remarriage of a divorced wife] Scripture uses the expression of¹⁵ becoming¹⁶ as well as that of matrimony.¹⁷

Rab Judah inquired of R. Shesheth: What is the law in regard to the rival of a woman whom her former husband remarried after her second marriage and died?¹⁸ According to the view of R. Jose b. Kipper the question does not arise. For R. Jose b. Kipper having stated that 'uncleanness' is mentioned in the case of him who remarried his divorced wife, it follows that her rival is subject to the very same restrictions. And if [objection be raised] from the Scriptural text, She is an abomination,¹⁹ [it may be replied that the implication is] that she is an abomination and not her children,²⁰ her rival, however, being an abomination. The question, however, arises on the view of the Rabbis: Does the Scriptural text,²¹ despite the fact that the Rabbis had applied the expression 'uncleanness' to the Sotah, also bear its ordinary meaning,²² or since it²³ was once torn away [from its ordinary meaning] it must in all respects so remain?²⁴ Others say: According to the Rabbis no question arises, for since the text has once been torn away [from its ordinary meaning] it must in all respects so remain. The question, however, arises according to the view of R. Jose b. Kipper: What is the law? [Is it assumed that] although R. Jose b. Kipper stated that the expression of 'uncleanness' refers to the remarriage of a divorced wife, the All Merciful has written 'She is an abomination' to indicate that 'she' is an abomination but not her rival,²⁵ or is the implication, perhaps, that 'she' is an abomination, but her children are not; a rival, however, being an

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abomination?²⁶ — The other replied: You have learnt it, 'If one of them²⁷ was a permitted wife and the other a forbidden one; if he²⁸ submit to *Halizah* he must submit to that of the forbidden one;²⁹ and if he marries he marries the permitted one.'²⁹ Now what is meant by 'permitted' and 'forbidden'? If it be suggested that 'permitted' means permitted for all the world,³⁰ and 'forbidden' means forbidden for all the world,³¹ what practical difference, in view of the fact that she is in either case suitable for him,³² could this make to him? Consequently 'permitted' must mean permitted to him, and 'forbidden', forbidden to him; and this may happen where³³ he³⁴ remarried his divorced wife;³⁵ and yet it was taught, 'and if he marries he marries the permitted one'!³⁶ — No; 'permitted' may still mean permitted to all the world³⁰ and 'forbidden', forbidden for all the world;³¹ and as to your question, 'what practical difference, in view of the fact that she is in either case suitable for him, could this make', one must take into account the moral lesson³⁷ of R. Joseph. For R. Joseph stated: Here³⁸ Rabbi taught that a man shall not pour the water out of his cistern so long as others may require it.³⁹

Come and hear: 'Where a man remarried his divorced wife after she had been married,⁴⁰ she and her rival are to perform the *Halizah*.' Is it possible to say 'she and her rival'?⁴¹ Consequently it must mean, 'Either she or her rival.'⁴² Did you not, however, have recourse to an interpretation?⁴³ [You might as well] interpret thus: She is to perform *Halizah*, while her rival may either perform *Halizah* or be married by the levir.

R. Hiyya b. Abba said: R. Johanan inquired as to what is the law⁴⁴ in regard to a rival of a divorced woman whom her former husband remarried after her second marriage. Said R. Ammi to him: Enquire rather regarding herself!⁴⁵ — Concerning herself I have no question since her case may be inferred a *minori ad majus*: If she is forbidden to him⁴⁶ to whom she was originally⁴⁷ permitted, how much more so to the man⁴⁸ to whom she was

originally⁴⁷ forbidden!⁴⁹ The question, however, remains concerning her rival: Is the inference a *minori ad majus* strong enough to exclude a rival⁵⁰ or not?

R. Nahman b. Isaac taught as follows: R. Hiyya b. Abba said, R. Johanan enquired as to what is the law⁴⁴ in regard to a divorced woman whom her husband remarried after her second marriage. Said R. Ammi to him: Enquire rather regarding her rival! — Concerning her rival I have no question, for an inference a *minori ad majus*⁵¹ is not strong enough to exclude a rival;⁵⁰ the question, however, remains regarding herself. Is the inference a *minori ad majus* strong enough [to be acted upon] where a precept⁵² is involved or not?

1. If the Sotah herself must go through the ceremony of *Halizah*, much more so her rival; how then could Rab state that the rival of a Sotah (and much more so the Sotah herself, v. *supra* p. 53, n. 1) is exempt from *Halizah*?
2. Num. V, 13.
3. With a second husband who subsequently died or divorced her.
4. Where no marriage with the second man took place, and he died.
5. Deut. XXIV, 4, referring, in the opinion of R. Eleazar, to a divorced woman who had married a second husband.
6. Married or betrothed.
7. This is deduced by the Sages from And goeth and becometh another man's wife (Deut. XXIV, 2) which, they maintain, implies betrothal as well as marriage.
8. Lit., 'but what do I establish'.
9. That the husband must not take her back. This clearly shows that the expression of 'uncleanness' was also used concerning a doubtful Sotah.
10. Lit., 'he took a nice (or superior) expression'.
11. Num. V, 13; what need, then, was there for the implication of the text of Deut. XXIV, 4?
12. Of remarrying a Sotah.
13. Lit., 'to cause to stand concerning it in a negative (prohibition)'; the negative can only be derived from Deut. XXIV, 4: May not take her again to be his wife.
14. Who applies the entire text to the remarriage of a divorced wife, whence does he derive the law concerning the Sotah?
15. Lit., 'it is written concerning it'.

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16. Deut. XXIV, 2, And she departeth out of his house, and goeth and cometh ([H]) another man's wife.
17. Ibid., Or if the latter husband ([H]) die, implying that the divorced woman's connection with the second man must be that of 'husband and wife', i.e., lawful matrimony. In the case of the Sotah the intercourse was unlawful and cannot come, therefore, under the prohibition of Deut. XXIV, 4.
18. Is the rival subject to the levirate marriage and *Halizah*?
19. Deut. XXIV, 4, dealing with a woman remarried after divorce. The text She is an abomination. [H], might be taken to imply that the designation, and consequently the restrictions, refer to the woman only ([H] = she) and not to her rival.
20. I.e., the exclusion of [H] may refer not to her rival but to her children who, unlike their mother who is regarded as an 'abomination', may marry into priestly families.
21. Describing the woman (or the act of remarrying the first husband after divorce and second marriage) as 'uncleanness'.
22. I.e., its bearing on the woman remarried (v. previous note), with whose case the text in its ordinary meaning is concerned, and consequently on her rival also.
23. The expression of uncleanness.
24. Lit., 'that it was uprooted it was uprooted', i.e., since it was removed from its context and applied to the Sotah, it can never be re-applied to its original case. Hence a rival would not come under the same restrictions as the Sotah herself.
25. To whom, consequently, the restrictions would not apply.
26. And consequently subject to the same restrictions as the woman herself.
27. Two widows of a brother who died without issue.
28. The levir.
29. *Infra* 44a, and thereby liberates also the other widow, her rival.
30. I.e., even to priests.
31. In case she was once, e.g., a divorced woman and is thus forbidden to marry a priest.
32. He being an ordinary Israelite.
33. Lit., 'and what is it'.
34. The deceased brother.
35. In which case the woman who was remarried is forbidden to the levir as she was forbidden to his deceased brother who had married her unlawfully, while her rival, having been lawfully married, is permitted to the levir.
36. Which clearly shows that the rival of a woman remarried by her former husband is subject to the levirate marriage.
37. Lit., 'because of'.
38. In the Mishnah cited where it is stated that *Halizah* is to be performed with the forbidden one.
39. A man should not destroy anything which may be of use to others though it is of no use to him. In the case under discussion, the levir submits to *Halizah* from the forbidden one and thus liberates the permitted one to marry even a priest to whom she would have been forbidden had the *Halizah* been performed by her.
40. To a second husband who divorced her or died.
41. *Halizah* surely is performed by one of the widows only!
42. Which supplies an answer to the enquiry addressed by Rab Judah to R. Shesheth.
43. 'He and her rival' was interpreted as 'Either etc.'
44. In respect of the levirate marriage.
45. The remarried woman.
46. Her first husband.
47. Before she married her second husband.
48. The levir.
49. As brother's wife.
50. From the levirate marriage.
51. V. previous paragraph.
52. The levirate marriage.

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— The other replied,¹ You have learned it: If one of them was a permitted wife and the other a forbidden one; if she submits to *Halizah* he must submit to that of the forbidden one; and if he marries, he marries the permitted one. Now, what is meant by 'permitted' and 'forbidden'? If it be suggested that 'permitted' means permitted to all the world and 'forbidden' means forbidden to all the world, what practical difference, in view of the fact that she is in either case suitable for him, could this make to him? Consequently 'permitted' must mean permitted to him, and 'forbidden', forbidden to him; and this may happen where he remarries his divorced wife; and yet it was taught. 'If he marries he marries the permitted one'!² — No; 'permitted' may still mean permitted to all the world, and 'forbidden', forbidden to all the world; and as to your question. 'What practical difference, in view of the fact that she is in either case suitable for him, could this make'? One must

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take into account the moral lesson of R. Joseph. For R. Joseph said: Here, Rabbi taught that a man shall not pour the water out of his cistern so long as others may require it.³

Come and hear: 'Where a man remarried his divorced wife after she had been married, she and her rival are to perform *Halizah*.' Is it possible to say 'she and her rival'? Consequently it must mean, 'either she or her rival.'⁴ Did you not, however, have recourse to an interpretation? [You might as well] interpret thus: She is to perform *Halizah*, while her rival may either perform *Halizah* or be married by the levir.

R. Levi b. Memel said in the name of Mar 'Ukba in the name of Samuel: The rival of a *Mema'eneth*⁵ is forbidden. To whom [is she forbidden]? If it be suggested, to the brothers,⁶ [it may be retort ed], now that she herself⁷ is permitted,⁸ for Samuel said, 'If she refused one brother she is permitted to marry the other',⁹ is there any question that her rival is permitted?⁸ Hence [it means] to himself.¹⁰ Wherein, however, does the *Mema'eneth*¹¹ differ¹² that she is in consequence permitted to the other brothers? Obviously, in that she had taken no action in relation to them;¹³ but her rival also had taken no action in relation to them!¹⁴ — It is an enactment made to prevent marriage with the rival of one's daughter¹⁵ who was a *Mema'eneth*.¹⁶

Is, however, the rival of one's daughter who is a *Mema'eneth* forbidden? Surely we learned, IF, HOWEVER, ANY AMONG THESE DIED, OR MADE A DECLARATION OF REFUSAL, OR WERE DIVORCED¹⁷ [etc.] THEIR RIVALS ARE PERMITTED. Now, against whom was the declaration of refusal made? If it be suggested that she refused the husband, then this case is identical with that of a divorced woman.¹⁸ Consequently it must refer to refusal of the levir!¹⁹ — No; it may, in fact, refer to the refusal of a husband, but there are two kinds of divorce.²⁰

Wherein, however, does the refusal of a husband differ?²¹ Obviously in that she thereby annuls the original marriage; but when she refused the levir she has also annulled the original marriage! — [It differs] in respect of what Rami b. Ezekiel had learnt. For Rami b. Ezekiel learnt: If she²² declared her refusal against the husband she is permitted to marry his father;²³ if against the levir, she is forbidden to his father.²⁴ From this it clearly follows that from the moment she becomes subject to the levirate marriage²⁵ she is looked upon as his²⁶ daughter-in-law; similarly here also²⁷ she is looked upon as the rival of his daughter from the moment she²⁸ becomes subject to the levirate marriage.

Said R. Assi: The rival of a woman incapable of procreation is forbidden;²⁹ for it is said in the Scriptures, And it shall be that the firstborn that she beareth,³⁰ which excludes a woman incapable of procreation, since she does not bear.³¹ R. Shesheth raised an objection: In the case where three brothers were married to three women who were strangers to one another, and one of them having died, the second brother addressed to her³² a *Ma'amar*³³ and died, behold these³⁴ must perform the *Halizah* but may not marry the levir; for it is said, And one of them die [etc.] her husband's brother shall go in unto her,³⁵ only she³⁶ who is tied to one levir³⁷ but not she who is tied to two levirs;³⁸ and concerning this it was taught: R. Joseph said, 'This is the rival of a paternal brother's wife whose prohibition³⁹ is due to her double subjection to the levirate marriage,⁴⁰ a case the like of which we do not find through out the Torah'.⁴¹ Now, what does the expression 'This is' exclude? Does it not exclude the rival of a woman incapable of procreation, who is permitted!⁴² — No; it excludes the rival of a woman incapable of procreation who is forbidden. What, then, is meant by the expression, 'This is'?⁴³ — It is that in this case, where the subjection to the levirate marriage has caused the prohibition, her rival requires *Halizah*; in the case, however, of a woman incapable of procreation even *Halizah* is not required. What is the reason?

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— The prohibition of the one⁴⁴ is Pentateuchal;⁴⁵ that of the other only Rabbinical.⁴⁶

We learnt; IF, HOWEVER, ANY AMONG THESE DIED, OR MADE A DECLARATION OF REFUSAL, OR WERE DIVORCED, OR WERE FOUND INCAPABLE OF PROCREATION, THEIR RIVALS ARE PERMITTED!⁴⁷ — This is no difficulty; the one⁴⁸ is a case where he⁴⁹ knew her defect⁵⁰ while the other⁵¹ is a case where⁵² he did not know of it.⁵³ The inference from our Mishnah also proves this; for it was stated WERE FOUND⁵⁴ and not 'were'. This proves it.

Raba said:

1. This reply applies to both versions of the inquiry.
2. Which shows that for the rival levirate marriage is permitted while for the remarried woman herself it is forbidden. For further notes v. *supra* p. 56.
3. For notes v. *supra* p. 56f.
4. Which supplies answers to the enquiries raised by R. Johanan in both versions.
5. A minor who declared her refusal to marry the levir. V. [Glos.](#) s.v. *Mi'un*.
6. Of the levir.
7. The minor who refused to marry the levir.
8. To marry the other brothers.
9. *Infra* 107b.
10. To the levir whom the minor had refused. The refusal removes the precept of the levirate marriage and in respect of the rival the prohibition of marrying a brother's wife comes again into force.
11. V. p. 58, n. 6.
12. From her rival.
13. Her refusal having been confined to one of the brothers only.
14. Not even against one of them. Why then is she forbidden to the levir?
15. Who comes in the category of forbidden relatives whose rivals also are forbidden. On the possibility of *Mi'un* during a father's lifetime, v. *supra* p. 2, n. 6.
16. If the one were permitted the other also might erroneously be married.
17. So BaH. Cur. edd. omit.
18. Which was already mentioned.
19. And yet, as our Mishnah shows, her rival is permitted in all cases enumerated, i.e., even in that of one's daughter.
20. Actual divorce and one by *Mi'un*.
21. From that of the levir.
22. A minor who was married to a stranger.
23. Her declaration of refusal having completely annulled the original betrothal, she is no more his daughter-in-law.
24. Her former marriage having once subjected her to levirate relationship, she must be regarded as the levir's father's daughter-in-law. V. *infra* 13a.
25. Lit., 'falling'.
26. The levir's father's.
27. In the case of the rival of one's daughter who made the declaration of refusal.
28. The daughter.
29. I.e., if one of the widows of the brother who died without issue is such the other also is forbidden.
30. Deut. XXV, 6.
31. Hence she herself is forbidden as a brother's wife, and her rival as the rival of a forbidden relative.
32. The widow of the deceased.
33. V. [Glos.](#)
34. The widows of the two dead brothers.
35. Deut. XXV, 5.
36. May marry the levir.
37. I.e., where the second brother had actually married her and has thus severed all her connections with the first. In such a case as in that of the usual levirate she would stand in relation to the third brother as the widow of one brother only.
38. The formula of betrothal or *Ma'amar* addressed to her by the second brother has only partially attached her to him and has not completely severed her connection with her husband, the first brother. She thus remains tied to the two, and consequently entirely forbidden the levirate marriage.
39. Of the levirate marriage.
40. Lit., 'falling'. Her levirate relationship with the third brother being due to her partial connection with each of the two dead brothers.
41. The widow not being one of the relatives forbidden by the Torah. The prohibition of the levirate marriage in her case is only Rabbinical, the Biblical text cited being a mere *Asmakta*.
42. How, then, could R. Assi state that a rival of one incapable of procreation is forbidden?
43. Which seems to imply that only this case is forbidden but not the other.
44. A woman incapable of procreation.
45. The prohibition being derived from Deut. XXV, 6 *supra*.
46. V. *supra* n. 1.
47. V. *supra* n. 2.
48. Lit., 'here', in R. Assi's statement.
49. The husband now deceased.

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50. At the time their marriage took place. Having known her defect he was not in any way misled, and the marriage, therefore, is valid. Her rival is consequently the rival of a legally married wife who is incapable of procreation and is forbidden by the deduction from Deut. XXV, 6.
51. Our Mishnah.
52. The husband now deceased.
53. At the time he married her. Since her defect was unknown to him the marriage which had taken place under a misapprehension is invalid. The woman, therefore, is not his lawful wife, and her rival cannot be regarded as a legal rival. Hence the statement in our Mishnah that such a rival is permitted.
54. Implying discovery after the event, i.e., after the marriage.

Yebamoth 12b

The law is that the rival of a woman incapable of procreation is permitted, even though he¹ knew her defect,² and even the rival of one's own daughter who was incapable of procreation [is permitted].³ But what about the expression WERE FOUND⁴ in our Mishnah? — Read, 'were'.

When Rabin came⁵ he stated in the name of R. Johanan: The rival of a *Mema'eneth*,⁶ the rival of a woman incapable of procreation, as well as the rival of a divorced woman who had been remarried to her former husband,⁷ are all permitted.

