The Soncino Babylonian Talmud

YEVOMOS

BOOK V

Folios 87a-106b

CHAPTERS IX-XII

TRANSLATED INTO ENGLISH WITH NOTES
BY REV. DR. Israel W. SLOTKI, M.A., Litt.D.

UNDER THE EDITORSHIP OF
RABBI DR I. EPSTEIN B.A., Ph.D., D. Lit.

Reformatted by Reuven Brauner, Raanana 5772
www.613etc.com

Yebamoth 87a

THE DAUGHTER OF A PRIEST WHO WAS MARRIED TO AN ISRAELITE MAY NOT EAT *TERUMAH*.[1] IF HE DIED AND SHE HAD A SON BY HIM SHE MAY NOT EAT *TERUMAH*. IF SHE WAS [SUBSEQUENTLY] MARRIED TO A LEVITE SHE MAY EAT TITHE. IF THE LATTER DIED AND SHE HAD A SON BY HIM SHE MAY EAT TITHE. IF SHE WAS [SUBSEQUENTLY] MARRIED TO A PRIEST SHE MAY EAT *TERUMAH*. IF THE LATTER DIED AND SHE HAD A SON BY HIM SHE MAY EAT *TERUMAH*. IF HER SON BY THE PRIEST DIED SHE MAY NOT EAT *TERUMAH*. IF HER SON BY THE LEVITE DIED SHE MAY NOT EAT TITHE. IF HER SON BY THE ISRAELITE DIED SHE RETURNS TO THE HOUSE OF HER FATHER; AND IT IS CONCERNING SUCH A WOMAN THAT IT WAS SAID, AND IS RETURNED UNTO HER FATHER'S HOUSE, AS IN HER YOUTH, SHE MAY EAT OF HER FATHER'S BREAD.[2]

GEMARA. IF HER SON BY THE LEVITE DIED SHE MAY AGAIN EAT *TERUMAH*, because she is again entitled to eat it by virtue of her son;[3] whence is this[4] derived? — R. Abba replied in the name of Rab: [From the use of the expression,] But a daughter[5] [instead of] 'a daughter'.[6] In accordance with whose view?[7] Is it in accordance with that of R. Akiba who bases expositions on Wawin![8] — It may be said [to be in agreement] even [with the view of the] Rabbis, since the entire expression But a daughter[5] is superfluous.[9]

Our Rabbis taught: When she[10] returns,[11] she returns only to [the privilege of eating] *Terumah*, but does not return to [the privilege of eating] the breast and the shoulder.[12] Said R. Hisda in the name of Rabina b. Shila, 'What Scriptural text proves this?[13] — She shall not eat of the *Terumah* of the holy things,[14] she must not eat of that which is set apart[15] from the holy things'.[16] R. Nahman replied[17] in the name of Rabbah b. Abbuha: Of [her father's] bread,[5] but not all [her father's] bread;[18] this excludes the breast and the shoulder.[12] Rami b. Hama demurred: Might it not be suggested that this[19] excludes the invalidation of vows![20] Raba replied: A Tanna of the school of R. Ishmael has long ago settled this difficulty. For a Tanna of the School of R. Ishmael taught: What need was there for Scripture to state, But the vow of a widow, or of her that is divorced … shall stand against her?[21] Is she not free from the authority of her father and also from that of her husband![22] The fact is that where the father had entrusted [his daughter] to the representatives of the husband, or where the representatives of the father had entrusted her to the representatives of the husband, and on the way[23] she became a widow or was divorced, [it would not have been known] whether she was to be described as of[24] the house of her father[25] or as of the house of her husband;[26] hence the need for the text[27] to tell you that as soon as she had left her father's authority, even if only for a short while, he may no more invalidate her vows.[28]

R. Safra replied:[29] She may eat of her father's bread,[30] only bread but no flesh.[31] R. Papa replied:[29] She may eat of her father's bread,[30] only the bread which is the property of her father;[32] excluding however, the breast and the shoulder which [priests] obtain from the table of the Most High.[33]

Raba, however, replied:[29] And the breast of the waving and the thigh of heaving shall ye eat … thou, and thy daughters with thee,[34] only when they are with thee.[35]

R. Adda b. Ahabah stated that a Tanna taught: When she[36] returns to her father's house, she returns [only to the privilege of eating] *Terumah*, but does not return to [the privilege of eating] the breast and the shoulders. [If she[37] returns, however,] by virtue of her son,[38] she returns also to [the privilege of eating] the breast and the shoulder.[39] R. Mordecai went and recited this traditional statement in the presence of R. Ashi, when the latter said to him, 'Whence [has this case][40] been included?[41] From "But a daughter".[42] Should she, then, be more

important than the other!'[43] — There,[43] the excluding texts were written;[44] but here[40] no excluding texts were written.

THE DAUGHTER OF A PRIEST WHO WAS MARRIED TO AN ISRAELITE, etc. Our Rabbis taught: And is returned unto her father's house,[42] excludes one who is awaiting the decision of the levir;[45] as in her youth,[42] excludes a pregnant woman.[46] But could not this [law,[47] however, be arrived at by] logical argument: If where a child by a first husband is not regarded as the child by the second husband, in respect of exempting the woman from the levirate marriage,[48] the embryo is nevertheless regarded as a born child,[49] how much more should the embryo be regarded as a born child where a child by the first husband is regarded as the child of the second, in respect of depriving a woman of her right to *Terumah*![50] No; this is no argument.[51] If an embryo was regarded as a born child in respect of the levirate marriage, where the dead were given the same status as the living,[52] should an embryo be regarded as a born child in respect of *Terumah*, where the dead were not given the same status as the living?[53] Consequently Scripture expressly stated, As in her youth,[54] to exclude a pregnant woman.

And it was necessary for Scripture to write, As[55] in her youth, to exclude the pregnant woman; and also[56] And have no child,[54] to[57] exclude one who has a born child. For had the All Merciful written only And have no child,[54] it might have been assumed [that only a woman who has a born child is forbidden to eat *Terumah*, because] at first[58] there was one body and now there are two bodies,[59] but that a pregnant woman, who formed at first[58] one body and is now also one body on]y, may eat, [hence the second text[60] was] required. And had the All Merciful written of the pregnant woman only it might have been assumed [that only she is forbidden to eat *Terumah*] because at first[58] her body

1. She loses through her marriage the right she enjoyed as the daughter of a priest while she was still unmarried.
2. Lev. XXII, 13.
3. By the priest.
4. That her son by the priest enables her again to eat *Terumah* even though she was deprived of that right during the period she lived with the Levite and the Israelite.
5. Lev. XXII, 13.
6. From the superfluous *Waw* in [H].
7. Is this deduction made.
8. And not in accordance with the view of the Rabbis (cf. Sanh. 51b) who are in the majority and differ from R. Akiba. V. *supra* 68b.
9. The previous verse (Lev. XXII, 12) also speaking of the priest's daughter it would have been quite sufficient for v. 13 to begin with the personal pronoun, 'But if she be'.
10. The priest's daughter who was a widow or divorced and have no child. (V. Lev. XXII, 13).
11. Unto her father's house (v. ibid.).
12. Which are also among the priestly gifts. Cf. Ex. XXIX, 27, Lev. VII, 34 X, 14.
13. That the breast and shoulder remain forbidden to her even after she returns to her father's house.
14. Lev. XXII, 12, where instead of [H] only [H] could have been written.
15. [H] from the same rt. as [H] (v. *supra* n. 12).
16. The sacrifices; reference to the breast and shoulder. (V. *supra* n. 10). These are forbidden to her even after she returns to her father's house. (V. *supra* 68b).
17. To the enquiry of R. Hisda.
18. [H] here taken in its wider signification of 'food' (cf. Dan. V, 1). The *Mem* of [H] (*of* but *not all* food) indicates limitation.
19. The limitation implied by the Mem. V. *supra* n. 16.
20. By her father; even when his daughter returns to his house and resumes her right to eat *Terumah*. Before marriage, a daughter's vows may be invalidated by her father. Cf. Num. XXX, 4ff.
21. Num. XXX, 10.
22. And since none of them could in consequence annul her vows, it is obvious that such vows stand against her. What need, then, was there for the text of Num. XXX, 10?
23. To her husband's home.
24. Lit., 'how I read about her'.
25. Since she has not reached the house of her husband and has consequently not yet passed entirely out of her father's authority. Hence her father would still have the power of invalidating her vows.
26. And her vows, like those of any other widow, could not be invalidated by her father.
27. Lit., 'but'.
28. V. Keth. 49a.
29. To the enquiry of R. Hisda.
30. Lev. XXII, 13.