R. Bebai recited before R. Nahman: Three [categories of] women may⁸ use an absorbent⁹ in their marital intercourse:¹⁰ A minor, a pregnant woman and a nursing woman. The minor,¹¹ because [otherwise] she might¹² become pregnant, and as a result¹³ might die. A pregnant woman,¹¹ because [otherwise]. she might¹² cause her fetus to degenerate into a *sandal*.¹³ A nursing woman,¹¹ because [otherwise] she might¹² have to wean her child prematurely¹⁴ and this would result in his death. And what is the age of such a minor?¹⁵ From the age of eleven years and one day until the age of twelve years and one day. One who is under,¹⁶ or over this age¹⁷ must carry on her marital intercourse in the usual manner. This is the

opinion of R. Meir. The Sages, however, say: The one as well as the other carries on her marital intercourse in the usual manner, and mercy will be vouchsafed from heaven,¹⁸ for it is said in the Scriptures *The Lord preserveth the simple*.¹⁹

Since it has been stated, 'because she might become pregnant and as a result might die' it may be implied that it is possible for²⁰ a minor to be pregnant and not die. But, if so, one could imagine a case where²¹ a mother-in-law should be in a position to make a declaration of refusal,²² whereas we learned, ONE CANNOT SAY OF A MAN'S MOTHER-IN-LAW, THE MOTHER OF HIS MOTHER-IN-LAW AND THE MOTHER OF HIS FATHER-IN-LAW THAT THEY WERE FOUND INCAPABLE OF PROCREATION OR THAT THEY MADE A DECLARATION OF REFUSAL! — Read, 'because she might become pregnant and die';²³ for Rabbah b. Liwai said: She²⁴ is subject to an age limitation. Prior to that period²⁵ she does not conceive at all; during that period²⁵ she dies and her embryo dies; after that period²⁵ both she and her embryo survive. But is it really so? Surely, Rabbah b. Samuel recited: One cannot say of a man's mother-in-law, the mother of his mother-in-law and the mother of his father-in-law that they were found incapable of procreation or that they made a declaration of refusal, since they have already given birth to children!²⁶ — But [the reading], in fact, is, 'because she might become pregnant and as a result might die'. But, [then, the previously mentioned] difficulty remains!²⁷ — R. Safra replied: Children are like marks of puberty.²⁸ Others Say: Children are more conclusive proof than the marks of puberty. What practical difference is there between the two statements? — [It is this: That] even he who follows R. Judah who stated, '[a girl may exercise the right of refusal] until the black²⁹ predominates'³⁰ admits in the case of children.³¹

1. The deceased brother, at the time when he married.

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2. And nevertheless consented to the marriage, which is consequently valid, and the woman is his lawful wife.
3. The rival of a forbidden relative is forbidden only where the latter would have been subject to the precept of the levirate marriage if she had been no relative. In the case of a wife incapable of procreation, however, since she is not subject to the levirate marriage even where she is no relative at all, her rival even where she (the wife) is a forbidden relative, is regarded as the rival of one in relation to whom the precept of levirate marriage is not applicable at all. Cf. [H] quoted by Rashi.
4. V. p. 61, n. 14.
5. From Palestine to Babylon.
6. V. [Glos.](#) s.v. *Mi'un*. In this case it refers to one who refused the levir (V. Rashi a.l.).
7. After she had been married by a second husband who divorced her or died.
8. [So Rashi. R. *Tam*: Should use, v. Tosaf s.v. [H]
9. [H], hackled wool or flax.
10. To prevent conception.
11. May use the absorbent.
12. Lit., 'perhaps'.
13. [H] lit., 'a flat fish', i.e., a flat, fish-shaped abortion due to superfetation.
14. Owing to her second conception.
15. Who is capable of conception but exposed thereby to the danger of death.
16. When no conception is possible.
17. When pregnancy involves no fatal consequences.
18. To save her from danger.
19. Ps. CXVI, 6; those who are unable to protect themselves.
20. Lit., 'there is'.
21. Lit., 'we found'.
22. In the case, for instance, where the minor gave birth to a child in her twelfth year and that child was betrothed before the year was over. The minor who thus becomes a mother-in-law is entitled to make a declaration of refusal before, and until she enters her thirteenth year.
23. I.e., while conception is a matter of doubt, death is a certainty whenever conception happened to take place.
24. A minor.
25. The age of eleven years and one day to the age of twelve and one day.
26. Rabbah does not state, 'since they already grew up' but 'gave birth', which proves that even a minor (not yet grown up) is capable of bearing living children.
27. From here it appears that a minor can bear children while from our Mishnah it follows that she cannot.

28. As soon, therefore, as she gave birth to a child the minor is assumed to have passed out of the age of minority into that of puberty. Hence it is impossible for a mother, whatever her age, ever to make a declaration of refusal to which a minor only is entitled.
29. I.e., the pubic hair.
30. The growth of two hairs which the Rabbis regard as a definite mark of puberty not being considered by R. Judah as conclusive proof. Keth. 36a, B.B. 156a, Nid. 52a.
31. That they provide definite proof of puberty irrespective of the state of the hair.

Yebamoth 13a

R. Zebid, however, stated: No children are possible prior to the appearance of the marks of puberty.¹ Then let an examination be held!² — There is the possibility that they might have fallen off.³ This reply is perfectly satisfactory according to him who holds that such a possibility is taken into consideration;⁴ what, however, can be said according to him who holds that no such contingency need be considered? — Even according to him who holds that no such contingency need be considered, the possibility must be taken into consideration in this case on account of the pains of birth.⁵

HOW IS THE EXEMPTION OF THEIR RIVALS [BY THE WOMEN MENTIONED] TO BE UNDERSTOOD? Etc. Whence is this law⁶ deduced? — Rab Judah replied: [From] Scripture which stated, *li-zeror*,⁷ [implying that] the Torah included many rivals.⁸ R. Ashi replied. 'It⁹ is arrived at by reasoning: Why is a rival forbidden? Surely because she takes the place of the forbidden relative; the rival's rival also takes the place of the forbidden relative'.

HOW [IS ONE TO UNDERSTAND THE STATEMENT THAT] IF THEY HAD DIED etc. Even if he¹⁰ married¹¹ first and then divorced?¹² This, then, would be contradictory [to the following Mishnah]: '[The case of] three brothers two of whom were married to two sisters and the third was married to a stranger, and one of the husbands of the sisters divorced his wife

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while the one who married the stranger died, and he who had divorced his wife then married the widow¹³ and died, is one concerning which it has been said, that if they died or were divorced, their rivals are permitted'.¹⁴ The reason, then,¹⁵ is because the divorce¹⁶ took place first and the marriage¹⁷ was subsequent to it, but had the marriage¹⁷ taken place first and the divorce¹⁶ after it, [the rival would] not [have been permitted]!¹⁸ — R. Jeremiah replied: Break it up:¹⁹ He who taught the one did not teach the other. The one Tanna²⁰ is of the opinion that it is the death²¹ which subjects the widow to the levirate marriage²² while the other²³ holds the opinion that it is the original marriage that subjects her to the levirate marriage.²⁴ Raba said: [Both statements] may, in fact, represent the views of [one Tanna,] it²⁵ being a case of 'this; and there is no need to state that'.²⁶

WHOSOEVER IS ENTITLED TO MAKE A DECLARATION OF REFUSAL [etc.]. Then let her²⁷ declare her refusal now²⁸ and thus enable [her rival] to be married to the levir!²⁹ May it then³⁰ be suggested that this supports R. Oshaiah? For R. Oshaiah said: She³¹ may annul [the levir's] Ma'amar³² by her declaration of refusal,³³ but may not sever by such a declaration the levirate bond!³⁴ — No;³⁵ the case of the rival of a forbidden relative is different,³⁶ for Rami b. Ezekiel learnt: If a minor made a declaration of refusal against her husband she is permitted to marry his father.³⁷ If, however, she made her declaration of refusal against the levir³⁸ she is forbidden to marry his father.³⁹ From this it clearly follows that from the moment she becomes subject to the levirate marriage⁴⁰ she is looked upon as his⁴¹ daughter-in-law; similarly here also⁴² she is looked upon as the rival of his daughter from the moment she becomes subject to the levirate marriage.⁴³

MISHNAH. [IN THE CASE OF THE FOLLOWING] SIX RELATIVES, MARRIAGE WITH WHOM IS MORE RESTRICTED THAN WITH THESE,⁴⁴ IN THAT THEY MAY ONLY BE MARRIED

TO STRANGERS,⁴⁵ MARRIAGE WITH THEIR RIVALS IS PERMITTED:⁴⁶ HIS MOTHER.⁴⁷ HIS FATHER'S WIFE,⁴⁸ HIS FATHER'S SISTER,⁴⁸ HIS PATERNAL SISTER.⁴⁸ HIS FATHER'S BROTHER'S WIFE⁴⁸ AND HIS PATERNAL BROTHER'S WIFE.⁴⁸

BETH SHAMMAI PERMIT THE RIVALS⁴⁹ TO THE SURVIVING BROTHERS, AND BETH HILLEL PROHIBIT THEM.

1. Should an apparent minor, whatever her age, ever give birth to a child it must be taken for granted that the marks of puberty had already appeared, and the age of minority had passed.
2. Why should the existence of the marks be left to conjecture when an examination would definitely determine the facts?
3. And the examination would prove nothing.
4. This is a question in dispute in Nid. 46a.
5. Which may have caused the falling off of the hair.
6. Lit., 'these words'. That a rival's rival is also exempt.
7. Lev. XVIII, 18, to be a rival. V. *supra* 3b.
8. For explanation, v. p. 12, n. 8.
9. The exemption of a rival's rival.
10. The brother now deceased.
11. The rival.
12. His first wife, the forbidden relative. In such a case, is the rival, *though the two were rivals prior to the divorce*, permitted to the levir wherever the forbidden relative was dead or divorced at the time their husband died and the question of the levirate marriage arose?
13. Lit., 'her',
14. *Infra* 30a.
15. Why the rival in this case is permitted.
16. Of one of the sisters.
17. Of the widow.
18. How, then, could this be reconciled with our Mishnah from which it has been inferred that 'even if he married first and then divorced' the rival is permitted?
19. [H] rt. [H] Heb. [H] 'break', 'divide'.
20. Of our Mishnah.
21. Of the husband.
22. And if at that time the women were no longer rivals it matters little whether marriage or divorce (cf. *supra* nn. 5 and 4) took place first.
23. The Tanna of the Mishnah cited from 30a *infra*.
24. Consequently, if the marriage of the second took place after the divorce of the first, levirate marriage is permitted since the two have never been real rivals. If, however, the marriage preceded the divorce, even if only by

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- a fraction of time, the two have become rivals, and the rival of a forbidden relative is forbidden for ever, even after the rivalry had ceased.
25. The statements and arrangement of our Mishnah and that cited from 30a *infra*
 26. [H], one of the systems adopted in arranging legal statements. Our Mishnah permits 'this', the case of the rival whose marriage preceded the divorce of the forbidden relative, and consequently 'there is no need to state that', the case (*infra* 30a) of a rival whose marriage followed the divorce of the forbidden relative. (Cf. *supra* n. 12).
 27. The forbidden relative who is still a minor.
 28. And thus annul the original marriage.
 29. Since as a result of the annulment of the marriage the other would no more be the rival of a forbidden relative.
 30. As such a declaration is not allowed.
 31. A minor.
 32. V. [Glos.](#) Since the actual marriage had not yet taken place.
 33. She has only to perform the *Halizah*; but there is no need for a divorce which would have been required had she been of age (v. *infra* 50b).
 34. I.e., she has no power to annul the original marriage in order to be exempt thereby from *Halizah* also. Similarly here (v. note 4) the declaration of the minor has no force to annul the original marriage and thus (v. *supra* note 3) to enable her rival to marry the levir.
 35. The inference from our Mishnah provides no support for R. Oshaia.
 36. The prohibition of a minor's declaration in this case is not Biblical, but a Rabbinical enactment made in order to prevent laxity in the law of rivals of forbidden relatives (cf. *infra* n. 17).
 37. The refusal having completely annulled the marriage, the minor and her former father-in-law are now mere strangers.
 38. I.e., after the death of her husband, when she became subject to the levirate marriage of his brother.
 39. Her former father-in-law who is also the father of the levir whom she refused.
 40. Lit., 'falling'.
 41. The levir's father's.
 42. The case of a rival of one's daughter.
 43. Had the original marriage been allowed to be annulled by the daughter's present declaration, and had her rival in consequence been permitted to marry the minor's father, any rival of one's daughter might similarly be allowed and thus an important restriction against incest would be broken down. (V. *supra* n. 10 and cf. text and notes, *supra* 12a).

44. The fifteen enumerated in the previous Mishnah, *supra* 2af.
45. But never to one's paternal brothers.
46. Though they themselves ate forbidden. Their husbands having been strangers, the law prohibiting the marriage of rivals, which is only applicable in connection with the levirate marriage, does not apply. Should one's brother unlawfully marry one of these six relatives his marriage would be regarded as null and void and the law relating to the rivals would still be inapplicable. (Cf. Maimonides, Commentary on the Mishnah a.l.).
47. Who is also forbidden to his paternal brother as 'his father's wife'.
48. Who obviously stands in the same relationship to his paternal brother.
49. In respect of the levirate marriage.

Yebamoth 13b

IF THEY¹ PERFORM THE *HALIZAH*,² BETH SHAMMAI DECLARE THEM INELIGIBLE TO MARRY A PRIEST,³ AND BETH HILLEL DECLARE THEM TO BE ELIGIBLE.⁴ IF THEY WERE MARRIED TO THE LEVIRS, BETH SHAMMAI DECLARE THEM ELIGIBLE [TO MARRY A PRIEST],⁵ AND BETH HILLEL DECLARE THEM INELIGIBLE.⁶ THOUGH THESE FORBADE WHAT THE OTHERS PERMITTED, AND THESE REGARDED AS INELIGIBLE WHAT THE OTHERS DECLARED ELIGIBLE, BETH SHAMMAI, NEVERTHELESS, DID NOT REFRAIN FROM MARRYING WOMEN FROM [THE FAMILIES OF] BETH HILLEL, NOR DID BETH HILLEL [REFRAIN FROM MARRYING WOMEN] FROM [THE FAMILIES OF] BETH SHAMMAI. [SIMILARLY, IN RESPECT OF] ALL [QUESTIONS OF RITUAL] CLEANNES AND UNCLEANNES, WHICH THESE DECLARED CLEAN WHERE THE OTHERS DECLARED UNCLEAN, NEITHER OF THEM ABSTAINED FROM USING THE UTENSILS OF THE OTHERS FOR THE PREPARATION OF FOOD THAT WAS RITUALLY CLEAN.⁷

GEMARA. R. Simeon b. Pazzi said: What is Beth Shammai's reason?⁸ — Because it is

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written, The outside⁹ wife of the dead shall not be married unto one not of his kin;¹⁰ 'outside'¹¹ implies that there is also an internal,¹² and the All Merciful said, She shall not marry [unto one not of his kin].¹³ And Beth Hillel?¹⁴ — They require the text for the exposition which Rab Judah reported in the name of Rab. For Rab Judah stated in the name of Rab: Whence is it deduced that betrothal [by a stranger] is of no validity in the case of a sister-in-law?¹⁵ For it is said in the Scriptures, The wife of the dead shall not be married¹⁶ outside¹⁷ unto one not of his kin;¹⁸ there shall be no validity in any marriage of a stranger with her.¹⁹ And Beth Shammai? — Is it written 'La-huz'?²⁰ Surely 'huzah'²¹ was written. And Beth Hillel? — Since the expression used was huzah²² it is just the same as if La-huz had been written; as it was taught: R. Nehemiah said, 'In the case of every word which requires a 'lamed' at the beginning²³ Scripture has placed a 'he'²⁴ at the end; and at the School of R. Ishmael the following examples were given:²⁵ *Elim, Elimah;*²⁶ *Mahanayim, Mahanayimah;*²⁷ *Mizrayim, Mizraimah;*²⁸ *Dibelathaimah;*²⁹ *Yerushalaimah;*³⁰ *Midbarah.*³¹

Whence do Beth Shammai derive the deduction made by Rab Judah in the name of Rab? — It is derived from Unto one not of his kin.³² Then let Beth Hillel also derive it from 'Unto one not of his kin'! — This is so indeed. What need, then, was there for 'Huzah'? — To include one who was only betrothed.³³ And the others? — They derive it from the use of Ha-huzah where Huzah could have been used.³⁴ And the others? — A deduction from Huzah Ha-huzah does not appeal to them.

Raba said: Beth Shammai's reason³⁵ is that one prohibition³⁶ cannot take effect on another prohibition.³⁷ This explanation is satisfactory in the case where the deceased had married first and the surviving brother married³⁸ afterwards, since the prohibition of marrying a wife's sister³⁹ could not come and take effect on the prohibition of marrying a brother's wife;⁴⁰ where, however, the

surviving brother had married first⁴¹ and the deceased married later,⁴² the prohibition of 'wife's sister' was, surely, first!⁴³ — Since the prohibition of a 'brother's wife' cannot take effect on the prohibition of 'wife's sister', [any of the other widows] is the rival of a forbidden relative to whom⁴⁴ the precept of the levirate marriage is inapplicable, and is consequently permitted.⁴⁵

IF THEY HAD PERFORMED THE HALIZAH, BETH SHAMMAI DECLARE THEM INELIGIBLE etc. Is not this obvious?⁴⁶ — [It had to be stated] in order to exclude [the instruction] of R. Johanan b. Nuri who said: Come and let us issue an ordinance that the rivals⁴⁷ perform the *Halizah* but do not marry the levir.⁴⁸ Hence it was taught that Beth Hillel declare them eligible.⁴⁹

IF THEY WERE MARRIED TO THE LEVIRS etc. BETH HILLEL DECLARE THEM INELIGIBLE. What need again was there for this? — Because it was taught, IF THEY PERFORM THE HALIZAH⁵⁰ it was also taught, IF THEY WERE MARRIED TO THE LEVIRS.⁵¹

We learned elsewhere: The Scroll of Esther⁵² is read on the eleventh, the twelfth, the thirteenth, the fourteenth or the fifteenth [of Adar].⁵³ but not earlier⁵⁴ or later.⁵⁵ Said Resh Lakish to R. Johanan: Apply here the text of Lo tithgodedu,⁵⁶ you shall not form separate sects!⁵⁷ (Is not Lo Tithgodedu required for its own context, the All Merciful having said, 'You shall not inflict upon yourselves any bruise for the dead'?⁵⁸ — If so, Scripture should have said, Lo tithgodedu,⁵⁹ why did it say 'Lo tithgodedu'?⁶⁰ hence it must be inferred that its object was this.⁶¹ Might it not then be suggested that the entire text refers to this only?⁶² — If so, Scripture should have said, Lo Thagodu,⁶³ why did it say 'Lo Tithgodedu'? Hence the two deductions.)⁶⁴ — The former answered: Have you not yet learned,⁶⁵ 'Wherever it is customary to do manual Labor on the Passover Eve until midday it may be done; wherever it is

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customary not to do any work it may not be done'?⁶⁶ The first said to him: I am speaking to you of a prohibition, for R. Shaman b. Abba said in the name of R. Johanan: 'Scripture having said, To confirm these days of Purim in their appointed times,⁶⁷ the Sages have ordained for them different times,⁶⁸ and you speak to me of a custom!⁶⁹ But is there no prohibition there?⁷⁰ Surely we learned, 'Beth Shammai prohibit work during the night⁷¹ and Beth Hillel permit it!⁷² — The other said to him: In that case,⁷³ anyone seeing [a man abstaining from work] would suppose him to be out of work.⁷⁴ But do not BETH SHAMMAI PERMIT THE RIVALS TO THE OTHER BROTHERS AND BETH HILLEL FORBID THEM!⁷⁵

1. The rivals.
2. With the brothers.
3. In the opinion of Beth Shammai the *Halizah* is legal and any woman who performed legal *Halizah* is, like one divorced, forbidden to marry a priest.
4. In their opinion the *Halizah* was unnecessary and may, therefore, be treated as if it had never taken place.
5. When their husbands die.
6. Because having married persons to whom they are forbidden they are regarded as harlots who are ineligible ever to marry a priest.
7. Lit., 'do clean things, these upon these'.
8. For permitting the rivals to marry the other brothers.
9. [H] is rendered, 'the one who is the outside one', the word being regarded as an adjective fem. with the relative. E.V., 'abroad'.
10. Deut. XXV, 5.
11. I.e., the one who is not otherwise related to the levir.
12. Related to the levir.
13. But only unto her husband's brother (Deut. XXV, 5), which shows that a rival is permitted to the other brothers.
14. Who prohibit the rival to the brothers, how do they explain this text?
15. Before *Halizah* had been performed.
16. Lit., 'she shall not be', [H] (rt. [H]).
17. Cf. E.V. for [H], *supra* note 3.
18. Deut. XXV, 5.
19. Lit., 'a stranger shall have no *being* ([H] of the root [H]) in her'.
20. [H], lit., 'to the outside'.
21. [H], v. *supra* note 3.
22. [H].
23. To indicate direction.
24. The *he* being the *he local*.
25. Lit., 'he recited' or 'taught'.
26. 'To [H] appears as [H] (Ex. XV, 27) instead of [H].
27. 'To [H] appears as [H] (II Sam. XVII, 24) instead of [H].
28. 'To [H], Gen. XII, 10.
29. 'To [H] (Num. XXXIII, 47).
30. 'To [H] (Jerusalem) [H] (Ezek. VIII, 3).
31. 'To [H] (wilderness or place-name) [H] (I Chron. V, 9).
32. Deut. XXV, 5.
33. To the deceased brother. Such a widow also is subject to the levirate marriage as if she had been actually married. '*Huzah*' implies (cf. *supra* p. 68, n. 3) 'outside', i.e., one who is not within the marriage bond.
34. The addition of the '*he*' in [H] where [H] would have conveyed the same meaning implies the inclusion of the betrothed. (V. n. 6.)
35. V. p. 68, n. 2, *supra*.
36. That, e.g., of marrying a brother's wife.
37. That of marrying a forbidden relative (e.g., a daughter). Since the latter prohibition takes no effect in such a case, the forbidden relative whom the levirate bond does not consequently affect may be regarded as non-existent, so far as her levirate obligations are concerned. Her rivals, therefore, come under the category of complete strangers and are consequently permitted to the brothers.
38. A sister of his brother's wife.
39. Which arose later.
40. As legally the widow is only 'his brother's wife' but not 'his wife's sister', her rivals may justly be regarded as strangers who are permitted.
41. And his wife's sister has in consequence become forbidden to him.
42. When the prohibition of a brother's wife arose.
43. And consequently had taken effect; why then are her rivals permitted? This objection is based on the assumption that Raba, in stating the prohibition of marrying a forbidden relative cannot take effect owing to the prohibition of 'brother's wife', was referring only to such prohibitions as are due to a marriage contract, e.g., a wife's sister.
44. Lit., 'in the place'.
45. V. *supra* p. 69, n. 10.
46. What need then was there for stating it.
47. Of forbidden relatives.
48. And being subject to *Halizah*, even though on account of a Rabbinical ordinance only, it might have been assumed that they are ineligible for marriage with a priest. (Cf. *supra* p. 67, n. 9.)

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49. Indicating that the rivals in such a case are not even Rabbinically subject to the *Halizah*.
50. For the reason given *supra*. V. previous note.
51. [H] *Halizah* and marriage usually being the only alternatives.
52. [H] 'scroll', always signifies in Rabbinical literature the Scroll of Esther, unless the context explicitly or implicitly points to any other scroll.
53. According to whether the readers live in a village, a town, or a town that had been walled in the days of Joshua, and according to the day of the week on which the feast of Purim occurs.
54. Than the eleventh.
55. Than the fifteenth. Meg. 2a.
56. [H] (Deut. XIV, 1), rendered by E.V. Ye shall not cut yourselves, is here taken as a form of the root [H], 'to bind', implying the formation of separate groups, sects, factions.
57. Why, then, was the Scroll allowed to be read on different days by different classes of people?
58. Cf. *supra* n. 13 for the rendering of E.V.
59. Which would have implied the prohibition of cutting or bruising the body. (V. p. 70, n. 13.)
60. The longer form, the *Hithpael*.
61. Lit., 'for this it came', to imply both 'cutting the body for the dead', and 'the formation of sects'.
62. The formation of sects.
63. Which would have been understood to refer to the undesirable formation of sects.
64. It has thus been shown that the formation of sects is undesirable; why then was it allowed to form separate groups to read the Scroll of Esther on different dates?
65. Or 'You should have replied' (Rashi).
66. Which shows that, despite the undesirability of forming separate groups, different customs are allowed.
67. Esth. IX, 31, emphasis on 'appointed times', [H].
68. I.e., a group who were ordained to read the Scroll on a particular date must not read it on any other date.
69. Manual Labor on the Passover Eve is universally permitted, and its prohibition in certain places is not a matter of law but merely a question of custom.
70. In the case of work on the Passover Eve. (Both the day and the night preceding the Passover are designated [H] Passover Eve).
71. Preceding the first Passover night.
72. Which shows, since some would be acting in accordance with the ruling of Beth Shammai while others would follow Beth Hillel, that even in the case of a prohibition the formation of sects is allowed.

73. Lit., 'there', where some people do no work though permitted.
74. The question of sects does not arise in such a case.
75. A dispute which creates faction, some following the ruling of the one authority and others that of the other.

Yebamoth 14a

Do you imagine that Beth Shammai acted in accordance with their views? Beth Shammai did not act (in accordance with their views.)

R. Johanan, however, said: They certainly acted [in accordance with their views]. Herein they¹ differ on the same point as do Rab and Samuel. For Rab maintains that Beth Shammai did not act in accordance with their views, while Samuel maintains that they certainly did act [in accordance with their views]. When?² If it be suggested, prior to the decision of the heavenly voice,³ then what reason has he who maintains that they did not act [in accordance with their own view]? If, however, after the decision of the heavenly voice, what reason has he who maintains that they did act [in accordance with their views]? — If you wish I could say, prior to the decision of the heavenly voice; and if you prefer I could say, after the heavenly voice. 'If you wish I could say, prior to the heavenly voice', when, for instance, Beth Hillel were in the majority: One maintains⁴ that they⁵ did not act [according to their view] for the obvious reason that Beth Hillel were in the majority; while the other maintains⁶ that they did act [according to their view, because] a majority is to be followed only where both sides are equally matched;⁷ in this case, however, Beth Shammai were keener of intellect. 'And if you prefer I could say, after the heavenly voice'; one maintains that they⁵ did not act [according to their view] for the obvious reason that the heavenly voice had already gone forth;⁸ while the other who maintains that they did act [according to their view] is [of the same opinion as] R. Joshua who declared that no regard need be paid to a heavenly voice.⁹

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Now as to the other who 'maintains that they did act [according to their views]¹⁰ — should not the warning, 'Lo Tithgodedu, you shall not form separate sects'¹¹ be applied? — Abaye replied: The warning against opposing sects is only applicable to such a case as that of two courts of law in the same town, one of whom rules in accordance with the views of Beth Shammai while the other rules in accordance with the views of Beth Hillel. In the case, however, of two courts of law in two different towns [the difference in practice] does not matter. Said Raba to him: Surely the case of Beth Shammai and Beth Hillel is like that of two courts of law in the same town! The fact, however, is, said Raba, that the warning against opposing sects is only applicable to such a case as that of one court of law in the same town, half of which rule in accordance with the views of Beth Shammai while the other half rule in accordance with the views of Beth Hillel. In the case, however, of two courts of law in the same town [the difference in practice] does not matter.

Come and hear: In the place of R. Eliezer, wood was cut on the Sabbath wherewith to produce charcoal on which to forge the iron.¹² In the place of R. Jose the Galilean the flesh of fowl was eaten with milk.¹³ In the place of R. Eliezer only¹⁴ but not in the place of R. Akiba; for we learnt: R. Akiba laid it down as a general rule that any Labor which may be performed on the Sabbath Eve¹⁵ does not supersede the Sabbath!¹⁶ — What an objection is this! The case, surely, is different [when the varied practices are respectively confined to] different localities. What then did he who raised this question imagine?¹⁷ — It might have been assumed that owing to the great restrictions of the Sabbath [different localities are regarded] as one place, hence it was necessary to teach us [that the law was not so].

Come and hear: R. Abbahu, whenever he happened to be in the place of R. Joshua b. Levi, carried¹⁸ a candle,¹⁹ but when he happened to be in the place of R. Johanan²⁰ he did not carry a candle!²¹ — What question

is this! Has it not been said that the case is different [when the varied practices are respectively confined to] varied localities? — This is the question:²² How could R. Abbahu act in one place in one way and in another place in another way?²³ — R. Abbahu is of the same opinion as R. Joshua b. Levi,²⁴ but when he happened to be in R. Johanan's place he did not move a candle out of respect for R. Johanan. But his attendant,²⁵ surely was also there!²⁶ — He gave his attendant the necessary instructions.

Come and hear: **THOUGH THESE FORBADE WHAT THE OTHERS PERMITTED ... BETH SHAMMAI, NEVERTHELESS, DID NOT REFRAIN FROM MARRYING WOMEN FROM THE FAMILIES OF BETH HILLEL, NOR DID BETH HILLEL [REFRAIN FROM MARRYING WOMEN] FROM THE FAMILIES OF BETH SHAMMAI.** Now, if it be said that they²⁷ did not act [in accordance with their own view] one can well understand why **THEY DID NOT REFRAIN** [from intermarrying with one another].²⁸ If, however, it be said that they²⁷ did act [in accordance with their own view], why did they not refrain? That Beth Shammai did not refrain from marrying women from the families of Beth Hillel may well be justified because such²⁹ are the children of persons guilty only of the infringement of a negative precept;³⁰ but why did not Beth Hillel refrain from [marrying women from the families of] Beth Shammai? Such,³¹ surely, being children of persons who are guilty of an offence involving *Kareth*, are bastards!³² And if it be suggested that Beth Hillel are of the opinion that the descendant of those who are guilty of an offence involving *Kareth* is not a bastard,³³ surely, [it may be retorted], R. Eleazar said: Although Beth Shammai and Beth Hillel are in disagreement on the questions of rivals, they concede that a bastard is only he who is descended from a marriage which is forbidden as incest and punishable with *Kareth*! Does not this then conclusively prove that they²⁷ did not act [in accordance with their own view]? — No;

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they²⁷ acted, indeed, [in accordance with their own view], but they²⁷ informed them³⁴ [of the existence of any such cases] and they³⁴ kept away.

This³⁵ may also be proved by logical inference; for in the final clause it was stated. [SIMILARLY IN RESPECT OF] ALL [THE QUESTIONS OF RITUAL] CLEANNESS AND UNCLEANNES, WHICH THESE DECLARED CLEAN WHERE THE OTHERS DECLARED UNCLEAN, NEITHER OF THEM ABSTAINED FROM USING THE UTENSILS OF THE OTHERS FOR THE PREPARATION OF FOOD THAT WAS RITUALLY CLEAN.

1. R. Johanan and R. Lakish.
2. I.e., to what period does the dispute just mentioned refer?
3. [H] (v. [Glos.](#) s.v. *Bath Kol*), which decided that the law in practice was always to be in accordance with the rulings of Beth Hillel (v. 'Er. 13a).
4. Lit., 'according to him who said'.
5. Beth Shammai.
6. Lit., 'and he who said'.
7. In qualifications and attainments.
8. And decided the issue in favor of Beth Hillel.
9. B.M. 59b, Ber. 52a, 'Er. 7a, Pes. 114a.
10. Even after the heavenly voice.
11. Cf. *supra* p. 70, n. 13.
12. The knife required for the performance of circumcision. The circumcision of a child, his health permitting, must take place on the eighth day of his birth (v. Gen. XVII, 12) even though it happened to fall on a Sabbath when manual Labor is prohibited. And since the precept itself supersedes the Sabbath, all its requisites such as the wood and coals (for the preparation of warm water) and the knife may also be performed on the Sabbath.
13. Though it is forbidden to eat meat, or any dishes made of meat, together with milk or any preparation of milk. R. Jose exempts the flesh of fowl from the general prohibition of the consumption of meat and milk. Shab. 130a, Hul. 116a.
14. Lit., 'yes'; only there was the preparation of the requisites of circumcision permitted on the Sabbath.
15. Such as the cutting of wood, the production of coals and the forging of the knife.
16. Now, in view of the undesirability of creating different sects, why were all these varied practices allowed?
17. It should have been obvious to him that different localities may differ in their custom. (Cf. *supra* p. 53, n. 11.)
18. Lit., 'moved'.
19. On the Sabbath. A candle, though it was burning when Sabbath set in may, according to R. Joshua who follows R. Simeon in permitting Mukzeh (v. next note), be moved on the Sabbath after the flame has gone out.
20. R. Johanan, following R. Judah, forbids the carrying or moving of a candle that had been burning when the Sabbath set in though it had subsequently gone out. As it was burning at the commencement of the Sabbath it was at that time fit for no other use and is regarded, therefore, as Mukzeh, i.e., 'something set aside', that is not to be used for any other purpose. Anything that was Mukzeh when the Sabbath began remains so until it ends.
21. Is not the practice of carrying a candle in one place and not carrying it in another as undesirable as the formation of opposing sects?
22. Lit., 'we say thus'.
23. Lit., 'how did he do here thus' (bis).
24. V. *supra* note 3.
25. Who well knew that his master was of the same opinion as R. Joshua b. Levi. The [H] was in many cases both an attendant on the master and also one of his learned disciples.
26. And might move such a candle on the Sabbath even in R. Johanan's place.
27. Beth Shammai.
28. Since, in practice, both schools followed the same principles.
29. The descendants from the marriages with strangers contracted by the rivals who, in accordance with the ruling of Beth Hillel, performed no *Halizah*.
30. Even Beth Shammai who require the rivals to perform the *Halizah* regard such marriages as the infringement of a prohibition only ('The wife of the dead shall not be married abroad', Deut. XXV, 5), which does not involve *Kareth*. The children of such marriages are consequently not deemed to be bastards.
31. Descendants from marriages between rivals and brothers-in-law. Such marriages, which are permitted by Beth Shammai, are regarded by Beth Hillel as forbidden under the prohibition of marrying one's brother's wife, which involves the penalty of *Kareth*.
32. How, then, did they intermarry with families containing such members?
33. A bastard being the descendant only of such marriages as are subject to one of the capital punishments that are carried out under the jurisdiction of a court.
34. Beth Hillel.

YEVOMOS – 2a-19b

35. That Beth Shammai duly informed Beth Hillel of any families contracting marriages which according to the ruling of the latter were forbidden.

Yebamoth 14b

Now, if it be agreed that the required information was supplied¹ one well understands why they² did not abstain.³ If, however, it be assumed that no such information was supplied, one can still understand why Beth Shammai did not abstain from using the utensils of Beth Hillel, since that which was regarded by Beth Hillel as ritually unclean was deemed by Beth Shammai to be ritually clean; but why did not Beth Hillel abstain from using the utensils of Beth Shammai when that which was deemed clean by Beth Shammai was regarded as unclean by Beth Hillel? Must it not, then, be concluded that they supplied them with the required information! Our point is thus proved.

In what respect is the one⁴ more conclusive proof⁵ than the other?⁶ — It might have been thought that the case of a rival⁷ receives due publicity,⁸ hence it was necessary [for the inference from the final clause] to be cited.