31. The breast and the shoulder.
32. *Terumah* which is regarded as the property of the priests.
33. These are only the remains of certain sacrifices which do not belong to the priests but to the altar, 'the table of the Most High', and are given to the priests as the leavings of His meal.
34. Lev. X, 14.
35. I.e., before their marriage to non-priests, may the breast and the shoulder be eaten by them.
36. A priest's daughter.
37. V. p. 588, n. 16; or the daughter of an Israelite. (V. next note).
38. If she was married, for instance, to an Israelite and after his death resumed her right to eat *Terumah* by virtue of a son whom she previously had by a priest.
39. Since the exclusion of the right to the breast and the shoulder was mentioned in the former case only.
40. That of the woman who derives her right to *Terumah* from her son.
41. Among those entitled to eat *Terumah*.
42. V. Lev. XXII, 13.
43. The daughter who derives her right to *Terumah* from her father.
44. V. *supra* n. 3.
45. Who is not eligible to eat *Terumah*, because she is not completely returned to her father's house, being still bound to the levir.
46. Who, being with child, does not return as in her youth.
47. That a pregnant woman, like one who has a born child, does not regain her right to eat *Terumah*.
48. A woman whose husband died without issue is not exempt from the levirate marriage, though she may have a son by a former husband.
49. A pregnant woman is not subject to the levirate marriage.
50. A priest's daughter whose Israelite husband died without issue is forbidden to eat *Terumah*, just as if she had had a son by him, if she had a son by any former Israelite husband of hers. Now, since the law could be arrived at by inference *a minori ad majus*, the Scriptural text stating the same law is, surely, superfluous!
51. Lit., 'what (reasoning) for me'!
52. A child whose death occurred after the death of his father exempts his mother from the levirate marriage as if he were still alive.
53. Only a live child deprives his mother, the daughter of a priest who married an Israelite, from her right to eat *Terumah* after the death of her husband. As soon as the child dies his mother regains her lost right.
54. Lev. XXII, 13.
55. Cf. BaH. Cur. edd. omit 'As … exclude'.
56. Lit., 'and it was necessary to write'.
57. So BaH. Cur. edd. omit, 'To exclude … child'.
58. Before her marriage.
59. Mother and born child.
60. As in her youth.

Yebamoth 87b

was empty and now it is full, but not [a woman whose child was already born],[1] whose body was at first empty and is now also empty, [hence was the first text[2] also] required.[3]

(Mnemonic.[4] *He said to him: Let us not make*[5] *and make*[6] *in death; let us make and not make in the child of the levir and Terumah*.)[7]

Said Rab Judah of Diskarta[8] to Raba: The dead should not be given[9] the same status as the living, in respect of the levirate marriage, by inference a minori ad majus: If where a child by the first husband is regarded as the child of the second husband, in respect of disqualifying the woman from the eating of *Terumah*,[10] the dead were not given the same status as the living,[11] how much less should the dead be given the same status as the living[12] where the child of the first husband is not regarded as the son of the second, in respect of exempting the woman from the levirate marriage![13] It was expressly stated, *Her ways are ways of pleasantness, and all her paths are peace*.[14]

Then let the dead be given[15] the same status as the living in respect of *Terumah* by inference a minori ad majus: If where a child by the first husband is not regarded as the child of the second In respect of exempting the woman from the levirate marriage,[13] the dead were given the same status as the living,[16] how much more so should the dead be given the same status as the living[17] where a child of the first husband is regarded as the son of the second, in respect of disqualifying the woman from *Terumah*![18] It was expressly stated, And [she] have no child[19] and she, surely, has none.[20]

Let the child of the first husband be regarded as the child of the second husband in respect of the levirate marriage by inference a minori

ad majus: If where the dead were not given the same status as the living, in respect of *Terumah*[21] the child of the first husband is regarded as the son of the second,[22] how much more should the child of the first husband be regarded as the child of the second[23] where the dead were given the status of the living in respect of the levirate marriage![21] — It was expressly stated, And [he] have no child,[24] and this man, surely, has none.

Then let the child of the first husband not be regarded as the child of the second husband, in respect of *Terumah*, by inference a minori ad majus: If where the dead were given the same status as the living, in respect of exempting her from the levirate marriage, the child of the first husband was not regarded as the child of the second,[22] how much less should the child of the first husband be regarded as the child of the second, where the dead were not regarded as the living in respect of eating *Terumah*![21] — It was specifically stated, And [she] have none,[25] but she surely has [one].

CHAPTER X

***MISHNAH*. A WOMAN WHOSE HUSBAND HAD GONE TO A COUNTRY BEYOND THE SEA AND ON BEING TOLD,[26] 'YOUR HUSBAND IS DEAD', MARRIED, MUST, IF HER HUSBAND SUBSEQUENTLY RETURNED, LEAVE THE ONE AS WELL AS THE OTHER, AND SHE ALSO REQUIRES[27] A LETTER OF DIVORCE FROM THE ONE AS WELL AS FROM THE OTHER. SHE HAS NO [CLAIM TO HER] *KETHUBAH*, USUFRUCT, MAINTENANCE[28] OR WORN CLOTHES[29] EITHER AGAINST THE FIRST HUSBAND OR AGAINST THE SECOND. IF SHE HAS TAKEN ANYTHING FROM THE ONE OR FROM THE OTHER, SHE MUST RETURN IT. THE CHILD BEGOTTEN BY THE ONE HUSBAND OR BY THE OTHER IS A BASTARD;[30] NEITHER OF THEM[31] MAY DEFILE HIMSELF FOR HER;[32] NEITHER OF THEM HAS A CLAIM TO WHATEVER SHE MAY FIND[33] OR MAKE WITH HER HANDS;[34] AND NEITHER HAS THE RIGHT OF INVALIDATING HER VOWS.[35] IF SHE WAS THE DAUGHTER OF AN ISRAELITE, SHE BECOMES DISQUALIFIED FROM MARRYING A PRIEST; IF THE DAUGHTER OF A LEVITE, FROM THE EATING OF TITHE; AND IF THE DAUGHTER OF A PRIEST, FROM THE EATING OF *TERUMAH*. NEITHER THE HEIRS OF THE ONE HUSBAND NOR THE HEIRS OF THE OTHER ARE ENTITLED TO INHERIT HER *KETHUBAH*, AND IF [THE HUSBANDS] DIE, THE BROTHER OF THE ONE AND THE BROTHER OF THE OTHER MUST SUBMIT TO *HALIZAH*, BUT MAY NOT CONTRACT THE LEVIRATE MARRIAGE. R. JOSE SAID: HER *KETHUBAH* REMAINS A CHARGE UPON THE ESTATE OF HER FIRST HUSBAND. R. ELEAZAR SAID: THE FIRST HUSBAND IS ENTITLED TO WHATEVER SHE MAY FIND, OR MAKE WITH HER HANDS, AND ALSO HAS THE RIGHT OF INVALIDATING HER VOWS. R. SIMEON SAID: HER COHABITATION OR *HALIZAH* WITH THE BROTHER OF THE FIRST HUSBAND EXEMPTS HER RIVAL,[36] AND A CHILD BEGOTTEN BY HIM[37] IS NOT A BASTARD. IF SHE MARRIED WITHOUT AN AUTHORIZATION[38] SHE MAY RETURN TO HIM.[37] IF[39] SHE MARRIED WITH THE AUTHORIZATION OF THE *BETH DIN*,[40] SHE MUST LEAVE,[41] BUT IS EXEMPT FROM AN OFFERING.[42] IF SHE MARRIED, HOWEVER, WITHOUT THE AUTHORIZATION OF THE *BETH DIN*, SHE MUST LEAVE[41] AND IS ALSO LIABLE TO AN OFFERING. THE AUTHORITY OF THE *BETH DIN* IS THUS MORE EFFECTIVE IN THAT IT EXEMPTS HER FROM THE OFFERING. IF THE *BETH DIN* RULED[43] THAT SHE MAY BE MARRIED AGAIN AND SHE WENT AND DISGRACED HERSELF[44] SHE[45] MUST BRING AN OFFERING, BECAUSE THE *BETH DIN* PERMITTED HER ONLY TO MARRY.[46]**

GEMARA. Since in the final clause it was stated, IF SHE MARRIES WITHOUT PERMISSION SHE MAY RETURN TO HIM, [which means obviously], without the authorization of the *Beth Din* but [in reliance on the evidence] of witnesses, the first clause, it is to be inferred, [speaks of a woman who

married] with the permission of the *Beth Din* and on the evidence of a sing]e witness.[47] Thus it clearly follows that one witness is trusted. Furthermore, we learned: The practice was adopted of allowing a marriage on the evidence of one witness reporting[48] another single witness, and of a woman reporting another woman, and of a woman reporting a bondman or a bondwoman;[49] from which it is obvious that one witness is trusted. Furthermore we learned: [The man to whom] one witness said, 'You have eaten[50] suet',[51] and who replied, 'I have not eaten', is exempt.[52] Now the reason [for his exemption is] because he said, 'I have not eaten'; had he, however, remained silent [the witness] would have been trusted.[53] From this it is clearly evident that one witness is trusted in accordance with Pentateuchal law;[54] whence is this[55] deduced? From what was taught: If his sin … be known to him,[56] but not when others have made it known to him. As it might have been assumed that even where he does not contradict the evidence he is exempt, it was expressly stated, If … be known to him,[57] in any manner.[58] Now, how is this statement to be understood? If it be suggested [that it refers to a case] where two witnesses appeared, and he does not contradict them, what need then was there for a Scriptural text![59] Must it not then refer to the case of[60] one witness, and yet [we see that] when the accused does not contradict him he is trusted.[61] From this, then, it maybe inferred that one witness is to be trusted.[54] But whence is it inferred that [the reason[62] is] because he is trusted? Is it not possible that it is due to the fact that the other had remained silent, silence being regarded as an admission! You can have proof that this is so,[63] since in the final clause it was stated: [A man to whom] two witnesses said, 'You have eaten[64] suet,[65] and who replied. 'I have not eaten', is exempt; but R. Meir declares him guilty. Said R. Meir: This[66] may be inferred a minori ad majus. If two witnesses may bring upon a man the severe penalty of death, should they not be able to bring upon him the minor penalty of a sacrifice! The others replied: What if he desired to say, 'I have acted presumptuously'![67] Now, in the first clause,[68]