[Reverting to] the previous text, 'R. Eleazar said: Although Beth Shammai and Beth Hillel are in disagreement on the question of rivals they concede that a bastard is only he who is descended from a marriage forbidden as incest and punishable by *Kareth*'. Who concedes? If it be said, Beth Shammai to Beth Hillel;⁹ this, surely, is obvious, since the children of those who are guilty of the infringement of a negative precept¹⁰ are deemed legitimate.¹¹ Must it not consequently be the case that Beth Hillel conceded to Beth Shammai;¹² but this very case is subject to the penalty of *Kareth*! — The fact is that Beth Shammai conceded to Beth Hillel; and the purpose was to exclude the opinion of R. Akiba, who maintains that a descendant from persons guilty of the infringement of a negative precept is deemed a bastard.¹³ Hence

it was taught¹⁴ that a descendant from persons guilty of the infringement of a negative precept is not deemed a bastard.

Come and hear: Although Beth Shammai and Beth Hillel are in disagreement on the questions of rivals, sisters,¹⁵ an old bill of divorce,¹⁶ a doubtfully married woman,¹⁷ a woman whom her husband had divorced¹⁸ and who stayed with him over the night in an inn,¹⁹ money, valuables, a *Perutah* and the value of a *Perutah*,²⁰ Beth Shammai did not, nevertheless, abstain from marrying women of the families of Beth Hillel, nor did Beth Hillel refrain from marrying those of Beth Shammai. This is to teach you that they showed love and friendship towards one another, thus putting into practice the Scriptural text, Love ye truth and peace.²¹ R. Simeon said: They abstained [from marrying] in cases of certainty but did not abstain in doubtful cases.²² Now, if you agree that they²³ acted [in accordance with their own views] one can well understand why they abstained. If, however, you assume that they did not so act, why did they abstain? — And how do you understand this? Even if it be granted that they did act (in accordance with their own views), one can only understand why Beth Hillel abstained from intermarrying with Beth Shammai, because the latter, in the opinion of Beth Hillel, were guilty of offences involving *Kareth* and their descendants were consequently bastards; as to Beth Shammai, however, why did they abstain from intermarrying with Beth Hillel, when they were [even in the opinion of Beth Shammai] only guilty of the infringement of a negative precept and [their descendants] were consequently legitimate? — As R. Nahman said elsewhere that the statement was required only for the case of the rival herself, so here also the Statement is required for the case of the rival herself.²⁴

Why is a doubtful case different from a case of a certainty? Obviously because it is forbidden. Is not a doubtful case also forbidden? — Do not read, 'from a doubtful case', but 'from a case unknown', since when

YEVOMOS – 2a-19b

they received the information they kept away.²⁵ And what does he teach us thereby? That they showed love and friendship to one another? But this is exactly the same as the first clause!²⁶ — He teaches us this: That the entire Mishnah represents the views of R. Simeon.

Come and hear: R. Johanan b. Nuri said: 'How is this law²⁷ to be promulgated in Israel? Were we to act in accordance with the ruling of Beth Shammai,²⁸ the child would, in accordance with the ruling of Beth Hillel, be a bastard.²⁹ And were we to act in accordance with the ruling of Beth Hillel,³⁰ the child, according to the ruling of Beth Shammai, would be tainted;³¹ come, then, and let us issue an ordinance that the rivals

1. By Beth Shammai.
2. Beth Hillel, who were the more rigorous in matters of ritual cleanness.
3. From using the utensils of Beth Shammai. The fact that any vessel was not clean according to Beth Hillel would have been, they knew, duly communicated to them.
4. The inference from the final clause of our Mishnah relating to ritual cleanness and uncleanness.
5. That the required information was supplied.
6. The first clause dealing with the marriages of rivals.
7. Who married one of the brothers.
8. And no special report on such a case is needed.
9. Where a rival married a stranger without previously performing the *Halizah* (v. our Mishnah).
10. V. *supra* p. 75, n. 4.
11. And the question of legitimacy does not at all arise in the dispute.
12. In respect of a rival who married one of the brothers.
13. *Infra* 49a.
14. In our Mishnah.
15. Who married their brothers; *infra* 26a.
16. Git. 79b.
17. I.e., where the validity of her marriage is in doubt. V. *infra* 107a.
18. Lit., 'and about him who divorced his wife'.
19. Git. 81a.
20. The last four deal with the question of what constitutes legal betrothal. Kid. 2a and 11a.
21. Zech. VIII, 19.
22. Tosef. Yeb. I.
23. Beth Shammai.

24. Whom Beth Shammai abstained from marrying before she performed the *Halizah*.
25. So long, therefore, as no report had been received the unknown case was assumed to belong to the pure families.
26. Why then should there be a repetition of the same thing?
27. Relating to the marriages of rivals.
28. Who permit the rivals to marry the brothers.
29. Having been born from a forbidden marriage (that of a brother's wife) which involves *Kareth*.
30. Permitting rivals to marry strangers without previous *Halizah*.
31. Though not actually a bastard, he would, were he a Kohen, be disqualified from the priesthood.

Yebamoth 15a

perform the *Halizah*¹ but do not marry any of the brothers'.² They had hardly time to conclude the matter before confusion set in. Said R. Simeon b. Gamaliel to them, 'What now could we do with previous rivals'!³ Now, if you assume that they⁴ acted [in accordance with their own rulings] one can understand why he said, 'What shall we do'.⁵ If, however, you assume that they did not so act, what is the meaning of 'What shall we do'?⁶ — R. Nahman b. Isaac replied: This⁷ was required only in the case of the rival herself;⁸ and this is the meaning of the objection 'what shall we do': 'How shall we, according to Beth Shammai, proceed with those rivals [who married⁹ in accordance with the rulings] of Beth Hillel? Should they be asked to perform the *Halizah*, they would become despised by their husbands; and should you say, "Let them be despised", [it could be retorted]. Her ways are ways of pleasantness and all her paths are peace'.¹⁰

Come and hear: R. Tarfon¹¹ said: Would that the rival of [my] daughter¹² were to fall to my lot¹³ so that I could marry her!¹⁴ — Read, 'that I could make her marry [another]'.¹⁵ But he said, 'Would'!¹⁶ — It¹⁷ implies objection to the ordinance¹⁸ of R. Johanan b. Nuri.¹⁹

Come and hear: It happened that R. Gamaliel's daughter was married to his

YEVOMOS – 2a-19b

brother Abba who died without issue, and that R. Gamaliel married her rival!²⁰ — But how do you understand this? Was R. Gamaliel²¹ one of the disciples of Beth Shammai!²² But [this is the explanation]: R. Gamaliel's daughter was different because she was incapable of procreation.²³ Since, however, it was stated in the final clause, 'Others say that R. Gamaliel's daughter was incapable of procreation' it may be inferred that the first Tanna is of the opinion that she was not incapable of procreation! — The difference between them²⁴ is the question whether he²⁵ knew her²⁶ defect²⁷ or not.²⁸ And if you wish I might say that the difference between them²⁴ is the case where he²⁵ married [the rival] first and subsequently divorced [his wife].²⁹ And if you wish I might say that the difference between them²⁴ is whether a stipulation³⁰ in the case of matrimonial intercourse is valid.³¹

R. Mesharsheya raised an objection: It once happened that R. Akiba gathered the fruit of an ethrog³² on the first of Shebat³³ and subjected it to two tithes,³⁴ one³⁵ in accordance with the ruling of Beth Shammai³⁶ and the other³⁷ in accordance with the ruling of Beth Hillel.³⁸ This proves that they³⁹ did act [in accordance with their rulings!] — R. Akiba was uncertain of his tradition, not knowing whether Beth Hillel said the first of Shebat⁴⁰ or the fifteenth of Shebat.⁴⁰

Mar Zutra raised an objection: It once happened that Shammai the Elder's daughter-in-law was confined with child⁴¹ and he⁴² broke an opening through the concrete of the ceiling and covered it above the bed with the proper festival roofing⁴³ for the sake of the child.⁴⁴ Does not this prove that they³⁹ did act [in accordance with their rulings]?⁴⁵ — In that case, any onlooker might assume that it was done in order to increase the ventilation.⁴⁶

Mar Zutra raised an objection: It once happened with Jehu's Trough in Jerusalem, which was connected by means of a hole with

a ritual bathing pool,⁴⁷ and in which⁴⁸ all ritual cleansing in Jerusalem was performed, that Beth Shammai sent and had the hole widened; for Beth Shammai maintain that the greater part [of the intervening wall] must be broken through.⁴⁹ But we have also learned that the combination of bathing pools⁵⁰ may be effected by a connecting tube of the size of the mouth-piece of a leather bottle in diameter and circumference,⁵¹ viz., a tube in which two fingers may conveniently be turned round.⁵² Does not this prove that they⁵³ did act [in accordance with their rulings]?⁵⁴ — There

1. So that any stranger might be permitted to marry them, even according to Beth Shammai.
2. And thus prevent their children from being branded bastards according to Beth Hillel. (V. *supra* note 6).
3. Tosef. Yeb. I; the rivals who, relying on Beth Shammai, married brothers-in-law, prior to the ordinance, whose children would, were the ordinance of R. Johanan b. Nuri to be accepted, become bastard.
4. Beth Shammai.
5. Since some may have married brothers-in-law. V. *supra* n. 1.
6. No such marriage could possibly have taken place.
7. R. Simeon b. Gamaliel's precaution.
8. Who may have married a stranger without previous *Halizah*, in accordance with the ruling of Beth Hillel. It has no reference at all to the children, who would not be regarded bastards even according to Beth Shammai.
9. Strangers, previously performing the *Halizah*.
10. Prov. III, 17. The ways of the law must lead to no unpleasantness for the innocent.
11. A disciple of Beth Shammai.
12. Who was married to a brother of his.
13. As levir.
14. Which shows that Beth Shammai acted in accordance with their ruling that the rival of a forbidden relative is permitted to the brothers.
15. Which is, of course, permitted according to Beth Hillel. The Heb. [H] 'I will marry her' (verb. neut. Kal) may be easily mistaken for [H] will cause her to marry another' (verb. act. Hif.).
16. Which implies a desire to show something novel. Marrying a stranger, in accordance with the ruling of Beth Hillel, is the usual practice.
17. The expression 'would'.
18. Lit., 'to bring out', 'to exclude (the view)'.

YEVOMOS – 2a-19b

19. Who desired to institute for rivals *Halizah* to enable them to marry strangers, though prohibiting their marriage with the brothers
20. Thus acting in accordance with the ruling of Beth Shammai. (V. p. 79, n. 12.)
21. A descendant of the house of Hillel.
22. Obviously not. How, then, could it be assumed that he acted in accordance with a ruling of Beth Shammai?
23. And the rival of such a woman is permitted to the brothers. V. Mishnah *supra* 2b.
24. The 'Others' and the first Tanna.
25. The husband, R. Gamaliel's brother.
26. R. Gamaliel's daughter's.
27. At the time of their marriage.
28. V. *supra* 12a. According to the first Tanna, the rival of R. Gamaliel's daughter was permitted only because her husband was unaware of her defect, and their marriage consequently took place under a misconception. Such a marriage being invalid, R. Gamaliel's daughter was not a legal wife, and her rival consequently was a mere stranger to her father. According to the 'Others', who use the expression 'was incapable' and not 'was discovered to be incapable', the rival was permitted to R. Gamaliel irrespective of whether his daughter's defect had or had not been known, to her husband.
29. V. *supra* 13a. Such as was the case with R. Gamaliel's daughter. The first Tanna is of the opinion that the rival was permitted to R. Gamaliel because at the time his brother died she was no more his daughter's rival. The 'Others', however, maintain that so long as the two were rivals for any length of time (in this case, between the time of the marriage with the rival and the divorce of R. Gamaliel's daughter) they remain legally as rivals for all time, and the only reason why R. Gamaliel was allowed to marry the rival of his daughter was because his daughter had the defect of being incapable of procreation, and the rival of such a woman is permitted to the brothers. V. *supra* 2b.
30. That the woman, e.g., suffers from no illness or that she is not afflicted with any infirmity.
31. Such a stipulation was made by the husband in the case of R. Gamaliel's daughter. The first Tanna is of the opinion that the stipulation is valid, and since an infirmity was subsequently discovered, the marriage is null and void and the rival as a mere stranger is consequently permitted. The 'Others', however, regard a stipulation in connection with marital intercourse as invalid. R. Gamaliel's marriage with the rival was consequently permitted only because his daughter was incapable of procreation.
32. V. [Glos.](#)
33. The eleventh month in the Hebrew calendar, the first day of which is regarded by Beth Shammai as the New Year for trees. The period of the gathering was about the end of the second year of the septennial cycle and the beginning of the third.
34. The 'second tithe' which is due in the second year of the septennial cycle, and the 'tithe for the poor' which is due in the third year of the cycle.
35. The 'tithe for the poor'.
36. According to whom, the first of Shebat being regarded as the beginning of the New Year for trees, the third year of the cycle had already begun, and the tithe due is, therefore, that of the poor.
37. The 'second tithe'.
38. Who, maintaining that the new year for trees does not begin until the fifteenth of Shebat, regard the first day of the month as still belonging to the concluding year, i.e., the second of the cycle in which the 'second tithe' is due. 'Er. 7a, R.H. 14a.
39. Beth Shammai.
40. Was the new year. Cf. *supra* nn. 5-7.
41. During the Festival of Tabernacles when it is obligatory upon all males to dwell in booths (Lev. XXIII, 42), the roof of which must consist of branches or leaves or any similar material which grows from the ground (v. Suk. 2aff).
42. Shammai.
43. V. *supra* n. 10.
44. Who was a male and, in the opinion of Beth Shammai, a male child, though still dependent on his mother, is like any male adult subject to the obligation of dwelling in a booth during the festival. Suk. 28a.
45. Since according to Beth Hillel the child, being dependent upon his mother, is exempt from the obligation.
46. The action, therefore, did not in any way demonstrate a disregard for the ruling of Beth Hillel.
47. [H] 'a gathering together', applied to a bath or pool containing forty *Se'ah* of water, which is the prescribed minimum for a ritual bath.
48. The trough, though containing less than the required minimum, was rendered ritually fit through fusion with the larger pool by means of the connecting hole.
49. Mik. IV, 5.
50. Which renders the smaller one, containing less than the prescribed minimum, ritually fit.
51. Lit., 'like the tube of a leather bottle in its thickness and hollow space'.
52. Hag. 21b, Mik. VI, 7; lit., 'as two fingers returning to their place'.
53. Beth Shammai.

YEVOMOS – 2a-19b

54. Since the original tube, according to Beth Hillel, was quite sufficient, and they had nevertheless ordered its extension.

Yebamoth 15b

the onlooker might assume that the extension was made in order to increase the volume of the water.¹

Come and hear: R. Eleazar b. Zadok said: When I was learning Torah with R. Johanan the Horonite² I noticed that in the years of dearth he used to eat dry bread with salt. I went home and related it to my father, who said to me, 'Take some olives to him'. When I brought these to him and he observed that they were moist³ he said to me, 'I eat no olives'.⁴ I again went out and communicated the matter to my father, who said to me, 'Go tell him that the jar was broached,⁵ only the lees had blocked up the breach';⁶ and we learned: A jar containing pickled olives, Beth Shammai said, need not be broached;⁷ but Beth Hillel say: It must be broached.⁸ They admit, however, that where it had been broached and the lees had blocked up the holes, it is clean.⁹ And though he¹⁰ was a disciple of Shammai, he always conformed in practice¹¹ to the rulings of Beth Hillel. Now, if it be conceded that they¹² did act in accordance with their own rulings, one can well understand why his¹⁰ action was worthy of note;¹³ if, however, it were to be contended that they did not so act, in what respect was his conduct noteworthy!¹⁴

Come and hear: R. Joshua was asked, 'What is the law in relation to the rival of one's daughter'? He answered them, 'It is a question in dispute between Beth Shammai and Beth Hillel'. — 'But [he was asked] in accordance with whose ruling is the established law'? 'Why should you,' he said to them, 'put my head between two great mountains, between two great groups of disputants, aye, between Beth Shammai and Beth Hillel? I fear they might crush my head! I may testify to you, however, concerning two great families who flourished in Jerusalem,

namely, the family of Beth Zebo'im of Ben 'Akmai and the family of Ben Kuppai of Ben Mekoshesh,¹⁵ that they were descendants of rivals¹⁶ and yet some of them were High Priests who ministered upon the altar'. Now, if it be conceded that they¹⁷ acted [in accordance with their own rulings] it is quite intelligible why he said, 'I fear'.¹⁸ If, however, it be suggested that they¹⁷ did not so act, why did he say, 'I fear'!¹⁹ But even if it be granted that they did act [according to their rulings], what [cause had he for saying,] 'I fear'? Surely R. Joshua said that a bastard was only he who was a descendant of one of those who are subject to capital punishments which are within the jurisdiction of the *Beth din*!²⁰ — Granted that he²¹ was not a bastard, he is nevertheless tainted;²² as may be deduced by inference a minori ad majus from the case of the widow: If the son of a widow²³ who is not forbidden to all²⁴ is nevertheless tainted,²⁵ [how much more so the son of a rival]²⁶ who is forbidden to all.²⁷

They asked him concerning rivals and he answered them about the sons of the rivals! — They really asked him two questions: 'What is the law concerning the rivals? And if some ground could be found in their case in favor of the ruling of Beth Hillel, what is the law according to Beth Shammai in regard to the sons of the rivals, [who married]²⁸ in accordance with the ruling of Beth Hillel'?²⁹ What practical difference is there?³⁰ — That a solution may be found, according to Beth Hillel, for the question of the child³¹ of a man who remarried his divorced wife.³² Do we³³ apply the inference a minori ad majus, arguing thus: 'If the son of a widow who was married to a High Priest, who is not forbidden to all,³⁴ is nevertheless tainted,³⁵ how much more so the son of her³⁶ who is forbidden to all';³⁷ or is it possible to refute the argument, thus: 'The case of the widow is different because she herself is profaned'?³⁸ And he said to them, 'With reference to the rivals I am afraid;³⁹

1. V. note 2.

YEVOMOS – 2a-19b

2. [Cf. Hauran, mentioned in Ezek. XLVII, 18, south of Damascus, the Auranitis of the Graeco-Roman times.]
3. Moisture renders fruit susceptible to Levitical uncleanness.
4. He hesitated to eat them owing to the possibility (Rashi) or the certainty (Tosaf. a.l. s.v. [H] that the earthen jar in which they were kept had been touched by an 'am ha-arez and, being moist, received the uncleanness imparted to them by the jar which, by Rabbinical enactment, had become unclean by the touch of the 'am ha-arez.
5. Keeping olives in a broached container is clear evidence that the owner had no desire to retain the sap that exudes from the olives; and only liquids which are desired by the owner render the fruit susceptible to Levitical uncleanness.
6. And thus the undesired 'moisture remained on the olives. As such moisture does not render the fruit susceptible to uncleanness (v. previous note) the olives may safely be eaten even by the scrupulous.
7. Because in their opinion the moisture that exudes from the olives is regarded as a fruit juice which does not render food susceptible to Levitical uncleanness.
8. The moisture is regarded by them as actual oil which does render food susceptible to uncleanness. Broaching is consequently necessary in order to indicate thereby that the owner had no desire to preserve the liquid.
9. I.e., the liquid, having clearly been shown to be unwanted, does not render the olives susceptible to Levitical uncleanness. 'Ed. IV, 6.
10. R. Johanan the Horonite.
11. Lit., 'all his deeds he only did'.
12. Beth Shammai.
13. Lit., 'that is his greatness'; i.e., his conduct was remarkable and worthy of note in that he acted according to the ruling of Beth Hillel despite the practice of his colleagues of acting in accordance with the rulings of their own School.
14. Lit., 'what was his greatness'; he only acted on the same lines as the other disciples of Beth Shammai. Consequently it must be concluded that Beth Shammai did act in accordance with their own rulings.
15. [A locality in Judea; on the identification of the other names, v. Klein *MGWJ* 1910, 25ff, and 1917, 135ff and Buchler Priester, p. 186.]
16. Who, in accordance with the ruling of Beth Hillel, married strangers without previously performing *Halizah* with the levirs.
17. Beth Shammai.
18. As the rivals, acting on the ruling of Beth Shammai, might have married the brothers, their children who, according to Beth Hillel, would thus be descendants of marriages forbidden under the penalty of *Kareth*, would be deemed to be bastards. These would certainly resent R. Joshua's declaration in favor of Beth Hillel, and his life would thus be in danger.
19. No one could possibly resent his decision since no one would be adversely affected by it. Cf. *supra* p. 83, n. 10, final clause.
20. *Infra* 49a. Now, even if he had decided in favor of Beth Hillel no one would have been degraded thereby to the level of a bastard. Why then was he afraid?
21. A descendant from a marriage punishable by *Kareth*.
22. Though not actually a bastard, he would, were he a Kohen, be disqualified from the priesthood.
23. Born from her marriage with a High Priest.
24. A widow is forbidden only to a High Priest. V. Lev. XXI, 14.
25. V. note 8.
26. Cur. edd., 'etc.'
27. A rival is forbidden to Israelites as well as priests.
28. Strangers without previous *Halizah* with the levirs.
29. Are the children of such marriages, which are forbidden by a negative precept, disqualified from the priesthood?
30. Since the *Halachah* is according to Beth Hillel.
31. A daughter.
32. After she had been married to another man. Such remarriage is also forbidden (v. *supra* note 2) by a negative precept (V. Deut. XXIV, 1-4.)
33. In this case according to Beth Hillel, as in the case of a rival's son according to Beth Shammai; both cases coming under the prohibition of a negative precept.
34. V. p. 84, n. 10.
35. V. p. 84, n. 8.
36. A rival.
37. A rival is forbidden to Israelites as well as to priests.
38. On the death of the High Priest to whom she was unlawfully married she may not marry any more even an ordinary priest, and as she was a priest's daughter she is henceforth forbidden to eat *Terumah*. On a woman, however, who was remarried after divorce no new restrictions are imposed.

Yebamoth 16a

as to the sons of the rivals¹ I may testify to you'.²

YEVOMOS – 2a-19b

Come and hear: In the days of R. Dosa b. Harkinas the rival of a daughter was permitted to marry the brothers.³ From this it may be inferred that [Beth Shammai] acted [in accordance with their own rulings].⁴ This proves the point.

[To turn to] the main text. In the days of R. Dosa b. Harkinas, the rival of a daughter was permitted to marry the brothers. This ruling was very disturbing to the Sages, because he⁵ was a great scholar⁶ and his eyes were dim so that he was unable to come to the house of study.⁷ When a discussion took place as to who should go and communicate with him, R. Joshua said to them, 'I will go'. 'And who after him?' — 'R. Eleazar b. Azariah.' 'And who after him?' — 'R. Akiba'. They went and stood at the entrance of his house. His maid entered and told him, 'Master, the Sages of Israel are come to you'. 'Let them enter', he said to her; and they entered. Taking hold of R. Joshua he made him sit upon a golden couch. The latter said to him, 'Master, will you ask your other disciple to sit down?' 'Who is he?' [the Master] enquired. — 'R. Eleazar b. Azariah'. 'Has our friend Azariah a son?' [the Master] exclaimed, and applied to him this Scriptural text, I have been young and now I am old; yet have I not seen the righteous forsaken, nor his seed begging bread;⁸ and so took hold of him also and made him sit upon a golden couch. 'Master', said he,⁹ 'will you ask your next disciple also to sit down?' 'And who is he?' [the Master] asked. — 'Akiba the son of Joseph'. 'You are,' [the Master] exclaimed, 'Akiba son of Joseph whose name is known from one end of the world to the other! Sit down, my son, sit down. May men like you multiply in Israel'. Thereupon they began to address to him all sorts of questions on legal practice¹⁰ until they reached that of the daughter's rival. 'What is the Halachah', they asked him, 'in the case of a daughter's rival?' 'This,' he answered them, 'is a question in dispute between Beth Shammai and Beth Hillel.' 'In accordance with whose ruling is the Halachah?' — 'The Halachah,' he replied, 'is in accordance with the ruling of Beth Hillel'.

'But, indeed,' they said to him, 'it was stated in your name that the *Halachah* is in accordance with the ruling of Beth Shammai!' He said to them: 'Did you hear, "Dosa"11 or "the son of Harkinas?"'12 — 'By the life of our Master.' they replied. 'We heard no son's name mentioned.'13 'I have,' he said to them, 'a younger brother who is a dare-devil¹⁴ and his name is Jonathan and he is one of the disciples of Shammai.¹⁵ Take care that he does not overwhelm you on questions of established practice, because he has three hundred answers to prove that the daughter's rival is permitted. But I call heaven and earth to witness that upon this mortar¹⁶ sat the prophet Haggai¹⁷ and delivered the following three rulings: That a daughter's rival is forbidden, that in the lands of Ammon and Moab the tithe of the poor is to be given in the Seventh Year,¹⁸ and that proselytes may be accepted from the Cordyenians and the Tarmodites.'¹⁹

A Tanna taught: When they came²⁰ they entered through one door; when they went out they issued through three different doors.²¹ He came upon R. Akiba, submitted his objections to him and silenced him.²² 'Are you', he called out, 'Akiba whose name rings from one end of the world to the other? You are blessed indeed to have won fame while you have not yet attained the rank of ox-herds.' 'Not even,' replied R. Akiba, 'that of shepherds.'

'In the lands of Ammon and Moab the tithe of the poor is given in the Seventh Year,' because a Master said: Those who came up from Egypt²³ had conquered many cities which those who came up from Babylon²⁴ did not conquer, and the first sanctification²⁵ was intended for that time only but not for the future.²⁵ Hence they were allowed [cultivation]²⁶ in order that the poor²⁷ might find their support there in the Seventh Year.²⁸

'And that proselytes may be accepted from the Cordyenians and the Tarmodites'. But [the law, surely,] is not so! For Rami b. Ezekiel learnt: No proselyte may be accepted

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from the Cordyenians. — R. Ashi replied: The statement was Kartuenians,²⁹ as people, in fact, speak of 'disqualified Kartuenians'.

Others say: Rami b. Ezekiel learnt, 'No proselytes are to be accepted from the Kartuenians'. Are not Kartuenians the same as Cordyenians? — R. Ashi replied: No; Kartuenians are a class by themselves, and Cordyenians are a class by themselves, as people, in fact, speak of 'disqualified Kartuenians'.³⁰

Both R. Johanan and Sabya maintain that no proselytes may be accepted from the Tarmodites. Did R. Johanan, however, say such a thing? Surely we learned: All blood stains [on women's garments] that come from Rekem³¹ are Levitically clean,³² and R. Judah declares them unclean because [the people there] were proselytes though misguided,³³ [those that come] from the heathens³⁴ are Levitically clean.³⁵ And the difficult point was raised

1. Whether they are tainted or not.
2. V. *supra* 15b, which shows that they were not tainted, since they were permitted to occupy the highest office in the priesthood.
3. Of the father of that daughter.
4. Since the permission to marry was issued by a brother of R. Dosa (v. *infra*) who was a member of Beth Shammai.
5. R. Dosa, who was thought to be the author of the ruling.
6. And they did not venture to act against his decision without first consulting him.
7. And was thus unaware that the general opinion at the College was against the ruling.
8. Ps. XXXVII, 25.
9. R. Joshua.
10. Lit., 'surrounded him with Halachoth'.
11. I.e., that Dosa permitted the rival.
12. Without the mention of the name of the son.
13. Lit., 'not specifically', 'undefined'.
14. [H], 'the first-born of Satan', first in obstinate dispute (Jast.); Satansjunge similar to Teufelskerl (Golds.); keen and obstinate (Rashi). Some suggest [H] 'keen — witted youth'. R. Dosa appears to have been playing upon the rhyme of Ah Katan, Bekor Satan, and Jonathan.
15. And it must have been Jonathan who dared to issue a ruling in accordance with the views of his school against those of Beth Hillel.

16. [H] or mortar-shaped seat.
17. [That does not mean that he was a contemporary of Haggai the prophet, but that he had an incontrovertible tradition on the matter, Me'iri.]
18. Of the septennial cycle. The countries of Ammon and Moab, though conquered by Moses and included in the boundary of the Land of Israel, were in the days of the Second Temple excluded. The laws of the Seventh or Sabbatical year, which apply to the Land of Israel, were consequently inapplicable to the lands of Ammon and Moab. Any Jews living in those countries, it was ordained by the Rabbis, were to be allowed to cultivate their fields in this year, but besides the 'first tithe' which is due in all other years, they were to give the tithe of the poor also.
19. Despite the opinion of some Rabbis that they were to be regarded as bastards. Cordyene or Kardu was in Babylon; Tarmod or Tadmor, (Palmyra) lay in an oasis of the desert of Syria. [According to Obermeyer (p. 133) the question as to the legitimacy of the offering of the Kardu was on account of the possible intermarriage of the non-Jewish inhabitants with the Jewish converts, won over to Christianity by the Christian missions from Edessa in the first century.]
20. To interview R. Dosa.
21. Either in order not to attract Jonathan's attention, or, on the contrary, in the hope that one of them at least might meet him.
22. Lit., 'and made him stand'.
23. In the days of Joshua.
24. In the days of Ezra.
25. Hag. 3b.
26. In the Sabbatical year.
27. Of the Land of Israel where no cultivation was permitted and where consequently no poor-tithe was given in that year.
28. By obtaining employment in the fields or by receiving the tithes and the other gifts of the poor.
29. Mountaineers of Media. The [G] natives of Karta are mentioned by Polybius and Strabo.
30. The Cordyenians, however, are not tainted.
31. Place on the borders of Palestine. Perhaps Petra or the Biblical Sela in Edom, v. Git., Sonc. ed. p. 1, n. 2.
32. Only the menstrual blood of the daughters of Israel is Levitically unclean; and no pure Israelites lived at Rekem.
33. Though they no longer observed the religious laws of Judaism they were once proselytes and as such their menstrual blood is Levitically unclean as is the case with that of Israelites.
34. I.e., from localities where no Israelites live.
35. Nid. 56b, Bek. 38b.

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that having stated categorically,¹ '[those that came] from the heathens' [he must also imply,] 'even those from Tarmod'!² And R. Johanan replied: This proves that proselytes may be accepted from Tarmod.³ And if it be replied [that R. Johanan only said], 'This',⁴ but he himself does not hold this view,⁵ surely R. Johanan said, 'The *Halachah* is in accordance with an anonymous Mishnah'!⁶ — It is a question in dispute between Amoraim as to what was actually the view of R. Johanan.

Why are no [proselytes to be accepted] from Tarmod? — R. Johanan and Sabya give different reasons. One says, 'On account of the slaves of Solomon,'⁷ and the other says, 'On account of the daughters of Jerusalem.'⁸

According to him who Says, 'On account of the slaves of Solomon,' the reason is quite intelligible, because he may hold the opinion that the child of a heathen or a slave who had intercourse with a daughter in Israel is a bastard. According to him, however, who said, 'On account of the daughters of Jerusalem', what is the reason? — R. Joseph and the Rabbis dispute the point, and both of them in the name of Rabbah b. Bar Hana. One maintains that [the number was] twelve thousand [foot]men and six thousand archers, and the other maintains that there were twelve thousand men and, of these, six hundred archers. At the time when the heathens entered the Temple, everyone made for the gold and the silver, but they made for the daughters of Jerusalem; as it is said in the Scriptures. They have ravished the women in Zion, the maidens in the cities of Judah.⁹

R. Samuel b. Nahmani said in the name of R. Jonathan: The following verse was uttered by the Genius of the Universe:¹⁰ I have been young and now I am old¹¹ For who else could have said it! If the Holy One, blessed be He, be suggested, is there any old age in his case?

Then David must have said it? But was he so old? Consequently it must be concluded that the Genius of the Universe had said it.

R. Samuel b. Nahmani further said in the name of R. Jonathan: What is [the meaning of] the Scriptural text,¹² The adversary hath spread out his hand upon all her treasures?¹³ — This [refers to] Ammon and Moab. At the time when the heathens entered the Temple all made for gold and silver, but they turned to the Scroll of the Law, saying, 'That in which it is written, An Ammonite or a Moabite shall not enter into the assembly of the Lord,¹⁴ shall be burned with fire.'

The Lord hath commanded concerning Jacob that they that are round about him should be his adversaries.¹⁵ Rab said: As, for instance, Humania towards Pum Nahara.¹⁶

Rab Judah said in the name of R. Assi: If at the present time a heathen betroths [a daughter in Israel], note must be taken of such betrothal since it may be that he is of the ten tribes.¹⁷ But, surely, anything separated [from a heterogeneous group] is regarded as having been separated from the majority!¹⁸ — [R. Assi's statement refers] to places where they have settled;¹⁹ for R. Abba b. Kahana said: And he put them in Halah and in Habor, on the river of Gozan, and the cities of the Medes;²⁰ Halah is Halwan,²¹ and Habor

1. Lit., 'he decides and teaches'.
2. But can that be so in view of the doubtful character of the admixture of Jewish stock of its inhabitants?
3. Nid. 56b. I.e., they are not regarded as an admixture of Jewish stock and tainted from birth and disqualified. How then could it be said *supra* that R. Johanan maintains that proselytes may not be accepted from the Tarmodites?
4. 'This proves etc.' *supra*.
5. I.e., he disagrees with the Mishnah.
6. Which, as has been shown, implies that proselytes may be accepted from Tarmod.
7. Who married Jewish women.
8. This is explained immediately.
9. Lam. V, 11.
10. Or 'Prince of the world'; identified by some writers with Metatron 'whose name is similar

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- to that of his master'; v. Sanh., Sonc. ed. p. 245, nn. 11 and 12 and cf. *op. cit.* p. 246, n. 6. V. also 'A.Z., Sonc. ed. p. 10, n. 6.
11. Ps. XXXVII, 25, referred to by R. Dosa *supra* 16a.
 12. Lit., 'what of that which was written?'
 13. Lam. I, 10.
 14. Deut. XXIII, 4.
 15. Lam. I, 17.
 16. Both were localities in Babylon. The former, inhabited by Greeks, was a constant source of annoyance to the latter the inhabitants of which were poor Israelites. Humania was below the city of Ctesifon and near it was Pum Nahara.
 17. Whom Shalmaneser had carried away into captivity (II Kings XVIII, 11) where they intermarried with the heathens. Children born from such marriages are bastards, and R. Assi holds that a bastard's betrothal is valid.
 18. I.e., if it is not known to which group or class a person or object that comes from a mixed multitude belongs, it is always assumed that the unit came from the majority. Now, since the ten tribes represent only a minority of the heathens, it should be assumed that the betrothal was not made by one of the ten tribes but by a heathen.
 19. And formed a majority of the inhabitants (Tosaf. s.v. [H] a.l.). Rashi: A group which is in a settled condition, (Kabu'a, v. Keth. 15a and *Glos.*), though it is a minority, is deemed to represent a half of the whole multitude.
 20. II Kings XVIII, 11.
 21. So Kid. 72b. Cur. edd., [H]. Halwan is a locality in Assyria. V. Kid., Sonc. ed. p. 367, n. 4.