1. Lit., 'have no child' (Lev. XXII, 13) i.e., a woman who has a born child and whose case was deduced from this text.
2. And have no child.
3. To indicate that a born child also deprives his mother of her right to *Terumah*.
4. An aid to the memorization of the following four arguments.
5. The verb 'to make', [H] is rendered in the following discussions by various equivalents in accordance with the requirements of English idiom.
6. Cur. edd. 'her deeds', [H], is apparently a substitute for this reading, [H], which agrees with MS.M.
7. Cur. edd. repeat, 'levirate marriage and Terumah'. MS.M. gives it only once.
8. [Deskarah, N.E. of Baghdad. Obermeyer. p. 146].
9. Lit., 'let us not make'. Cf. mnemonic *supra*.
10. V. *supra* p. 589, n. 14.
11. V. *supra* p. 590, n. 2.
12. And consequently not exempt his mother from the levirate marriage.
13. V. *supra* p. 589, n. 12.
14. Prov. III, 17. Were a woman, whose child died after its father, to be subjected to the obligations of the levirate marriage, the peace and the pleasantness of family life might be disturbed where the woman, for instance, happened to have married after the death of her husband and the child died subsequently.
15. Cf. *supra* note 3.
16. Cf. *supra* p. 590, n. 1.
17. And consequently disqualify his mother from the right of eating of *Terumah*.
18. Cf. *supra* p. 589, n. 14.
19. Lev. XXII, 13.
20. Hence the permission to eat *Terumah*.
21. Cf. *supra* p. 590, n. 2.
22. Cf. *supra* p. 589, n. 12.
23. And consequently exempt his mother from the levirate marriage.
24. Deut. XXV, 5.
25. Lev. XXII, 13.
26. Lit., 'and they came and said to her'. This, as will be explained *infra*, refers to evidence given by a single witness.
27. If she desires to marry again.
28. Even for the period during which she lived with him.
29. Neither compensation for those that were entirely destroyed nor the clothes themselves should the tatters still be in existence.

30. Pentateuchally if begotten by the second husband; Rabbinically if by the first who resumed living with her.
31. If a priest.
32. If she died. Cf. Lev. XXI, 1ff.
33. A woman's find belongs to her lawful husband. Cf. B.M. 12a.
34. To which a lawful husband is entitled in return for her maintenance.
35. V. Num. XXX. 7ff.
36. From the levirate marriage and *Halizah*.
37. Her first husband, after his return.
38. Of the *Beth Din*; i.e., if she married on the strength of the evidence of two witnesses who testified to her husband's death, in which case no authorization by a court is required.
39. When only one witness testified to the death of her husband.
40. And her first husband subsequently returned.
41. Her second husband.
42. Since she has acted on a ruling of the *Beth Din*. Cf. Hor. 2a.
43. Lit., 'they taught her' or 'directed her'.
44. By immoral conduct. V. *infra* 922 for fuller explanation.
45. If her first husband subsequently returns.
46. I.e., to contract a lawful marriage, not a forbidden one.
47. Cf. *supra* p. 593, n. 1.
48. Lit., 'from the mouth'.
49. *Infra* 122a, Shab. 145a, Bek. 46b.
50. Unwittingly.
51. [H] forbidden fat.
52. From bringing a sin-offering (cf. Lev. IV, 27ff), Kid. 65b, Ker. 11b.
53. And a beast would have been offered as a sin-offering though its sanctity was entirely dependent on one man's word.
54. Had such evidence been Pentateuchally inadmissible, the sin-offering would consist of a Pentateuchally unconsecrated beast which must not be offered on the altar and is also forbidden to be eaten by the priests.
55. The admissibility of one man's evidence.
56. Lev. IV, 28; only then must he bring a sin-offering.
57. Ibid.
58. Cf. Ker. 11b.
59. Two witnesses are, surely, always relied upon.
60. Lit., 'but not'.
61. And an offering is brought upon the altar on the basis of his word. Cf. *supra* n. 7.
62. For the obligation of an offering.
63. Lit., 'you may know' that the reason is because silence is regarded as an admission.
64. Unwittingly.
65. [H] forbidden fat.
66. That the evidence of the two witnesses is accepted despite the denial of the accused.
67. For a presumptuous sin no sin-offering is brought. In such a case the evidence of the witnesses would be of no value. They can only testify to one's action but not to one's motive or state of mind. Since the accused could annul the evidence by such a plea he is also believed when he simply contradicts the evidence.
68. Where the accusation comes from one witness.

Yebamoth 88a

on what grounds do the Rabbis declare the man liable?[1] If it be suggested: Because he[2] is believed; surely [here it may be objected], even in the case of two witnesses, who in all other cases are trusted though the accused contradicts them, the Rabbis have exempted him![3] The reason[4] must consequently be[5] because the accused remained silent, and silence is regarded as admission![6]

[The fact], however, [is that this[7] is arrived at] by[8] a logical inference, this case being analogous to that of a piece of fat[9] concerning which there is doubt as to whether it was of the forbidden,[10] or of the permitted kind; if a single witness came and declared, 'I am certain that it was permitted fat', he is trusted.[11] Are [the two cases] similar? There[12] the prohibition[13] was not established; here[14] the prohibition of a married woman is established,[15] and no question of sexual relationship [may be decided on the evidence of] less than two witnesses! This[16] is rather analogous[17] to the case of a piece that was definitely forbidden fat;[18] if a single witness came and declared, 'I am certain that it was permitted fat,' he is not believed.[19] But are these cases, similar? In that case,[20] should even a hundred witnesses come they would not be believed; in this case,[16] however, since should two witnesses come they would be trusted, one witness also should be trusted! This[16] is rather analogous to the cases of *tebel*,[21] and consecrated and konam[21] objects.[22]

Whose *tebel*[21] is here to be understood? If his own,[23] [he would naturally be trusted] since it is in his power to make it fit for use;[24] if, however, it is that of another person, [the question may still be urged], what view is here

adopted: If it is maintained that a man who sets apart priestly dues for his neighbors' produce out of his own does not require the owner s consent [it is quite obvious why the witness is here trusted] since it is in his power to make it fit for use;[24] and if it is maintained that the owner's consent is required and that the witness declares, 'I know that he has made it fit for use', whence is this very law[25] derived? As regards consecrated objects also, if it was a consecration of the value of an object [it is obvious why one witness is trusted] since it is in his power to redeem it;[26] but if an object has been consecrated,[27] [the objection may still be raised]: If it were his own[23] [he would naturally be trusted] since it is within his right to ask for the disallowance of his vow;[28] if, however, it belonged to another man, and the witness declared, 'I know that its owner has asked for the disallowance of his vow', whence is this very law[29] derived? With reference to konam[30] objects also, if it is maintained that the law of trespass[31] is applicable to Konam objects and that the sanctity of their value[32] descends upon them [it is obvious why one witness is trusted] since it is within his power to redeem them;[33] and if it is maintained that the law of trespass[31] is not applicable to Konam objects[34] and that it is only a mere prohibition with which he is saddled[35] [the question may be urged]: If any such object was his own [it is natural that he should be trusted] since it is within his power to ask for the disallowance of his vow;[36] if, however, it belonged to another man, and the witness declared, 'I know that its owner has asked for the disallowance of his vow, whence is this very law[37] derived?

R. Zera replied:[38] Owing to the rigidity of the disabilities[39] that were later[40] imposed upon her the law was relaxed in her favor at the beginning.[41] Let there be, however, neither rigid disabilities nor a relaxation of the law! — In order [to avoid] perpetual desertion[42] the Rabbis have relaxed the law in her favour.[43]

MUST … LEAVE THE ONE AS WELL AS THE OTHER, etc. Rab stated: This was taught only in respect [of a woman] who married on the evidence of a single witness, but if she married on the strength of the evidence of two witnesses, she need not leave.[44] In the West[45] they laughed at him. 'Her husband' [they remarked] comes, and there he stands, and you say: She need not leave!' — This[46] [it may be replied] was required only in the case when the man[47] was not known.[48] If he[49] is unknown, why is she to leave [her second husband] even where she only married on the evidence of a single witness? This is required only in the case where two witnesses came and stated, 'We were with him[49] from the moment he left until now, but you it is who are unable to recognize him';[50] as it is written, And Joseph knew his brethren but they knew him not,[51] on which R. Hisda remarked: This teaches that he went forth without any marks[52] of a beard and now he appeared with a full[52] beard. But, after all, there are two[53] against two

1. To an offering, if he did not contradict the evidence.
2. The one witness.
3. Because his word is more than the evidence of two witnesses. How much more then should he be trusted when the evidence is only that of one witness!
4. For the obligation of a sin-offering in the first clause.
5. Lit., 'but not'.
6. The original question then arises again: Whence is it proved that the evidence of one witness is admissible?
7. Cf. *supra* n. 12.
8. Lit., 'but'.
9. Which someone has eaten.
10. For the unwitting eating of which a sin-offering is incurred.
11. Cf. Git. 2b.
12. Where the nature of the fat is in doubt.
13. Of the piece.
14. The case of the woman spoken of in our Mishnah.
15. The doubt extending only to the question as to whether by the death of the husband this prohibition had been removed.
16. The case of the woman spoken of in our Mishnah
17. Lit., 'this is not like, but'.
18. Which someone has eaten.