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is Hadyab,¹ the river Gozan is Ginzak,² and the cities of the Medes are Hamdan³ and its neighboring towns; others say, Nihar⁴ and its neighboring towns. Which are its neighboring towns? — Samuel replied: Karak,⁵ Moshki,⁶ Hidki⁷ and Dumkia.⁸

R. Johanan said: All these⁹ [were enumerated] in order to declare them as being unfit.¹⁰ When, however, I¹¹ mentioned the matter¹² in the presence of Samuel he said to me: Thy son,¹³ implies that he who is descended from an Israelitish woman may be called thy son, but thy son who is descended from a heathen woman is not called thy son but her son.¹⁴ But, surely, there were also

daughters,¹⁵ and Rabina had said, 'From this it may be inferred that thy daughter's son born from [a union with] a heathen is called thy son!'¹⁶ — There is a tradition that the women of that generation were sterilized.¹⁷

Others read: When I mentioned the matter¹⁸ in the presence of Samuel he said to me, 'They did not move from there until they had declared them¹⁹ to be perfect heathens; as it is said in the Scriptures, They have dealt treacherously against the Lord, for they have begotten strange children.'²⁰

R. Joseph sat behind R. Kahana while R. Kahana sat before Rab Judah, and while sitting he made the following statement: 'Israel will make a festival when Tarmod will have been destroyed'.²¹ But, surely, it was destroyed! — That²² was Tammod.²³

R. Ashi said: Tarmod and Tammod are identical, but the city was rebuilt,²⁴ when it was destroyed on one side it was settled on the other side, and when the other side was destroyed it was settled on the first side.²⁵

R. Hamnuna sat before 'Ulla and was engaged in discussing a traditional law when the latter remarked,²⁶ 'What a man! And how much more important would he have been²⁷ had not Harpania²⁸ been his [native] town!' As the other was embarrassed, he said to him, 'Where do you pay poll tax?' — 'To Pum Nahara', the other replied. 'If so', 'Ulla said, 'You belong to Pum Nahara'.

What [is the meaning of] Harpania? — R. Zera replied: A mountain whither everybody²⁹ turns.³⁰ In a Baraita it was taught: Whosoever did not know his family and his tribe³¹ made his way thither. Raba said: And it was deeper than the nether-world,³² for in the Scripture it is said, I shall ransom them from the power of the nether-world; I shall redeem them from death,³³ but for the unfitness of these there is no remedy at all; the unfit of Harpania on account of the unfit of Meshan,³⁴ and the unfit of Meshan on account of the unfit of Tarmod,³⁵ and the

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unfit of Tarmod on account of the slaves of Solomon.³⁶ Thus it is that people say, 'The small *Kab* and the big *Kab*³⁷ roll down to the nether-world, from the netherworld to Tarmod,³⁸ from Tarmod to Meshan, and from Meshan to Harpania.³⁹

CHAPTER II

MISHNAH. HOW [IS THE EXEMPTION OF HER RIVAL BY] THE WIFE OF HIS BROTHER WHO WAS NOT HIS CONTEMPORARY⁴⁰ [TO BE UNDERSTOOD]? IF THERE WERE TWO BROTHERS ONE OF WHOM DIED, AND AFTER A THIRD⁴¹ BROTHER WAS BORN⁴² THE SECOND⁴³ TOOK IN LEVIRATE MARRIAGE HIS DECEASED BROTHERS WIFE AND THEN DIED HIMSELF, THE FIRST WOMAN⁴⁴ IS EXEMPT⁴⁵ AS 'THE WIFE OF HIS BROTHER WHO WAS NOT HIS CONTEMPORARY', AND THE SECOND⁴⁶ [IS EXEMPT]⁴⁵ AS HER RIVAL. IF HE⁴⁷ ADDRESSED TO HER A MA'AMAR⁴⁸ AND DIED,⁴⁹ THE SECOND,⁵⁰ MUST PERFORM *HALIZAH*⁵¹ BUT MAY NOT ENTER INTO THE LEVIRATE MARRIAGE.⁵²

GEMARA. R. Nahman said: He who uses the expression **FIRST**⁵³ commits no error and he who uses the expression **SECOND**⁵³ also commits no error. 'He who uses the expression

1. Adiabene, a region between the rivers Caprus and Lycus in Assyria.
2. Ganzaka, identified with Shiz, S.E. of Urmia Lake, N.W. of Persia, v. *ibid.* n. 8.
3. Hamadan, the capital of Media, otherwise known as Ekbatana. V. Schrader, *Keilinschriften*, p. 378.
4. Nahawand, a town on the south of Ekbatana (v. previous note). V. *ibid.* n. 4.
5. [H], Others read, [H] (fort) in the construct, and connect it with the following nouns.
6. Or Kerak Moshki, the Fort of Moshki. The land of the Moshki lay on the southern side of Colchis.
7. A locality in Assyria, variously described as Hudki, Hirki, Hizki and Huski.

8. Rumki, Ruthki, or the Fort of Rumki in Media. On all these localities v. Kid., Sonc. ed. pp. 365ff notes.
9. Localities mentioned.
10. Most of their inhabitants being deemed bastards, since the women had intermarried with the heathens, and their descendants, furthermore, married forbidden relatives.
11. This is the continuation of Rab Judah's statement.
12. R. Assi's ruling, *supra* 16b.
13. V. Deut. VII, 4 and Kid. 68b.
14. I.e., is regarded as a perfect heathen and his betrothal has no validity.
15. Of the ten tribes who married heathens.
16. V. *infra* 23a. The children of such unions, then, being deemed Israelites though unfit, should have the right of betrothal. How then could Samuel contend that they are deemed to be perfect heathens? (V. *supra* p. 91, n. 18).
17. [H] (root, [H] or [H]). [H], 'to tear', 'split'. Lit., 'they were split', i.e., an operation for sterilization was performed on them.
18. Of R. Assi's ruling *supra* 16b.
19. The ten tribes.
20. Hos. V, 7.
21. Being of tainted birth they contaminated many pure families in Israel by their intermarriages.
22. The destroyed city.
23. [According to Obermeyer. p. 199, the district between Medina and Syria inhabited by the Arab tribe Thamod, mentioned by Plinius and which, according to the Koran (VII, 76) has been destroyed by earthquake.]
24. Lit., 'redoubled'.
25. This explains the destruction and existence of the same city.
26. Referring to R. Hammuna.
27. Lit., 'his strength' (BaH). Cur. edd., repeat 'what a man'.
28. Hipparenum, a wealthy industrial town in the Mesene district, inhabited by a Jewish community of tainted birth.
29. Of spurious or tainted descent who cannot obtain a wife anywhere else.
30. [H] a play upon the word [H], the Aleph in [H] taking the place of the *waw* in [H].
31. V. n. 1.
32. Sheol, Hell.
33. Hos. XIII, 14.
34. Mesene, the island territory lying between the Tigris, the Euphrates and the Royal Canal. Its inhabitants were of spurious descent (v. Kid. 71b) and Harpania was situated near it.
35. [Palmyrean merchants would make with their caravans across the wilderness direct for Mesene and there intermarry with the inhabitants, v. Obermeyer, p. 198.]
36. V. *supra*, 16b.

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37. I.e., both measures are false. This saying is a metaphor for all sorts of people who in a minor or major degree are of spurious descent.
38. Tarmod being deeper and lower than Hell itself.
39. Harpania lying in the lowest depths of immorality and tainted descent.
40. V. Mishnah *supra* 2b top.
41. Lit., 'to them'.
42. And thus found his deceased brother's widow subject to the marriage with his elder brother and forbidden to himself as 'the wife of his brother who was not his contemporary'.
43. Of the two elder brothers who was already a married man.
44. The widow of the first deceased brother who is now also the widow of the second brother.
45. From levirate marriage with the third brother.
46. Her rival, the widow of the second brother, who in ordinary circumstances would have been subject to levirate marriage with the third brother since he was a contemporary of her husband.
47. The second brother.
48. I.e., said to her in the presence of witnesses, 'Be thou betrothed unto me'.
49. Prior to the consummation of the marriage.
50. V. note 7.
51. With the third brother. Since her husband's union with his deceased brother's widow was not consummated he never was her legal husband, and as she is consequently not her rival she cannot be exempt from the *Halizah*.
52. Because the Ma'amar that the husband of the second addressed to the first widow has partially attached that woman to him, and the second has, in consequence, become the partial rival of a forbidden relative and is, therefore, Rabbinically forbidden to enter into the levirate marriage.
53. In describing the widow of the first deceased brother.

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FIRST commits no error', since 'first' may signify¹ 'first to be subject [to the levirate marriage]'; and 'he who uses the expression SECOND also commits no error', since 'second' may signify 'second to marry',² Does not our Mishnah, however, include also³ the case of one who contracted the levirate marriage first and subsequently married his other wife?⁴ What, then, is meant by 'second'? Second in respect of her marriages.⁵

Where [in the Scriptures] is [the prohibition of marrying] 'the wife of his brother who was not his contemporary' written? — Rab Judah replied in the name of Rab: Scripture states, If brethren dwell together,⁶ i.e., dwell in the world at the same time; the wife of one's brother who was not his contemporary is consequently excluded; 'together' implies who are together in respect of inheritance,⁷ a maternal brother is, therefore, excluded.

Rabbah said: [That legal] brothers [are only those who are descended] from the same father is deduced by a comparison of this 'brotherhood'⁸ with the 'brotherhood' of the sons of Jacob;⁹ as there [the brotherhood was derived] from the father¹⁰ and not from the mother,¹¹ so here also [the brotherhood spoken of is that] from the father and not from the mother.¹²

Let him rather deduce this 'brotherhood'⁸ from the 'brotherhood' of forbidden relatives!¹³ — Brethren⁸ may be deduced from brethren,⁹ but not brethren⁸ from thy brother.¹⁴ What practical difference is there [between the two expression]? Surely the School of R. Ishmael taught: And the priest shall return,¹⁵ and the priest shall come,¹⁶ 'returning' and 'coming' are the same thing!¹⁷ — Such an analogy is drawn only¹⁸ where there is no other identical word; when, however, there occurs another word which is identical, the analogy is made only with that which is identical.

Let him, then, deduce this 'brotherhood'¹⁹ from the 'brotherhood' in the case of Lot, since it is written in the Scriptures. For we are brethren!²⁰ -It stands to reason that the deduction should be made from the sons of Jacob. because the [analogous expression] is available for the purpose;²¹ for it could have been written, Thy servants are twelve sons of one man²² and yet 'brethren' also was written. Hence it must be inferred that the word was made available for the deduction.²³

It was necessary for Scripture to write brethren,²⁴ and it was also necessary to write

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together.²⁴ For had the All Merciful written 'brethren' only, it might have been suggested that this 'brotherhood' should be deduced from the 'brotherhood' in the case of Lot. And were you to reply that [the analogous word],²⁵ is not available for deduction,²¹ your statement would be negated,²⁶ [the analogous word] being indeed available; for whereas he could have written 'friends' and yet wrote 'brethren', the inference must be that the object was to render it available for analogous deduction; hence the All Merciful has written 'together', implying only those who are together in respect of inheritance.²⁷ If, [on the other hand,] the All Merciful had only written 'together', it might have been said to refer to such as have the same father and mother; [hence both expressions were] required.

But how could you have arrived at such an opinion?²⁸ The All Merciful has, surely, made²⁹ the levirate marriage dependent on inheritance,³⁰ and inheritance³¹ is derived from the father and not from the mother!³² - It³³ was necessary. For it might have been assumed that whereas this³⁴ is an anomaly,³⁵ a forbidden relative³⁶ having been permitted, the brotherhood must, therefore, be both paternal and maternal; [hence it was] necessary [to teach us that the law was not so].

R. Huna said in the name of Rab: If a woman awaiting the decision of the levir!³⁷ died, [the levir] is permitted to marry her mother. This obviously shows that he!³⁸ is of the opinion that no levirate bond³⁹ exists⁴⁰ let him then say, the *Halachah* is in accordance with the view of him who said no levirate bond exists!⁴¹ — If he had said so, it might have been suggested that this applied only to the case of two⁴² but that in the case of one⁴³ a levirate bond does exist. Then let him say, 'The *Halachah* is in accordance with him who said no levirate bond exists even in the case of one levir'!⁴⁴ — If he had said so it might have been assumed even where she⁴⁵ is alive;⁴⁶ hence he taught us that only after death and not when she is still alive, because it is

forbidden to abolish the commandment of levirate marriages.

We learned, 'If his deceased brother's wife died he may marry her sister',⁴⁷ which implies that her sister only may be married but not her mother! — The same law applies even to her mother; only because he taught in the earlier clause 'if his wife died he is permitted to marry her sister' in which case only her sister is meant and not her mother, since the latter is Biblically prohibited, he also taught in the latter clause 'he is permitted to marry her sister'.⁴⁸

Rab Judah, however, said: If a woman awaiting the decision of the levir⁴⁹ died, the levir is still forbidden to marry her mother. This⁵⁰ obviously implies that he⁵¹ is of the opinion that a levirate bond exists,⁵² let him then say, the *Halachah* is in accordance with the view of him who said a levirate bond exists!⁵³ -If he had said so it might have been suggested that this applied only to the case of one,⁵⁴ but in the case of two⁵⁵ no levirate bond exists. But the dispute,⁵⁶ surely, centered round the question of two!⁵⁷ — But [this is really the reply]: If he⁵¹ had said so⁵⁸

1. Lit., 'what is first?'
2. The second brother who was already a married man when he contracted the levirate marriage with her. V. *supra* p 94. n. 4.
3. Lit., 'are we not engaged on'.
4. In which case the widow was also the first to marry him.
5. The first marriage with her husband and the second with the levir.
6. Deut. xxv, 5.
7. I.e., entitled to inherit from one another.
8. The expression 'brethren' in Deut. xxv, 5' in relation to the levirate marriage.
9. the thy servants are twelve brethren (Gen. XLII, 13).
10. Jacob.
11. Since they were born from different mothers.
12. B.B. 110b, *infra* 22a.
13. The nakedness of thy brother's wife (Lev. XVIII, 26) which includes (v. *infra* 55a) the wife of a maternal brother.
14. In the case of the levirate marriage (Deut. xxv, 5) as well as that of Jacob's sons (Gen. XLII, 13) the expression is [H] 'brethren'; In that of Lev. XVIII, 16 it is [H] 'thy brother'.

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15. Lev. XIV, 39.
16. Ibid. v. 44.
17. And an analogy between them may be drawn. Though in that case the expressions [H] and [H], are derived from different roots they are nevertheless, owing to their similarity in meaning, employed for the purposes of an analogy ('Er. 51a, Yoma 2b, Naz. 5a, Mak. 13b, Hor. 8b et a.l.), how much more so should an analogy be justified between the same nouns which differ only (v. *supra* p. 95' n. 14) in their suffixes!
18. Lit., 'these words'.
19. The expression 'brethren' in Deut. xxv, 5 in relation to the levirate marriage.
20. Gen. Xlii, 8. Lot having been Abraham's nephew the deduction would establish a novel law of marriage with a deceased uncle's or nephew's widow.
21. Lit., 'vacant'.
22. Gen. XLII, 23. Cur. edd., read, in. stead of 'one man', 'our father', which occurs in v. 32. If the reference were to the latter verse 'thy servants' which does not occur there would have to be deleted here. Several MSS. support the reading here adopted.
23. Lit., 'to make it vacant'.
24. Deut. xxv, 5.
25. In the case of Lot.
26. [H] (cf. Jast.) or [H] (cf. Levy). Contract. of [H] 'not it'. Aruk: derivation is from [H] + [G] 'not so my son'.
27. V. *supra* p. 95, n. 7.
28. Lit., 'and this, whence does it come', i.e., how could any one have assumed that the levirate marriage should only apply to brothers from the same father and mother?
29. Lit., 'hung'.
30. [*Infra* 24a.
31. Of one's brother.
32. What need then was there for the expression 'brethren'?
33. The expression 'brethren'.
34. Levirate marriage.
35. Lit., 'something novel'.
36. A brother's wife.
37. [H] a woman during the period between the death of her husband and the levirate marriage or *Halizah*.
38. Rab.
39. Zikah [H] v. [Glos.](#)
40. Between the widow of the deceased brother and the levir, prior to the levirate marriage. Had such a bond existed, her mother would have been forbidden to the levir as his mother-in-law.
41. V. *infra* 41a.
42. Brothers. Since it is not known which of them will actually marry her, the levirate bond is necessarily weak.
43. Who alone is entitled to marry her,
44. *Infra* 29b.
45. The widow.
46. Her mother is permitted to the levir. Consequently she would be exempted from *Halizah* as 'his wife's daughter'.
47. *Infra* 49a.
48. Her mother, however, is equally permitted.
49. V. *supra*, p. 97' n. 11.
50. The prohibition to marry her mother prior to the levirate marriage as if she had already been his actual mother-in-law.
51. Rab Judah.
52. Between the widow of the deceased brother and the levir, before levirate marriage takes place.
53. *Infra* 41a.
54. Brother, who is the only one entitled to marry the widow, and may consequently be regarded as the actual husband.
55. v. *supra* p. 97' n. 16.
56. Between R. Judah and the Rabbis, *infra* 41a.
57. Brothers. How then could it possibly have been assumed that the *Halachah* referred to the case of one brother only?
58. That the *Halachah* was in accordance with the view of him who said that a levirate bond exists between the widow and the levir prior to the levirate marriage.

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it might have been assumed [that this holds good only] while she is alive but that after death the bond is broken,¹ hence it was taught that the levirate bond is not automatically² dissolved.

May it be suggested that the following supports his view: 'If his deceased brother's wife died, the levir is permitted to marry her sister', which implies her sister Only but not her mother?³ — The same law may apply even to her mother; but because he taught in the earlier clause, 'if his wife died he is permitted to marry her sister', in which case her sister only is permitted and not her mother, the latter being forbidden Biblically, he also taught in the latter clause, 'he is permitted to marry her sister'.