19. The question, therefore, remains whence is it inferred that the evidence of one witness is admissible.
20. Where the forbidden nature of the fat is established.
21. V. Glos.
22. Where the evidence of a single witness is accepted though the prohibitions were established. From such a case that of the woman in our Mishnah may reasonably be inferred.
23. That of the witness.
24. He can at any moment set apart the priestly dues and thus render the produce fit for everybody's consumption Such an argument is, of course, inapplicable to the case in our Mishnah.
25. That the evidence of a single witness is accepted in such a case.
26. Objects of which the value only has been consecrated [H] completely lose their sanctity on redemption. Cf. *supra* n. 9.
27. [H] consecrated for the altar. Such cannot be redeemed.
28. A learned man may under certain conditions disallow the vow, and the object would consequently lose its sanctity. Cf. *supra* p. 597, n. 9.
29. That the evidence of a single witness is accepted in such a case.
30. V. Glos.
31. *Me'ilah*, v. Glos.
32. Which is consecrated for Temple purposes.
33. Cf. *supra* p. 597, n. 9.
34. Konam being regarded as a vow only, which the man has to fulfill by paying to the Temple treasury the value of the object which itself remains unconsecrated.
35. Lit., 'that rides upon his shoulder'.
36. V. *supra* note 2.
37. V. *supra* note 2.
38. To the question raised *supra* to the admissibility of the evidence of a single witness in the case of the woman in our Mishnah.
39. Loss of *Kethubah*, usufruct, etc.
40. If her husband returns.
41. By permitting her to marry on the evidence of a single witness. Knowing the disabilities to which she would be subject should her first husband return, she takes every precaution to verify the evidence of the one witness.
42. [H] lit., 'holding fast', description of a deserted woman who remains tied to her absent husband.
43. And allowed her to marry on the strength of the evidence of one witness.
44. It is now assumed that Rab referred to the second husband,
45. Palestine.
46. Rab's ruling.
47. Her first husband.
48. To have been her husband.
49. The first husband.
50. Because he left while still young and now he has attained to manhood. Such evidence is accepted if the evidence of the husband's death was given by one witness only. It is not accepted, however, where it is contradictory to the evidence of two witnesses on the basis of whose testimony the woman had married her second husband.
51. Gen. XLII, 8.
52. Construct of [H] 'mark' or 'stamp'. [H] 'The mature manly expression which the beard gives, full manhood' (Jast.).
53. Witnesses.

Yebamoth 88b

and he who cohabits with her[1] is liable to bring an Asham Talui![2] R. Shesheth replied:[3] When she was married, for instance, to one of her witnesses.[4] But she herself is liable to an Asham talui![5] — Where[3] she states, 'I am certain',[6] If so, what need was there to state [such an obvious ruling], when even R. Menahem son of R. Jose[7] maintained his view only where the witnesses[8] came first and the woman married afterwards, but not[9] where she married first and the witnesses came afterwards! For it was taught: If two witnesses state that he[10] was dead and two state that he was not dead, or if two state that the woman was divorced and two state that she was not divorced, the woman must not marry again, but if she married she need not leave;[11] R. Menahem, son of R. Jose, however, ruled that she must leave.[10] Said R. Menahem son of R. Jose, 'When do I rule that she must leave? Only when witnesses came first and she married afterwards, but where she married first and the witnesses came afterwards, she need not leave!'[12] — Rab also spoke of the case where witnesses came first and the woman married afterwards, [his object being] to exclude the ruling of R. Menahem son of R. Jose.

Another reading: The reason then[13] is because she married first and the witnesses came afterwards,[14] but where witnesses came first and the woman married afterwards, she must leave. In accordance with whose [view is this

ruling]? — In accordance with that of R. Menahem son of R. Jose.

Raba raised an objection: Whence is it deduced that if [a priest] refused[15] he is to be compelled?[16] It was expressly stated, And thou shalt sanctify him,[17] even against his will. Now, how is this[18] to be understood?[19] If it be suggested [that it is a case] where she was not married to one of her witnesses[20] and she does not plead 'I am certain',[21] is there any need to state that he is to be compelled?[22] Consequently it must refer to a case[23] where she was married to one of her witnesses[24] and she pleads, 'I am certain'; I and yet it was stated that he was to be compelled;[25] from which it clearly follows that she is to be taken away from him![26] — A priestly prohibition is different.[27] If you prefer I might say,[28] 'What is the meaning of "he is to be compelled"? He is to be compelled by means of witnesses'.[29] And if you prefer I might say:[28] [It is a case] where witnesses came first and she married afterwards, and this represents the view of R. Menahem son of R. Jose.[30] R. Ashi replied. What is meant by the expression, 'She need not leave' which Rab used? She is not to depart from her first state of permissibility.[31] But surely Rab has said this once! For we learned, IF SHE MARRIED WITHOUT AN AUTHORIZATION SHE MAY RETURN TO HIM, and Rab Huna stated in the name of Rab: This is the established law![32] — One was stated as an inference from, the other.[33]

Samuel said: This[34] was taught only in the case where she does not contradict him,[35] but where she contradicts him she need not leave.

What [are the circumstances] spoken of? If it be suggested that there are two witnesses,[36] of what avail is her denial?[37] [It must then deal with the case] of one witness, and the reason[38] is because she contradicts him;[39] had she, however, remained silent, she would have been obliged to leave. But, surely, 'Ulla stated that 'wherever the Torah allows credence to one witness[40] he is regarded as two witnesses, and the evidence of one man[41] against that of two men has no validity!'[42] — Here it is a case of evidence by ineligible witnesses,[43] and [Samuel's statement is] in accordance with the view of R. Nehemiah. For it was taught: R. Nehemiah stated, 'Wherever the Torah allows credence to one witness[40] the majority of opinions is to be followed,[44] and [the evidence of] two women against that of one man is given the same validity as that of two men against one man'.[45]

And if you prefer I might reply: Wherever one eligible witness came first,[46] even a hundred women[47] are regarded as one witness;[48] here, however, we are dealing with a case where a woman witness came in the first instance;[49] and the statement of R. Nehemiah is to be explained thus: R. Nehemiah stated, 'Wherever the Torah allows credence to one witness, the majority of opinions is to be followed, and [the evidence of] two women against that of one woman is given the same validity as that of two men against one man, but that of two women against that of one man is regarded only as that of a half and a half.[50]

SHE ALSO REQUIRES A LETTER OF DIVORCE FROM ONE AS WELL AS FROM THE OTHER. It is quite intelligible that she should require a divorce from the first husband; but why also from the second [when their union was a] mere act of adultery?[51] — R. Huna replied: This[52] is a preventive measure against the possibility of assuming that the first had divorced her and the second had [lawfully] married her, and that consequently[53] a married woman[54] may leave her husband without a letter of divorce. If so,[55] in the latter clause also, where it was stated, 'If she was told "your husband is dead", and she was betrothed, and afterwards her husband came, she is permitted to return to him',[56] might it not be assumed there also that the first husband had divorced her and the other had [lawfully] betrothed her and that consequently a betrothed woman may be released without a letter of divorce! — As a matter of fact she does require a letter of divorce.[57] If so,[58] [it might there also be assumed that] the first had again married his divorced wife after she had been betrothed![59]

— [This statement is in] accordance with R. Jose b. Kiper who stated [that remarrying one's divorced wife] after a marriage[60] is forbidden but after a betrothal[60] is permitted.[61] Since, however, it was stated in the final clause, 'Although

1. And thus commits a doubtful sin, it being uncertain which pair of witnesses is to be trusted.
2. V. Glos. Such an offering is brought for the commission of a doubtful sin. How, then, could Rab maintain that she may continue to live with her second husband?
3. Rab's ruling is applicable.
4. Who well knows that her first husband is dead.
5. Since as far as she is concerned her first husband's death is still a matter of doubt.
6. That the man who claims to be her first husband is a stranger. An Asham Talui is brought only in cases where a person is himself in doubt as to the propriety of an act he has committed; v. Keth. Sonc. ed., p. 122 notes.
7. Who in a similar case maintained (v. *infra*) that the woman must leave her second husband.
8. Who testified that the first husband was alive.
9. Lit., 'he did not say'.
10. The woman's first husband.
11. Her second husband
12. V. Keth. 22b. What need, then, was there for Rab's ruling?
13. Why Rab allowed the woman to remain with her second husband though two witnesses stated that her first husband was still alive.
14. As in the case in our Mishnah in connection with which Rab's statement was made.
15. To observe the rules of Levitical uncleanness and matrimony prescribed in Lev. XXI, 1ff.
16. [H] rt. [H] 'to strike on the side' (cf. [H] 'side', 'wall').
17. Ibid. 8.
18. Case of coercion.
19. Since a Scriptural text was required for the purpose, it could not apply to established or even doubtful prohibitions which a priest must undoubtedly obey and the observance of which is obviously to be enforced.
20. Who was a priest.
21. Cf. *supra* p. 599, n. 16.
22. V. *supra* p. 600, n. 13.
23. Lit., 'but not?'
24. Who was a priest.
25. To separate from her if witnesses subsequently came and declared that the first husband was still alive at the time this second marriage with the priest took place.
26. How then could Rab rule that in the case of contradictory evidence between two pairs of witnesses the second union is not to be severed if it took place prior to the appearance of the second pair.
27. A priest is subject to greater restrictions which do not apply to others.
28. In reply to Raba's objection.
29. Before marriage with the priest is allowed, the court makes every effort to ascertain whether witnesses are available who could contradict the evidence of the first witnesses and thus prevent the marriage. If, however, no such witnesses are available and the marriage has taken place, the union need not be severed though such witnesses subsequently appeared.
30. With which Rab is in agreement.
31. She may return to her first husband, because in her second marriage she is a victim of circumstances, it having been contracted on misleading evidence.
32. *Infra* 91a; why should the same ruling be stated twice?
33. Rab, however, gave his ruling only once.
34. That the woman must … LEAVE THE ONE AS WELL AS THE OTHER. (V. our Mishnah).
35. The man who claims to be her husband.
36. Who testify to the veracity of the statement of the man who claims to be the first husband.
37. Lit., 'when she contradicts him, what is?'; her word would obviously not be accepted against the word of two witnesses.
38. Why the woman may continue to live with her second husband.
39. The evidence that her first husband was alive.
40. In certain cases of marriage and divorce, testifying, for instance, that a husband was dead.
41. Who now states that the first husband was not dead.
42. The previous evidence of the one witness being consequently valid, why should the woman have to leave even when she does not contradict the latter evidence?
43. Relatives, women or slaves, for instance, two of whom testify that the first husband is alive.
44. Since one witness is trusted, the accepted law of valid evidence is superseded in such cases and the evidence of any ineligible witnesses (cf. *supra* n. 8) is equally admissible.
45. *Infra* 117b, Sot. 31b. When, therefore, the wife does not contradict the evidence, these otherwise ineligible witnesses are trusted. Where, however, she contradicts them, her evidence is added to that of the one witness who had originally testified that her husband was dead, and the evidence of the second pair of witnesses, being thus contradicted by two, is disregarded. Cf. Maimonides cited by Wilna Gaon, glosses.
46. And testified that the first husband was dead.

47. I.e., ineligible witnesses who, after the woman had married, testified that her first husband was alive.
48. And their evidence, being opposed to that of the first witness, is disregarded, as is the case with all evidence of a single witness, which is opposed to that of a previous witness. The woman need not, therefore, leave her second husband even if she does not contradict the second set of witnesses.
49. V. *supra* p. 602, n. 11, and two women subsequently testified that the first husband was alive. If the wife keeps silent, there remains a majority of two against one; if she contradicts the two the majority disappears.
50. The two together representing one; so that the evidence of the first eligible witness remains unaffected by it, provided the woman remarried, even where she remained silent.
51. The first husband having been alive when it was contracted.
52. The requirement of a divorce from the second husband.
53. Lit., 'and it is found'.
54. The marriage with the second being assumed to have been valid.
55. That provision was made against erroneous assumptions.
56. *Infra* 92a.
57. From the second, to whom she was betrothed.
58. That a letter of divorce is required.
59. Cf. *supra* note 6 mutatis mutandis.
60. With a second husband.
61. Cf. *supra* 11b.

Yebamoth 89a

the latter[1] gave her a letter of divorce he has not thereby disqualified her from marrying a priest',[2] it may be inferred that she requires no divorce;[3] for should she require a divorce, why does he not disqualify her from marrying a priest![4] — Rather,[5] in the final clause it will be assumed[6] that the betrothal was an erroneous one.[7] In the first clause also [let it be said that] it would be assumed that the marriage was an erroneous one![8] The Rabbis have penalized her.[9] Then let them penalize her in the final clause also! — In the first clause where she committed a forbidden act[10] they penalized her; in the final clause where she did not commit a forbidden act, the Rabbis did not penalize her.

SHE HAS NO [CLAIM TO HER] *KETHUBAH*, [because] what is the reason why the Rabbis have provided a *Kethubah* for a woman? In order that it may not be easy for the husband[11] to divorce her![12] But in this case let it be easy for him, to divorce her.[13]

SHE HAS NO [CLAIM TO] … USUFRUCT, MAINTENANCE OR EVEN WORN CLOTHES, [because] the conditions[14] entered in the *Kethubah*[15] are subject to the same laws as the *Kethubah*[16] itself.

IF SHE HAD TAKEN ANYTHING FROM THE ONE OR FROM THE OTHER, [SHE MUST RETURN IT]. Is this not obvious! — As it might have been assumed that since she has already seized it, it is not to be taken from her, hence we were taught [that SHE MUST RETURN IT].

THE CHILD … IS A BASTARD. Elsewhere we learned: *Terumah*[17] from Levitically unclean produce may not be set apart for that which is Levitically clean.[18] If, however, such *Terumah* has been set apart it is valid if the act was done in error, but if it was done willfully it is null and void.[19] Now what is meant by 'it is null and void'? — R. Hisda replied: The act is absolutely null and void, even that griva[20] [which has been designated as *Terumah*] returns to its former state of *tebel*.[21] R. Nathan son of R. Oshaia replied: It is null and void in respect of making the remainder[22] fit for use, but [that which has been set apart] becomes *Terumah*.[23] R. Hisda does not give the same explanation as R. Nathan son of R. Oshaia, for, should it be said [that the portion set apart] is lawful *Terumah*, it might sometimes happen that one would willfully neglect to set apart the *Terumah* [from the remainder].[24]

But why should this be different from, [the following case concerning] which we learned: If a man has set apart as *Terumah* a cucumber which was found to be bitter, or a melon which turned out to be decayed[25] [the fruit becomes] *Terumah*; but [from the remainder] *Terumah* must again be set apart![26] Do you raise an objection from a case where one has acted unwittingly[27] against a case where one has acted willfully?[28] Where

one has acted unwittingly,[29] no forbidden act has been committed; when, however, one has acted willfully,[30] a forbidden act has been committed.

A contradiction, however, was pointed out between two acts committed unwittingly: Here[31] it is stated, 'It is lawful *Terumah* if the act was done unwittingly',[32] while there sit was stated, 'Terumah,' but [from the remainder] *Terumah* must again be set apart'! — There,[33] it is an erroneous act amounting almost[34] to a willful one, since he should have tasted it.[35]

A contradiction was also pointed out between two cases of willful action: Here[36] it is stated, 'but if it was done willfully, it is null and void', while elsewhere we learned: If a man has set apart as *Terumah* [the produce] of an unperforated plant-pot[37] for [the produce of] a perforated pot,[38] [the former becomes] *Terumah* but [from the latter] *Terumah* must again be separated![39] — In [the case of produce grown in] two different vessels[40] a man would obey;[41] in [that of] one vessel[42] he would not obey.[43]

Now according to R. Nathan, son of R. Oshaia, who explained that 'the act is null and void in respect of making the remainder fit for use but [that that which has been set apart] becomes *Terumah*.[44]