R. Huna b. Hiyya raised an objection: IF HE ADDRESSED THE MA'AMAR TO HER AND DIED, THE SECOND MUST PERFORM HALIZAH BUT MAY NOT

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ENTER INTO THE LEVIRATE MARRIAGE.⁴ The reason then⁵ is because he addressed to her⁶ the Ma'amar, but had he not addressed a Ma'amar to her,⁵ the second also would have been permitted to enter into the levirate marriage with him. Now, if it be maintained that the levirate bond does exist,⁷ the second, owing to this bond, would be the rival of the 'wife of his brother who was not his contemporary'!⁸ — Rabbah replied: The same law, that the second must perform the *Halizah* with, but may not be married to the levir, applies even to the case where no Ma'amar was addressed to her;⁶ and the Ma'amar was mentioned only in order to exclude the view of Beth Shammai. Since they maintain that the Ma'amar effects a perfect contract,⁹ he teaches us [that it was not so].

Abaye pointed out the following objection to him:¹⁰ In the case of two [contemporary] brothers one of whom died without Issue, and the second determined¹¹ to address a Ma'amar to his deceased brother's wife¹² but before he managed to address a Ma'amar to her a third¹³ brother was born and he himself died, the first¹⁴ is exempt¹⁵ as 'the wife of his brother who was not his contemporary' while the second¹⁶ either performs the *Halizah* or enters into the levirate marriage.¹⁷ Now, if it be maintained that a levirate bond does exist,¹⁸ the second, owing to this bond, would be the rival of 'the wife¹⁹ of his brother who was not his contemporary'!²⁰ Whose view is this? It is that of R. Meir, who holds that no levirate bond exists.

Does R. Meir, however, maintain that no levirate bond exists?¹⁸ Surely we have learned: In the case of four brothers two of whom were married to two sisters, if those who were married to the sisters died, behold their widows perform the *Halizah* but may not be taken in levirate marriage [by either of the levirs].²¹ Now, if R. Meir is of the opinion that no levirate bond exists,²² these would come from two different houses,²³ and one brother could marry the one while the other could marry the other! — The fact is that [R.

Meir maintains that] no levirate bond exists; [but the levirate marriage is nevertheless forbidden] because he is of the opinion that it is forbidden to annul the precept of levirate marriages, it being possible that while one of the brothers married [one of the widowed sisters] the other brother would die,²⁴ and thus the precept of levirate marriages would be annulled.²⁵

If, however, no levirate bond exists, let [also the precept of the levirate marriage] be annulled! For R. Gamaliel who holds that no levirate bond exists²⁶ also [maintains that] the precept of the levirate marriage may be annulled; as we learned; R. Gamaliel said, 'If she²⁷ made a declaration of refusal²⁸ well and good;²⁹ if she did not make a declaration of refusal let [the elder sister] wait until [the minor] grows up³⁰ and this one³¹ is then exempt as his wife's sister'!³² -The other³³ said to him: Are you pointing out a contradiction between the opinion of R. Meir and that of R. Gamaliel?³⁴ No [replied Abaye]; we mean to say this: Does R. Meir provide even against a doubtful annulment³⁵ and R. Gamaliel does not provide even against a certainty!³⁶ — It is quite possible that he who does not provide³⁷ makes no provision even against a certain annulment, while he who does provide³⁷ makes provision even against a doubtful annulment.³⁸

Said Abaye to R. Joseph: Rab Judah's statement³⁹ is Samuel's;⁴⁰ for we learnt:

1. Lit., 'burst', 'split'.
2. Lit., 'by nothing', 'without formality', i.e., without the due performance of the *Halizah*.
3. Because she is presumably regarded as his mother-in-law.
4. *Supra* 17a, q.v. for notes.
5. Why the levirate marriage is forbidden to the second
6. The first, the widow of the first deceased brother.
7. Between the widow and the levir, from the moment her husband, the first brother, died.
8. With whom levirate marriage is forbidden.
9. Lit., 'acquires perfect possession', i.e., the widow is regarded as the legal wife of the second brother, and his own wife thus

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becomes her rival and is consequently exempt even from the *Halizah*.

10. To Rabbah.
11. Lit., 'stood'.
12. The widow of the first deceased brother.
13. Lit., 'to him'.
14. The widow of the first deceased brother.
15. From the *Halizah* and levirate marriage of the third brother.
16. Her rival, the widow of the second deceased brother.
17. With the third brother. *Infra* 19a.
18. v. *supra* p. 99' n. 5.
19. The bond being regarded to be just as binding as actual marriage.
20. And she should be exempt.
21. 'Ed. V, 5' *infra* 23b, 26a, 7b; because, obviously, both are bound by a levirate bond to both surviving brothers and each is the sister of a woman who is connected with either of the brothers by such a levirate bond.
22. V. *supra* p. 99' n. 5.
23. None of them standing in any marital relationship with either of the surviving brothers.
24. And be prevented from marrying the other widow.
25. Since the surviving brother would not be able to marry (or to participate in the *Halizah* of) the second widow who is now his wife's sister.
26. *Infra* 51a.
27. A minor who was married to one brother while her sister had been married to another brother who died without issue.
28. A minor may refuse to live with her husband and no divorce is needed in her case. V. [Glos.](#) s.v. *Mi'un*.
29. Lit., 'she refused'. By her declaration of refusal her marriage becomes null and void retrospectively. As she has thus never been the legal wife of the levir, her sister (being no more his 'wife's sister') may contract the levirate marriage with him.
30. And becomes the legal wife of the surviving brother.
31. I.e., the elder sister.
32. *Infra* 79b, 109a; which shows that R. Gamaliel permits the annulment of the law of the levirate marriage. Similarly, if R. Meir maintains, like R. Gamaliel, that no levirate bond exists, he should also permit the annulment of the precept of the levirate marriage.
33. Rabbah.
34. Though they may agree on the question of the levirate bond, it does not necessarily follow that they agree also on the question of permission to annul the precept of the levirate marriage.

35. *Supra*; the possibility that one of the brothers might die.
36. It is a certainty that when the minor becomes of age the elder sister will be precluded from both marriage and *Halizah*. This wide divergence of opinion is unlikely. Hence the fear of annulling the levirate marriage cannot be the reason for R. Meir's ruling in the above cited Mishnah; and consequently R. Meir cannot be of the opinion that no levirate bond exists.
37. Against the annulment of the precept of the levirate marriage.
38. So that R. Meir need not necessarily agree with R. Gamaliel on this point though he will agree with him on the question of the levirate bond.
39. That if a woman awaiting the decision of the levir died, the levir is still forbidden to marry her mother (*supra* 17b end).
40. Not Rab's who also was his teacher.

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If the brother of the levir had betrothed the sister of the widow who was awaiting the levir's decision,¹ he is told, so it has been stated in the name of R. Judah b. Bathyra, 'Wait² until your brother has taken action;³ and Samuel said, 'The *Halachah* is in accordance with the ruling of R. Judah b. Bathyra'.⁴ The other⁵ asked him: 'What [objection could there be] if the statement⁶ be attributed to Rab?⁷ Is it the contradiction between the two statements of Rab?⁸ Surely it is possible that these Amoraim⁹ are in dispute as to what was the opinion of Rab!' — Since this ruling was stated with certainty in the name of Samuel, while as to Rab's view [on the matter] Amoraim differ, we do not ignore¹⁰ the statement attributing it with certainty to Samuel in favor of the one¹¹ which involves Amoraim In a dispute as to the opinion of Rab.

Said R. Kahana: I reported the statement¹² in the presence of R. Zebid of Nehardea, when he said: You teach it thus;¹³ our version is explicit:¹⁴ 'Rab Judah stated in the name of Samuel, "If a woman awaiting the decision of the levir died, [the levir] is forbidden to marry her mother"', from which it naturally follows that he is of the opinion that a levirate

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bond exists'.¹⁵ Samuel is here consistent; for Samuel said, 'The *Halachah* is in accordance with the view of R. Judah b. Bathyra'.

Said [both statements¹⁶ are] necessary. For had he only stated, 'A levirate bond exists', it might have been assumed to refer to the case of one levir only¹⁷ but not to that of two,¹⁸ hence we are taught¹⁹ [that the Same law applies also to two]. And if it had only been stated, 'The *Halachah* is in accordance with the opinion of R. Judah b. Bathyra', it might have been assumed [that the levirate bond is in force] while the widow²⁰ is alive but that after her death the bond is dissolved, hence we are taught²¹ that the levirate bond is not dissolved automatically.²²

MISHNAH. IF THERE WERE TWO BROTHERS AND ONE OF THEM DIED,²³ AND THE SECOND PERFORMED THE LEVIRATE MARRIAGE WITH HIS [DECEASED] BROTHER'S WIFE, AND AFTER A [THIRD] BROTHER WAS BORN THE SECOND DIED,²³ THE FIRST²⁴ IS EXEMPT²⁵ ON ACCOUNT OF HER BEING THE WIFE OF HIS BROTHER WHO WAS NOT HIS CONTEMPORARY', WHILE THE SECOND IS EXEMPT AS HER RIVAL.²⁶ IF HE²⁷ ADDRESSED TO HER²⁸ A MA'AMAR AND DIED,²⁹ THE SECOND MUST PERFORM THE *HALIZAH*³⁰ BUT SHE MAY NOT BE TAKEN IN LEVIRATE MARRIAGE. R. SIMEON SAID:³¹ HE³² MAY EITHER TAKE IN LEVIRATE MARRIAGE WHICHEVER OF THEM HE DESIRES³³ OR HE MAY PARTICIPATE IN THE *HALIZAH* WITH WHICHEVER OF THEM HE DESIRES.³³

GEMARA. R. Oshaia said: R. Simeon disputed the first case also³⁴ Whence is this inferred? From the existence of³⁵ a superfluous Mishnah. For in accordance with whose view was it necessary to teach the clause of the first [Mishnah]? If it be suggested, [according to that] of the Rabbis, [it may be retorted]: If when the levirate marriage had taken place first and the birth³⁶ occurred afterwards, in which case he,³⁷

found her³⁸ permitted,³⁹ the Rabbis nevertheless forbade her,⁴⁰ is there any need [for them to specify prohibition in the case where] the birth³⁶ occurred first and the marriage took place afterwards!⁴¹ Consequently⁴² it must have been required [in connection with the view] of R. Simeon; and the first [Mishnah] was taught in order to point out to you how far R. Simeon⁴³ is prepared to go⁴⁴ while the last Mishnah was taught in order to show you how far the Rabbis⁴⁵ are prepared to go. It would, indeed, have been logical for R. Simeon to express his dissent in the first case, but he waited for the Rabbis to conclude their statement and then he expressed his dissent with their entire statement.⁴⁶

How, in view of what has been said,⁴⁷ is it possible according to R. Simeon to find a case of 'a wife of his brother who was not his contemporary'?⁴⁸ — In the case of one brother who died and a second brother was subsequently⁴⁹ born;⁵⁰ or also in the case of two brothers⁵¹ where the second has neither taken the widow in the levirate marriage nor died.⁵²

One can well understand [R. Simeon's reason]⁵³ where the levirate marriage⁵⁴ took place first and the birth⁵⁵ afterwards, for in this case he found her permitted;⁵⁶ where, however, the birth occurred first and the levirate marriage took place afterwards,⁵⁷ what [reason [could be advanced]]?⁵⁸ -He holds the opinion that a levirate bond exists⁵⁹ and that such a bond is like actual marriage.⁶⁰

R. Joseph demurred: If R. Simeon is in doubt as to whether in the case of a 'levirate bond' and a 'Ma'amar' combined the widow should or should not be regarded as married, need there be any [doubt in the case of] a 'levirate bond' alone?⁶¹ Whence is this known?⁶² — We have learned: In the case where three brothers were married to three women who were strangers [to one another] and, one of the brothers having died, the second brother addressed to her,⁶³ a Ma'amar and died, behold these⁶⁴ must perform *Halizah* with,

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but may not marry the [surviving] levir; for it is said in the Scriptures, And one of them die [etc.], her husband's brother shall go in unto her,⁶⁵ only she⁶⁶ who is tied to one levir,⁶⁷ but not she who is tied to two levirs.⁶⁸ R. Simeon said: He⁶⁹ may take in levirate marriage whichever of them he pleases⁷⁰ and submits to the *Halizah* of the other.⁷¹ He must not take both widows in levirate marriage since it is possible that a levirate bond exists⁷² and thus the two sisters-in-law⁷³ would be coming

1. Her sister being forbidden to him as the sister of the woman connected with him by a levirate bond.
2. With the consummation of the marriage.
3. I.e., married the widow, when the levirate bond between her and the third brother will have been severed, and her sister will consequently be permitted to marry him.
4. *Infra* 410. Meg. 18b. This shows that in the opinion of Samuel a levirate bond exists between a widow and the brothers-in-law whose decision she is awaiting. (V. previous note).
5. R. Joseph.
6. Cf. *supra* p. 101, n. 13.
7. Cf. p. 101, n. 14.
8. Lit., 'that of Rab upon Rab', i.e., Rab's presumed statement reported by Rab Judah is contradictory to the statement made in his name by R. Huna, *supra* 17b.
9. R. Huna and Rab Judah, both of whom were disciples of Rab.
10. Lit., 'leave aside'.
11. Lit., 'and establish it'.
12. Rab Judah's.
13. Attributing the ruling to Rab Judah without mentioning the authority from whom it originated.
14. I.e., specifically indicating the reported authority.
15. V. *supra* p. 99, n. 5.
16. Of Samuel.
17. Cf. *supra* p. 98, n. 8.
18. Cf. *supra* [H] 16.
19. By the statement that the *Halachah* is in accordance with R. Judah b. Bathyra.
20. The sister-in-law awaiting the levir's decision.
21. By the statement, 'a levirate bond exists'.
22. V. *supra* p. 98, n. 24.
23. Without issue.
24. The widow of the first deceased brother who is now also the widow of the second.
25. From *Halizah* and marriage with the third brother.
26. Both having been the wives of the second brother.
27. The second brother.
28. The first brother's widow.
29. Before marriage took place.
30. With the third brother.
31. With reference to the first case of our Mishnah.
32. The third brother.
33. And thereby exempt the other.
34. That mentioned in the previous Mishnah (*supra* 17a ad fin.). In his opinion the third brother may marry or submit to *Halizah* from either of the two widows, even if he was born before the second brother had married the first brother's widow.
35. Lit., 'that which was taught'.
36. Of the third brother.
37. The third brother on the date of his birth.
38. The widow of the first brother.
39. As an ordinary sister-in-law; she being no more the 'wife of his brother who was not his contemporary'. Lit., 'for when he found her he found her in a permitted state'.
40. To marry the third brother.
41. In which case the third brother's birth took place during the period when she was forbidden him as the 'wife of his brother who was not his contemporary'.
42. Lit., 'but not?'
43. Who permits marriage with the third brother even where his birth occurred prior to the widow's marriage. v. *supra* note 6.
44. Lit., 'the strength of R. Simeon'.
45. Who forbid the marriage even when the birth followed the marriage. Cf. 'pro note 4.
46. Lit., 'against them'.
47. Lit., 'but'; if R. Simeon permits marriage in both cases.
48. To be forbidden the levirate marriage in accordance with the statement in the first Mishnah of the Tractate, *supra* 2b ab init.
49. Lit., 'to him'.
50. The levirate relationship here is entirely due to the deceased brother who was not the surviving brother's contemporary; and marriage is. therefore, rightly forbidden.
51. The first of whom died without issue.
52. The third brother, who was born after the death of the first, is forbidden to marry the widow whose connection with the first brother has never been severed, since the second has neither married her nor submitted to her *Halizah*.
53. For permitting the third brother to marry either of the widows.
54. With the second brother.
55. Of the third brother.
56. V. *supra* p. 104, on 2-4.
57. V. *supra* p. 104, n. 6.
58. For R. Simeon's permission of marriage.
59. Between widow and living levir.

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60. The widow is consequently regarded as the wife of the second brother from the moment the first died. When the third brother is subsequently born the widow has no longer any connection with the deceased brother and cannot any more be regarded in relation to the third, as 'the wife of his brother who was not his contemporary'.
61. Obviously not. How then could it be said that R. Simeon definitely regards the 'levirate bond' alone as actual marriage?
62. Lit., 'what is it?' where did R. Simeon express such doubt?
63. The widow of the deceased brother.
64. The widows of the two deceased brothers.
65. Deut. XXV, 5.
66. May be taken in levirate marriage.
67. v. *supra* p. 98, n. 8.
68. V. *supra* p' 97' n. 16.
69. The levir.
70. R. Simeon does not recognize a double bond. If the Ma'amar addressed by the second brother was binding, the bond with the first brother, he maintains, was thereby severed, and there remains only the bond with the second; and if it was not binding then again only one bond exists, that with the first brother.
71. *Infra* 31b. For the reason given anon.
72. Between the levir (the second brother) and the first widow.
73. The second brother's actual wife and the widow of the first to whom he addressed a Ma'amar and who is his virtual wife.