1. Who betrothed her.
2. *Infra* 92a.
3. Even Rabbinically; and that, therefore, the letter of divorce given is null and void.
4. A divorced woman, even if the divorce was given to her in accordance with a Rabbinical and not a Pentateuchal ordinance. is forbidden to be married to a priest. Cf. *infra* 94a.
5. The fact is that no divorce is required, as had been first assumed.
6. Seeing that she is released without any letter of divorce.
7. Release from which requires no divorce. Hence there is no need to provide against the assumption that 'the first husband had divorced her and the other had lawfully betrothed her, etc.', suggested *supra*.
8. Cf. *supra* n. 8. Why then was a letter of divorce required?
9. For contracting a marriage without first making the necessary enquiries.
10. Unlawful marriage.
11. Lit., 'in his eyes'.
12. Cf. Keth. 11a.
13. And thus sever a forbidden union.
14. Such as the undertaking of maintenance, etc. which, like the specified amount of the *Kethubah* are entered in the marriage contract.
15. I.e., the contract. This is one of the meanings of '*Kethubah*', v. n. 18.
16. I.e., the specified sum due to the woman on the husband's death or on her divorce.
17. V. Glos.
18. Since the former is forbidden to be eaten the priest would thereby suffer a loss.
19. Lit., 'he did not do, even anything'. Ter. II, 2, Pes. 33a, Men. 25b.
20. A measure of capacity. V. Glos.
21. And forbidden to all.
22. The Levitically clean produce (Rashi).
23. And the priest may use it for the purposes for which it is fit such as, for instance, fuel.
24. V. *supra* note 6, believing that the portion he had set apart. and which had assumed the name of *Terumah*, had exempted it.
25. Lit., 'having an offensive smell'.
26. Ter. III, 1, Kid. 46b; which proves that the possibility of neglecting this second separation of *Terumah* does not render null and void the whole act.
27. The case of the cucumber or the melon where the man believed it to be in good condition.
28. The second case in the first Mishnah cited.
29. The case of the cucumber or the melon where the man believed it to be in good condition.
30. The second case in the first Mishnah cited.
31. In the first cited Mishnah.
32. Implying that no further *Terumah* for the remainder need be set apart.
33. In the second Mishnah quoted.
34. Lit., 'near'.
35. The fruit, before setting it apart as *Terumah*.
36. V. *supra* note 3.
37. Which is not subject to *Terumah*, since it has not grown directly from the ground.
38. Which is subject to *Terumah*. A plant in a perforated pot is deemed to be growing from the ground since it derives its nourishment through the holes of the pot from the ground itself.
39. Dem. V, 10; Kid. 46a, Men. 70a. Why is the *Terumah* in this case valid, while in the other it becomes *Tebel* again?
40. As in the last cited Mishnah where the produce designated as *Terumah* grew in one kind of pot while the other produce grew in another kind of pot.

41. To give *Terumah* again, though the portion he has set apart is also allowed to remain *Terumah*.
42. Where the clean and the unclean grew in the same kind of pot or soil.
43. To give *Terumah* again, were the portion he has set aside allowed to retain the name of *Terumah*. He would argue that, in view of the validity of his act, no further *Terumah* need he given to the priest, whom he would consequently present with unclean *Terumah*. Hence it was ordained that his act is void and that the quantity he has set aside is not to be regarded as *Terumah*.
44. And the priest may use it for the purposes for which it is fit, such, for instance, as burning.

Yebamoth 89b

, why is this case different from [the following] where we learned [that if a man has set apart as *Terumah* the produce] of a perforated plant-pot[1] for that of an unperforated one,[2] the *Terumah* is valid, but[3] may not be eaten[4] before *Terumah* and tithe from other produce[5] has been set aside for it![6] — Here[7] it is different, since Pentateuchally the *Terumah* is valid, in accordance with the view of R. Elai; for R. Elai stated: Whence is it inferred that if one separates *Terumah* from an inferior quality for a superior quality, his *Terumah* is valid? It is written, And ye shall bear no sin by reason of it, seeing that ye have set apart from it the best thereof.[8] [Now, this implies that if you do not set apart from the best but of the worst you shall bear sin]; if, [however, the inferior quality] does not become consecrated, why [should there be any] bearing of sin?[9] Hence it may be inferred[10] that if one sets apart *Terumah* from an inferior quality for a superior quality, his *Terumah* is valid.[11]

Said Rabbah to R. Hisda: According to you who maintain that 'the act is absolutely null and void' so that 'even that griva [which has been designated as *Terumah*] returns to its former state of Tebel', the reason being[12] that this is a preventive measure against the possibility 'that one might willfully neglect to set apart [the *Terumah* from the remainder]'; is there anywhere [I may ask] a law that *Terumah* which is Pentateuchally valid should, owing to the possibility that one might willfully neglect his duty, be turned into[13] unconsecrated produce?[14] Could, then, a *Beth Din* lay down a condition that would cause a law of the Torah to be uprooted! — The other replied: And do you not yourself agree with such a ruling? Have we not learned, THE CHILD BY THE ONE HUSBAND OR THE OTHER IS A BASTARD. Now, it is reasonable [that the child] by the second [should be deemed] a bastard,[15] but why [should the child] by the first [be a bastard]? She is, surely, his wife[16] and [the child is consequently] a proper Israelite whom [by regarding him as a bastard] we permit to marry a bastard![17] The first retorted: Thus said Samuel, 'He is forbidden to marry a bastard'. And so said Rabin, when he came,[18] in the name of R. Johanan. 'He is forbidden to marry a bastard'. Why, then,[19] is he called a bastard? — In respect of forbidding him to marry the daughter of an Israelite.[20]

R. Hisda sent to Rabbah through R. Aha son of R. Huna [the following enquiry]: Cannot the *Beth Din* lay down a condition which would cause the abrogation of a law of the Torah? Surely it was taught: 'At what period of her age[21] is a husband entitled to be the heir of his wife [if she dies while still] a minor?[22] Beth Shammai stated: When she attains to womanhood;[23] and Beth Hillel said: When she enters into the bridal chamber.[24] R. Eliezer said: When connubial intercourse has taken place. Then he is entitled to be her heir, he may defile himself for her,[25] and she may eat *Terumah* by virtue of his rights'. (Beth Shammai said, 'When she attains to womanhood',[26] even though she has not entered the bridal chamber![27] — Read, 'When she attains to womanhood and enters the bridal chamber', and it is this that Beth Shammai said to Beth Hillel: In respect of your statement, 'When she enters the bridal chamber', it is only when she has attained womanhood that the bridal chamber is effective, but otherwise the bridal chamber alone is of no avail. 'R. Eliezer said: When connubial intercourse has taken place'. But, surely, R. Eliezer said that the act of a minor

has no legal force![28] — Read, 'After she has grown up and connubial intercourse has taken place'.) At all events it was here stated, 'He[29] is entitled to be her heir'; but, surely, by Pentateuchal law it is her father[30] who should here be her legal heir, and yet it is the husband who is heir in accordance with a Rabbinical ordinance![31] — Hefker[32] by *Beth Din* is legal hefker.[33] for R. Isaac stated: Whence is it deduced that Hefker by *Beth Din* is legal Hefker? It is said, Whosoever came not within three days, according to the counsel of the princes and the elders, all his substance should be forfeited, and himself separated from the congregation of the captivity.[34] R. Eleazar stated [that the deduction[35] is made] from here: These are the inheritances, which Eleazar the priest. and Joshua the son of Nun, and the heads of the fathers' houses of the tribes of the children of Israel, distributed for inheritance.[36] Now, what relation is there between Heads and Fathers? But [this has the purpose] of telling you that as fathers may distribute as an inheritance to their children whatever they wish, so may the heads distribute as an inheritance to the people whatever they wish.

'He may defile himself for her'. But, surely, by Pentateuchal law it is her father who may here defile himself for her, and yet it is the husband who by a Rabbinical law was allowed to defile himself for her![37] — [This was allowed] because she is a Meth mizwah.[38] Is she, however, a Meth mizwah?[38] Surely, it was taught. 'Who may he regarded as a Meth Mizwah? He who has no [relatives] to bury him'. [If, however, he has relatives upon whom] he [could] call and they[39] would answer him, he is not regarded as a Meth mizwah![40] — Here also, since they are not her heirs, they would not answer even if she were to call upon them.

1. V. *supra* p. 606, n. 10.
2. V. *supra* p. 606, n. 9.
3. Since it was given for produce which is not subject to *Terumah*, it cannot assume the sanctity of *Terumah* and remains *Tebel*.
4. Even by a priest.
5. Lit., 'place'.
6. Dem. V, 10; Kid. 46b. Why, then, was the *Terumah* in the former case, which is virtually *Tebel*, and is forbidden to be burnt (cf. Shab. 26a), allowed to be used by the priest (v. *supra* p. 606, n. 16) even though no *Terumah* and tithe have been given for it from other produce?
7. Where unclean produce was used as *Terumah* for clean.
8. Num. XVIII, 32.
9. Surely no wrong has been done where one's action is null and void and other *Terumah* has to he given!
10. Lit., 'from here'.
11. Tem. 5a, B.M. 56a, B.B. 84b, 143a, Kid. 46b.
12. Lit., 'what is the reason'.
13. Lit., 'they brought it out',
14. *Hullin* v. Glos.
15. Since, owing to the fact that the first husband was still alive, the marriage was unlawful.
16. The marriage with the second having had no validity at all.
17. Who is forbidden to an Israelite. As this, however, is permitted it follows that even a law of the Torah may be superseded by an ordinance of the Rabbis.
18. From Palestine to Babylon.
19. Since he is accordingly regarded as a proper Israelite.
20. Such a restriction is no abrogation of a law of the Torah but a reinforcement of it.
21. Lit., 'from when'.
22. I.e., at what age may it be definitely assumed that the minor is no longer likely to make a declaration of refusal (v. Glos. s.v. *Mi'un*) and may, consequently. be regarded as one's proper wife.
23. Lit., 'when she stands in her height', the age of puberty.
24. *Huppah* (v. Glos.), which is the preliminary to matrimonial cohabitation.
25. If she died, though he is a priest. V. Lev. XXI, 1f.
26. The husband may defile himself by her corpse and is also entitled to be her heir.
27. When she is not yet regarded as his lawful wife (cf. *supra* 29b) and. according to law, he is entitled to be her heir. This consequently proves that the *Beth Din* does possess the power to abrogate Pentateuchal laws!
28. *Infra* 107b, 108a, Keth. 101b.
29. The husband.
30. (That is his legal heir (Rashi). Since the reference here is to a fatherless girl who was given in marriage by her mother or brothers. Such a marriage is not valid by Pentateuchal law which vests the right of giving a minor girl in marriage only in the father].

31. How then could it be maintained that *Beth Din* has no authority to abrogate Pentateuchal laws?
32. [H], a declaration that the property of a certain person is ownerless. V. Glos.
33. The Rabbis have consequently full authority to transfer the property of the minor from her father's heirs to her husband, and such transfer cannot be regarded as an abrogation of the Pentateuchal law. The reading [H] 'was' for the usual [H] 'is' may be a censorial alteration. Cf. Golds. a.l.
34. Ezra X, 8.
35. That *Beth Din* is empowered to dispose of an individual's property in accordance with its legal decisions.
36. Josh. XIX, 51.
37. How then could it be maintained that *Beth Din* has no authority to abrogate Pentateuchal laws?
38. Lit., 'dead of the commandment', a corpse in which no one is interested and the burial of which is obligatory upon any person who discovers it.
39. Lit., 'and others'.
40. 'Er. 17b, Naz. 43b. As there are available the heirs of her father upon whom she could call, why is she regarded as a Meth Mizwah?

Yebamoth 90a

'And she may eat *Terumah* by virtue of his rights'![1] — Only Rabbinical *Terumah*.[2]

Come and hear: If a man ate[3] Levitically unclean *Terumah*, he must pay compensation in clean unconsecrated produce.[4] If he paid unconsecrated produce that was Levitically unclean, his compensation, said Symmachus in the name of R. Meir, is valid[5] if it was paid in error,[6] and invalid if paid willfully.[7] The Sages. however, said: Whether in one case or in the other[8] his compensation is valid, but he must again pay compensation in clean unconsecrated produce.[9] And when, in considering this ruling, the objection was raised, 'Why should not his compensation be valid if he paid it willfully? A blessing should come upon him! For he has eaten such of the priest's produce[10] as is not fit for him in the days of his uncleanness[11] and paid him compensation in something[12] that is fit for him in the days of his uncleanness',[13] Raba, others say, Kadi, replied: [Some words are] missing from the text, the correct reading being the following: 'If a man ate Levitically unclean *Terumah* he may pay compensation In any produce;[14] if he ate Levitically clean *Terumah*, he must pay compensation in clean unconsecrated produce; if, however, he made compensation in unconsecrated produce that was Levitically unclean, his compensation, said Symmachus in the name of R. Meir, is valid if it was made in error,[15] and his compensation is invalid if it was made willfully. But the Sages said: His compensation is valid whether he has acted in error or willfully, but he must again pay compensation in clean unconsecrated produce'. Now here, surely. the compensation is Pentateuchally valid,[16] for were a priest to betroth a wife[17] with it her betrothal would be valid, and yet the Rabbis[18] ruled that 'his compensation is invalid',[19] and thus[20] a married woman[21] is permitted to [marry any one in] the world![22] — This was meant by the expression,[23] 'his compensation is invalid' which R. Meir used: That he must pay compensation again in clean unconsecrated produce.[24] If so, then Symmachus[25] holds the same view as the Rabbis! — R. Aha son of R. Ika replied: The difference between them is on the question whether one who has acted unwittingly is to be penalized as a preventive measure against one acting willfully.[26]

Come and hear: If [sacrificial] blood became Levitically unclean and was then sprinkled [upon the altar], it is accepted[27] if [the sprinkling was performed] unwittingly, but it is not accepted [if it was performed] willfully.[28] Now, according to Pentateuchal law, it is here undoubtedly accepted, for it was taught. 'In respect of what [errors] does the High Priest's front-plate[29] procure acceptance?[30] In respect of the sacrificial blood, flesh or fat that became unclean whether [this was brought about] by one acting in error or willfully, under compulsion or willingly, and whether [this occurred with the sacrifice] of an individual or with [that of the] congregation',[31] and yet the Rabbis ruled that 'it is not accepted'[32] so that an unconsecrated beast is brought[33] into the Temple court![34] — R. Jose b. Hanina replied:

The expression, 'it is not accepted' was used[35] in respect of permitting the flesh to be eaten;[36] the owner, however, obtains atonement through it.[37]

After all, however, the law of eating the flesh [of the sacrifice] would he uprooted, whereas it is written in the Scriptures. And they shall eat those things wherewith atonement was made[38] which teaches that the priests eat [the sacrificial meat] and the owner obtains thereby atonement! — The other replied: With an abstention from the performance of an act[39] it is different.[40]

1. Though Pentateuchally she is forbidden to eat *Terumah*! V. *supra* p. 609. n. 5.
2. That which is given from fruits of the trees, which is Pentateuchally permitted to non-priests. since the law of *Terumah* is Pentateuchally applicable to corn only.
3. Unwittingly.
4. The reason is explained in Pes. 32a.
5. Assumes the name of *Terumah*.
6. I.e., if he was unaware that the produce he gave as compensation was Levitically unclean.
7. Since he knew it to be unclean and yet paid it as compensation he is penalized.
8. Whether the compensation was made in error or willfully.
9. Git. 54a.
10. Lit., 'from him something'.
11. Levitically unclean *Terumah* may not be eaten by a priest even when he is himself also unclean.
12. Unconsecrated produce.
13. Even though it is Levitically unclean.
14. Even unconsecrated produce which is unclean.
15. V. *supra* p. 610, n. 10.
16. Since unconsecrated foodstuffs, though Levitically unclean, may be consecrated (cf. *supra* 89b).
17. Giving it to her as the token of betrothal (cf. Kid. 2a).
18. I.e., R. Meir.
19. If it was made willfully.
20. By ruling that the compensation is invalid and, in consequence, is not the property of the priest.
21. Pentateuchally she should assume this status.
22. As the compensation is Rabbinically invalid (v. *supra* n. 11) the betrothal also would be Rabbinically invalid. V. *supra* p. 609, n. 5.
23. Lit., 'what'.
24. The first payment, however, is also valid.
25. Who reported R. Meir.
26. According to the Rabbis, an unwitting sin is made punishable in order to prevent thereby a willful one; hence their ruling that whether the payment of the compensation mentioned was made unwittingly or willfully a second payment of compensation must be made. According to R. Meir, however, the inadvertent sinner is not to suffer for the sake of the willful one; hence his ruling that a second payment of compensation is due only in the case of a willful action.
27. I.e., the owner obtains atonement and the flesh of the sacrifice may be eaten. [H] of the same rt. [H] as that of [H] and it shall be accepted in Lev. I, 4, q.v.
28. Pes. 16b.
29. [H] v. Ex. XXVIII, 36ff.
30. Cf. *supra* n. 2.
31. Pes. 80b, Yoma 7a, Men. 25b, Zeb. 45a, Git. 54a.
32. In case of willful action.
33. Lit., 'brought again', i.e., the second sacrifice which the Rabbis ordained to be brought in addition to the first whose blood became unclean, remains Pentateuchally an unconsecrated beast, since, according to Pentateuchal law, no second sacrifice is required.
34. V. *supra* p. 609, n. 5.
35. Lit., 'what … which he said'.
36. Only in this respect 'is it not accepted'; and the priest may not eat of such flesh.
37. And no second sacrifice is required.
38. Ex. XXIX, 33.
39. [H], 'sit and do not act', as is the case with the prohibition against eating the sacrificial meat mentioned.
40. From the case of turning consecrated *Terumah* into unconsecrated produce. The former (v. *supra* n. 1) involving no action may well be within the jurisdiction of the Rabbis, but not the latter which involves an act uprooting a Pentateuchal law.

Yebamoth 90b

He,[1] [on hearing the last reply] said to him:[2] It was my intention to raise objections against your view[3] from [the Rabbinical laws which relate to] the uncircumcised,[4] sprinkling,[5] the knife [of circumcision],[6] the linen cloak with zizith,[7] the lambs of Pentecost,[8] the *Shofar*[9] and the lulab;[10] now, however, that you taught us that abstention from the performance of an act[11] is not regarded as an abrogation [of the law, I have nothing to say since] all these are also cases of abstention.[12]

Come and hear: Unto him ye shall hearken,[13] even if he tells you. 'Transgress any of all the commandments of the Torah' as in the case, for instance, of Elijah on Mount Carmel,[14] obey him in every respect in accordance with the needs of the hour![15] — There it is different,[16] for it is written, 'Unto him shall ye hearken'. Then let [Rabbinic law] be deduced from it! — The safeguarding[17] of a cause is different.[18]

Come and hear: If he[19] annulled [his letter of divorce][20] it is annulled: so Rabbi. R. Simeon b. Gamaliel, however, said: He may neither annul it nor add a single condition to it,[21] since, otherwise,[22] of what avail is the authority[23] of the *Beth Din*.[24] Now, though here, the letter of divorce may be annulled[25] in accordance with Pentateuchal law, we allow a married woman,[26] owing to the power[27] of *Beth Din*,[24] to marry anyone in the world![28] — Anyone who betroths [a woman] does so in implicit compliance with the ordinances[29] of the Rabbis,[30] and the Rabbis have [in this case][31] cancelled the [original] betrothal.[32]