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from one house.¹ Nor must he take one in levirate marriage and thereby exempt the other, for it is possible that the levirate bond is not as binding as actual marriage, and the two sisters-in-law would thus be coming from two houses.² From this it clearly follows that he³ is in doubt.⁴ And should you reply that Biblically one of the widows may indeed be taken in levirate marriage and the other is thereby exempt, but that this procedure had Rabbinically been forbidden as a preventive measure against the possibility of the assumption that where two sisters-in-law came from two houses⁵ one may be taken in levirate marriage and the other is thereby exempt without any further ceremonial;⁶ surely [it may be pointed out] R. Simeon's reason is because of his doubt as to the

validity of the levir's Ma'amar!⁷ For it was taught: R. Simeon said to the Sages, 'If the Ma'amar of the second brother is valid he⁸ is marrying the wife of the second; and if the Ma'amar of the second is invalid he is marrying the wife of the first!' — Said Abaye to him:⁹ Do you not make any distinction between the levirate bond with one levir and the levirate bond with two levirs? It is quite possible that R. Simeon said the levirate bond is like actual marriage in the case of one levir only¹⁰ but not in that of two levirs.¹¹

Does R. Simeon, however, recognize such a distinction?¹² Surely it was taught: R. Simeon has laid down a general rule that wherever the birth¹³ preceded the marriage¹⁴ the widow is neither to perform *Halizah* nor to be taken in levirate marriage. If the marriage¹⁴ preceded the birth¹³ she may either perform the *Halizah* or be taken in levirate marriage. Does not this apply to one levir?¹⁵ And yet it is stated 'she is neither to perform *Halizah* nor to be taken in levirate marriage'!¹⁶ — No; it applies to two levirs.¹⁷ But in the case of one levir,¹⁷ may she in such circumstances also¹⁸ either perform *Halizah* or contract levirate marriage? If so, instead of stating, 'If the marriage preceded the birth she may either perform *Halizah* or be taken in levirate marriage' the distinction should have been drawn in this very case itself,¹⁹ thus: 'This applies only to the case of two brothers-in-law but with one brother-in-law she may either perform *Halizah* or be taken in levirate marriage'! — The entire passage dealt with two brothers-in-law.²⁰

What, then, is meant by the general rule?²¹ And a further objection²² was raised by R. Oshaia: If there were three brothers and two of them were married to two sisters, or to a woman and her daughter, or to a woman and her daughter's daughters or to a woman and her son's daughter, behold these²³ must²⁴ perform the *Halizah*²⁵ but may not be taken in levirate marriage.²⁶ R. Simeon, however, exempts them.²⁷ Now, if it be assumed that R. Simeon is of the opinion that the 'levirate bond' has the same force as actual marriage,

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let [the third brother] take the first widow²⁸ In levirate marriage and let the other²⁹ be thereby exempt.³⁰ R. Amram replied: The meaning of 'exempt'³¹ is that he exempts the second widow,³² But has it not been taught: R. Simeon exempts them both'?³³ -Raba replied: The second of the one pair and the second of the other pair.³⁴ Raba, however, was mistaken [in the interpretation] of the four pairs.³⁵ For, in the first instance, we have twice the word 'or',³⁶ and, furthermore, [if Raba's interpretation were the correct one]³⁷ it should [have read], 'R. Simeon exempts the four'.³⁸ Furthermore, it was taught: R. Simeon exempts both³⁹ from the *Halizah* and from the levirate marriage, for it is said in the Scriptures, And thou shalt not take a woman to her sister, to be a rival to her,⁴⁰ when they become rivals to one another⁴¹ you may not marry even one of them!⁴² But, said R. Ashi: If they⁴³ had become subject [to the levir] one after the other, the law would indeed have been so.⁴⁴ Here,⁴⁵ however, we are dealing with the case where both become subject to him at the same time; and R. Simeon shares the view of R. Jose the Galilean who stated, 'It is possible to ascertain simultaneous occurrence'.⁴⁶

R. Papa⁴⁷ said: R. Simeon differs⁴⁸ only where the levirate marriage⁴⁹ took place first, and the birth⁵⁰ afterwards; he does not differ, however, when the birth⁵⁰ occurred first, and the marriage⁴⁹ took place afterwards; and both these cases⁵¹ are required on account of the Rabbis,⁵² and⁵³ [a stronger case is given after a weaker] 'not only this⁵⁴ but also that'.⁵⁵

It was taught in agreement with R. papa⁵⁶ and in contradiction to R. Oshaia: If one of two contemporary brothers died without Issue, and the second intended to address a Ma'amar to his deceased brother's wife but before he was able to do so a third brother was born and he himself died, the first widow is exempt⁵⁷ as 'the wife of the brother who was not his contemporary', and the second⁵⁸ may either perform the *Halizah* or be taken in levirate marriage. If, however, he⁵⁹ addressed a Ma'amar to the widow and

subsequently a third brother was born, or if a third brother was born first and he⁶⁰ addressed the Ma'amar to the widow subsequently, and died, the first widow is exempt⁵⁷ as 'the wife of his brother who was not his contemporary' while the second⁵⁸ must perform the *Halizah*,⁶⁰ though she may not be taken in levirate marriage.

1. One as actual, the other as virtual wife of the same husband, the second brother. The Torah required the levir 'to build up his brother's house' (Deut. XXV, 9) from which it is inferred that it is his duty to build up only a house but not houses, i.e., to marry his brother's one wife but not his two wives.
2. Both of whom are subject to the levirate marriage. and one of whom cannot exempt the other.
3. R. Simeon.
4. As to whether a levirate bond exists. Cf. *supra* p. 105, n. 9.
5. Where two brothers died simultaneously; when the one widow is as much tied to him as the other.
6. Lit., 'with nothing'.
7. Lit., 'saying and not saying' or 'Ma'amar and not Ma'amar'.
8. The third brother.
9. R. Joseph.
10. As in our Mishnah where the first brother was survived by one brother only. The subsequent birth of a third brother does not affect the levirate any more than it can affect an actual marriage.
11. Of which the cited Baraita speaks. There, when the first brother died he was survived by two brothers.
12. Between one levir and two.
13. Of a third brother.
14. Of the second brother with the widow of the first.
15. Who survived the first deceased brother after whose death the third brother was born.
16. Which proves that even in the case of one levir R. Simeon does not recognize the existence of a levirate bond.
17. Cf. *supra* note 4.
18. Where the birth of the third preceded the marriage of the second.
19. Where birth preceded marriage.
20. The Tanna preferred to draw a distinction between two sets of circumstances both of which relate to the brothers-in-law rather than to draw a distinction between one brother-in-law and two brothers-in-law in the same set of circumstances.

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21. According to which neither *Halizah* nor levirate marriage is allowed whenever the birth preceded the marriage. Both, according to what has just been said, are permissible in the case of one levir.
22. Against the statement that R. Simeon regards the levirate bond as actual marriage.
23. The women enumerated.
24. If their husbands, the two brothers, died without issue.
25. With the third surviving brother.
26. By that brother; since both are equally related to him by the same 'levirate bond' and each is forbidden to him as the consanguineous relative of the woman connected with him by such bond.
27. *Infra* 28b; even from the *Halizah*.
28. I.e., the widow whose husband had died first, and who, through the 'levirate bond', is regarded as the levir's virtual wife even before he married her.
29. Her consanguineous relative, the widow of the second deceased brother.
30. As a forbidden relative; being consanguineous with his virtual wife.
31. In R. Simeon's statement.
32. Whose husband died last. The first, however, is to be taken in levirate marriage.
33. *Infra* 28b, Rid. 50b.
34. 'Both' used by R. Simeon refers to the second of each pair. Raba assumed that the two brothers had married two sisters and also a mother and her daughter. One of the first is taken in levirate marriage and the others are thereby exempt either as 'forbidden relatives' or 'rivals'.
35. Enumerated in the cited Mishnah, assuming as he did that it meant marriage by the two brothers of more than one pair (v. previous note).
36. 'Or' occurs after the enumeration of each pair.
37. Viz., that R. Simeon's exemption refers to the second of each pair.
38. Since four pairs were enumerated.
39. Widows of the first brother.
40. Lev. XVIII, 18.
41. As in the case cited, where each of the two brothers was married to one of each pair, and when the first brother died all his widows became subject to levirate marriage with the second brother and thus become rivals.
42. Even the first widow. Consequently R. Simeon's exemption applies to all, which shows that he recognizes no distinction on the question of the levirate bond between one levir and two levirs!
43. The widows.
44. That the 'levirate bond' in the case of one levir being recognized even by R. Simeon as being as forcible as actual marriage. the levir (the third brother) marries the first while the other is exempt, though her husband (the second brother) died before he actually married the first.
45. In the Mishnah cited by R. Oshaia in objection against the view attributing to R. Simeon a distinction between one levir and two levirs.
46. I.e., to ascertain that two things occur exactly at one and the same moment, Bek. 17a. Hence it may happen that both brothers die simultaneously and both widows simultaneously become subject to the third brother and consequently, on the view of R. Simeon, both exempt from *Halizah* and levirate marriage.
47. Disagreeing with R. Oshaia, *supra* 18b.
48. From the Rabbis of our Mishnah.
49. With the second brother.
50. Of the third brother.
51. 'Marriage before birth' in our Mishnah and 'birth before marriage' in the previous one.
52. To show that they exempt not only in the one case but also in the other. Cf. *infra* notes 11-12
53. As to the objection raised (*supra* 18b): Since they exempt in the second case, what need was there to mention the first which could have been inferred from it a *minori ad majus*?
54. The case in the first Mishnah, the birth of the third brother before the marriage of the second, where the birth occurred while the widow was still under a prohibition to marry him.
55. The case in the second Mishnah, where the birth of the third brother occurred when the widow was already permitted to him.
56. That when the birth of the third brother occurred prior to the marriage of the second with the widow of the first, R. Simeon agrees with the Rabbis.
57. From marriage and *Halizah* with the third brother.
58. The widow of the second brother.
59. The second brother.
60. The Ma'amar addressed to the first widow not having 'the same force as actual marriage to render the second brother's wife her rival to be exempt from *Halizah* as well as from the levirate marriage with the third brother.

Yebamoth 19b

R. Simeon said: Intercourse or *Halizah* with the one of them¹ exempts her rival.² If, however, he³ participated in *Halizah* with her to whom [the second brother had] addressed the Ma'amar, her rival is not exempt.⁴ If he¹ married her⁵ and died, and a [third] brother was subsequently born, or if a [third] brother

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was born, and subsequently he married her⁵ and died, both [widows] are exempt from the *Halizah* and the levirate marriage. If he married her⁵ and [after that a third] brother was born and then he himself died, both widows are exempt from the *Halizah* and the levirate marriage; this is the opinion of R. Meir. R. Simeon, however, said: Since, when he⁶ came [into the world] he found her⁷ permitted to him,⁸ and she was never forbidden to him even for one moment, he⁶ may take in levirate marriage whichever of them he desires or he may participate in the *Halizah* with whichever of them he desires. Now, in accordance with whose view was the case in the latter clause² taught?¹⁰ If it be suggested that it was taught in accordance with the view of R. Meir,¹¹ it might be observed that, as R. Meir draws no distinction between marriage that was followed by birth and birth that was followed by marriage, all these cases should have been combined in one statement!¹² Consequently it must have been in accordance with the view of R. Simeon who thus differs¹³ only in the case where the levirate marriage was followed by birth¹⁴ but does not differ¹³ where birth was followed by levirate marriage.¹⁵ Our point is thus proved.

The Master said, '[If] the second intended to address a *Ma'amar* to his deceased brother's wife but before he was able to do so, a third brother was born while he himself died, the first widow is exempt as "the wife of the brother who was not his contemporary" and the second may either perform *Halizah* or be taken in levirate marriage'. What is meant by 'he intended' and what by 'he was not able'? If he did it, it is an accomplished fact;¹⁶ and if he did not do it, it is not an accomplished fact!¹⁶ -In fact [this is the meaning:] 'He intended' with her consent and 'he was not able' with her consent but against her wish.¹⁷

This,¹⁸ however, is not in agreement with the view of Rabbi. For it was taught: If a man addressed a *Ma'amar* to his deceased brother's wife against her consent, Rabbi regards this as legal [betrothal].¹⁹ But the

Sages say, This is not a legal [betrothal]. What is Rabbi's reason? — He deduces [this form of betrothal] from the intercourse with the wife of a deceased brother; as the Intercourse with the wife of a deceased brother may be effected against her will²⁰ so may the betrothal of the wife of a deceased brother be effected against her will. And the Rabbis? — They deduce it from the usual form of betrothal;²¹ as the usual betrothal can be effected with the woman's consent only so may the betrothal of a Yebamah²² be effected with her consent only. On what principle do they differ? — One Master²³ is of the opinion that matters relating to a Yebamah should be inferred from matters relating to a Yebamah and the Masters²⁴ are of the opinion that matters of betrothal should be inferred from matters of betrothal.²⁵

'If, however, he addressed a *Ma'amar* to the widow, and subsequently a third brother was born, or if a third brother was born first and he²⁶ addressed the *Ma'amar* to the widow subsequently and died, the first widow is exempt as "the wife of his brother who was not his contemporary" while the second must perform the *Halizah*, though she may not be taken in levirate marriage. R. Simeon said: Intercourse or *Halizah* with the one of them exempts her rival'.²⁷ What is R. Simeon referring to?²⁸ If it should be suggested, 'To the case where the third brother was born first and he²⁶ addressed the *Ma'amar* subsequently' surely it has been stated, that where birth preceded marriage R. Simeon does not differ from the Rabbis!²⁹ — But [the reference is] to the case where the *Ma'amar* was addressed first and the third brother was born subsequently. Hence, 'if he participated in *Halizah* with her to whom [the second brother had] addressed the *Ma'amar*, her rival is not exempt', because³⁰ the [subjection of the] rival³¹ is a certainty³² while [the subjection of her] to whom the *Ma'amar* had been addressed is doubtful,³³ and no doubt may over-ride³⁴ a certainty.

R. Manasseh b. Zebid sat in the presence of R. Huna, and in the course of the session he

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said: What is R. Simeon's reason?³⁵ — 'What is R. Simeon's reason!' [Surely it is] as it has been stated: The reason is 'because when he was born he found her permitted to him, and she was never forbidden him even for one moment'!³⁶ But [the question rather is] what is the reason of the Rabbis?³⁷ -Scripture said, 'I/Id take her to him to wife, and perform the duty of a husband's brother unto her',³⁸ the former levirate attachment still remains with her.³⁹ But then what of the following⁴⁰ where we learned, 'If he⁴¹ married her⁴² she is regarded as his wife in every respect'⁴³ and [in connection with this] R. Jose b. Hanina said, 'This teaches

1. I.e., the second widow.
2. As will be explained *infra* this applies to the case where the Ma'amar was addressed to the first widow and the third brother was born subsequently, R. Simeon being of the opinion that it is uncertain whether the Ma'amar has the same force as actual marriage or not. The rival is in either case exempt: If the Ma'amar was binding, then even the first widow is according to R. Simeon permitted to the third brother, since it is a case of 'marriage prior to birth', and the *Halizah* with the second consequently exempts the first as her rival, both having been married to the same husband; and if the Ma'amar was not binding, the first widow is forbidden to the third brother as the widow of 'the brother who was not his contemporary' while the second is not her rival and may be taken in levirate marriage or perform the *Halizah*.
3. The third brother.
4. Since it is possible that the Ma'amar is not binding and she is in consequence forbidden to him as 'the wife of his brother who was not his contemporary' and her *Halizah* has no validity.
5. The first widow.
6. The third brother.
7. The first widow.
8. Having been born after her marriage with the second brother had entirely severed her connection with the first brother.
9. Marriage between the second brother and the first widow, followed by the birth of the third brother, which again was followed by the death of the second.
10. I.e., in accordance with whose view was it necessary to have the case of marriage prior to birth separated from that of marriage after birth?
11. To indicate that even in such a case he forbids marriage.
12. Lit., 'let him mix them and teach them'; the third case, 'if he married her and (after that a third) brother was born and then he himself died' should not have been separated from the previous two cases, since according to R. Meir it matters little whether marriage of the second brother with the first widow preceded or followed the birth of the third brother.
13. From the Rabbis.
14. As R. Papa stated. V. *supra* note 7.
15. Contrary to the opinion of R. Oshaia.
16. And the intention is of no consequence.
17. The object of the statement being that the Ma'amar has not even partially the force of marriage if it was made against the woman's will. The second widow may, therefore, be taken in levirate marriage.
18. That the Ma'amar addressed to the wife of a deceased brother (Yebamah. v. *Glos.*) is invalid unless she consented to the betrothal.
19. Lit., 'he acquired'.
20. V *supra* 8b.
21. The betrothal of a stranger.
22. The wife of a deceased brother.
23. Rabbi.
24. The Sages.
25. Rid. 440.
26. The second brother.
27. *Supra* 19a-b, q.v. for notes.
28. In differing from the Rabbis. Lit., 'on what does he stand'.
29. But agrees that the first widow in relation to the third brother is to be regarded as 'the wife of his brother who was not his contemporary'. Now, since it is possible that the Ma'amar is as valid as actual marriage, how could R. Simeon have permitted the rival of a forbidden relative? Furthermore, the expression 'she exempts her rival' would be unsuitable, since her rival has all the time been exempt as the 'wife of the brother who was not his contemporary'.
30. Lit., 'what is the reason'.
31. To the third brother.
32. If the Ma'amar was valid both widows are subject to the third brother, since it is a case of marriage before birth; if the Ma'amar is invalid, the second is still subjected to the levir since, no marriage having taken place, she is not the rival of a forbidden relative.
33. It being possible that the Ma'amar is not valid, and the first widow thus remains forbidden to the third brother as 'the wife of his brother who was not his contemporary'. *Halizah* with her is, therefore, of no validity and cannot exempt the second widow.
34. Lit., 'puts out'.

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35. For permitting levirate marriage with the third brother in the case where the second brother had married the first widow prior to the birth of the third brother.
36. *Supra*, q.v. for notes.
37. Why do they forbid the levirate marriage between the first widow and the third brother, where the only relationship between them is through the second brother, the relationship through the first brother having ceased with the levirate marriage of the widow by the second brother prior to the birth of the third?
38. Deut. XXV, 5.
39. [H] 'taking her to wife', [H], does not remove from her the designation of 'brother's wife' [H].
40. Lit., 'but that'.
41. A brother-in-law.
42. The widow of his deceased childless brother.
43. *Infra* 38a. Keth. 80b.