Said Rabina to R. Ashi: This[33] is a quite satisfactory explanation where betrothal was effected by means of money;[34] what, however. can be said [in a case where betrothal was effected] by cohabitation! — The Rabbis[35] have assigned[36] to such a cohabitation the character of mere prostitution.[37]

Come and hear: R. Eleazar b. Jacob stated, 'I heard that even without any Pentateuchal [authority for their rulings]. *Beth Din* may administer flogging and [death] penalties; not, however, for the purpose of transgressing the words of the Torah but in order to make a fence for the Torah. And it once happened that a man rode on horseback on the Sabbath in the days of the Greeks,[38] and he was brought before *Beth Din* and was stoned; not because he deserved this penalty, but because the exigencies of the hour demanded it. And another incident occurred with a man who had intercourse with[39] his wife under a fig tree, and he was brought before *Beth Din* and flogged; not because he deserved such a penalty, but because the exigencies of the hour demanded it![40] To safeguard a cause is different.[41]

NEITHER OF THEM MAY DEFILE HIMSELF FOR HER. Whence is this derived? — From what is written in Scripture. Except for his kin that is near unto him,[42] and a Master stated that 'his kin' means his wife;[43] while it was also written, The husband shall not defile himself, among his people, to profane himself;[44] [implying that] there is a husband, then, who may, and there is a husband who may not defile himself; how, then [are these contradictory laws to be reconciled]? He may defile himself for his lawful wife but he may not defile himself for his unlawful wife.[45]

NEITHER OF THEM HAS A CLAIM UPON ANYTHING SHE MAY FIND, etc. [because] what is the reason why the Rabbis ruled that a wife's finds belong to her husband? In order that he may bear no hatred against her; but, here, let him bear against her ever so much hatred![46]

OR MAKE WITH HER HANDS, [because] for what reason did the Rabbis rule that the work of her hands belonged to her husband? Because she receives from him her maintenance;[47] but here, since she receives no maintenance, her handiwork does not belong to him.

OR TO THE RIGHT OF INVALIDATING HER VOWS, [since] what is the reason why the All Merciful said that a husband may annul [his wife's vows]? In order that she may not become repulsive; here, however, let her become ever so repulsive![48]

IF SHE WAS THE DAUGHTER OF AN ISRAELITE, SHE BECOMES DISQUALIFIED FROM MARRYING A PRIEST, etc.

1. R. Hisda.
2. Rabbah who maintained (*supra* 89b) that the Rabbis have no power to abrogate a Pentateuchal law.
3. V. *supra* note 4.

4. Proselyte, whose circumcision is performed on the Passover Eve and who, by Rabbinic law, is forbidden to participate in the Paschal lamb, though Pentateuchally it is his duty to celebrate the Passover as an Israelite. Cf. Pes. 92a.
5. On an unclean person, on the Sabbath day, is Rabbinically forbidden (cf. Pes. 66a) though Pentateuchally permitted. Should the Sabbath on which such sprinkling is due happen to be a Passover Eve, the person affected would, owing to the Rabbinical prohibition, remain unclean on that day and would, in consequence, be deprived of participation in the Paschal lamb, which is a Pentateuchal precept.
6. The carrying of which on the Sabbath is Rabbinically forbidden even along roofs, an act which is Pentateuchally permitted (cf. Shab, 130b). By observing this Rabbinical law it is sometimes necessary to postpone circumcision which is a Pentateuchal commandment.
7. V. Glos. Pentateuchally it is permitted to insert woolen fringes (v. Num. XV, 38) in a linen garment, despite the prohibition in Deut. XXII, 11 against wearing wool and linen together. Owing, however, to a Rabbinic prohibition, fringes of wool in a linen garment are forbidden, and this prohibition sometimes results in the abrogation of the Pentateuchal commandment of zizith. Cf. Men. 40a.
8. V. Num. XXVIII, 26ff. If Pentecost fell on a Sabbath day, and these lambs were not offered for the purpose for which they were designated, the sacrificial blood may not, in accordance with a Rabbinical prohibition, be sprinkled upon the altar, though such sprinkling is Pentateuchally permitted. Thus, the Pentateuchal law of the sprinkling of the sacrificial blood, and other laws which are dependent on its performance, are suspended by a Rabbinical ordinance. Cf. Bezah 20b.
9. The ram's horn used on the New Year festival (cf. Lev. XXIII. 24). If New Year's Day falls on a Sabbath, the Pentateuchal law of *Shofar* is abrogated by the Rabbis for fear it might be carried from one Sabbatical domain into another. Cf. R.H. 32a.
10. *The branches of palm-trees* (Lev. XXIII, 40) which are taken during the Feast of Tabernacles. This Pentateuchal law is abrogated on the Sabbath day, for the same reason as in the case of the *Shofar*. (Cf. p. 613, n. 11).
11. Cf. *supra* p. 613. n. 1.
12. V. last note.
13. Deut. XVIII, 15, referring to a true prophet.
14. Where he offered a sacrifice on an improvised altar (v. I Kings XVIII, 31ff) despite the prohibition against offering sacrifices outside the Temple.
15. Which shows that the word of a prophet, as also that of the Rabbis, may abrogate a Pentateuchal law.
16. From the teaching of the Rabbis.
17. Lit., 'making a wall round'.
18. From an ordinary measure. Elijah, by his act, saved Israel from idolatry and brought them back to the worship of Cod.
19. A husband who sent a letter of divorce to his wife by the hand of an agent. Cf. Git. 32a.
20. In the presence of any *Beth Din*, even though the woman was unaware of the fact.
21. Cf. *supra* n. 10.
22. Lit., 'if so were such annulment to he permitted.
23. Lit., 'power'.
24. I.e., R. Gamaliel the Elder, who ordained that such an annulment must not be made, since the woman in her ignorance of it might marry again and thus unconsciously give birth to illegitimate children. V. Git. 33a.
25. So long as it did not reach the woman's hand.
26. Since the letter of divorce was duly annulled the woman obviously still retains the status of a married woman.
27. Lit., 'what power', quotation from R. Simeon's exclamation.
28. Which shows that a Pentateuchal law of marriage is abrogated by a Rabbinic measure!
29. Lit., 'opinion', 'view'.
30. The formula being. 'According to the law of Moses and of Israel' (cf. P.B. p. 298), i.e., the Pentateuchal and Rabbinic law.
31. Where the divorce was annulled.
32. Transforming retrospectively the money of the betrothal (cf. Kid. 2a) given to the woman at her first marriage into an ordinary gift. Since the Hefker of money comes within the power of a legal tribunal the *Beth Din* is thus fully empowered to cancel the original betrothal, and the divorcee assumes, in consequence, the status of an unmarried woman who is permitted to marry any stranger.
33. The explanation of the retrospective cancellation of the original marriage. V. *supra* note 3.
34. A woman may be betrothed by means of money, deed or cohabitation. V. Kid. 2a.
35. In compliance with whose laws and ordinances all betrothals are implicitly effected.
36. Lit., 'made'.
37. From the moment a divorce is annulled in such a manner, the cohabitation, it was ordained, must assume retrospectively the character of mere prostitution, and since her original betrothal is thus invalidated the woman resumes the status of the unmarried and is free to marry whomsoever she desires.

38. While the Greeks were the rulers of the country.
39. Lit., 'ejaculate in'.
40. Cf. Sanh. 46a; which shows that the Rabbis may carry out decisions contrary to Pentateuchal law.
41. Cf. *supra* p. 614, nn. 7 and 8. The incidents referred to occurred in times of religious laxity when rigid measures were necessary, v Sanh., Sonc. ed., p. 303. n. 8.
42. Lev. XXI, 2.
43. Consequently it is permitted for a priest to defile himself for his wife.
44. Ibid. 4. which, contrary to the interpretation of v. 2, shows that a husband may not defile himself for his wife, [H], 'a husband'. (E.V. chief man).
45. Who is the subject of our Mishnah, v. *supra* 22b.
46. The more he will hate her the sooner will he sever the unlawful union.
47. Lit., 'eats foods'.
48. Cf. *supra* n. 5.

Yebamoth 91a

Is not this obvious![1] — [The statement] IF THE DAUGHTER OF A LEVITE [she becomes disqualified] FROM THE EATING OF TITHE was required.[2] Does, however, the daughter of a Levite become disqualified by prostitution from the eating of tithe? Surely, it was taught: If the daughter of a Levite was taken into captivity[3] or was subjected to an act of prostitution,[4] she may nevertheless be given tithe and she may eat it![5] — R. Shesheth replied: This[6] is a punitive measure.[7]

IF THE DAUGHTER OF A PRIEST, [she becomes disqualified] FROM THE EATING OF *TERUMAH*, even Rabbinical *Terumah*.

NEITHER THE HEIRS OF THE ONE HUSBAND NOR THE HEIRS OF THE OTHER ARE ENTITLED TO INHERIT HER *KETHUBAH*, etc. How does the question of *Kethubah* arise here?[8] R. Papa replied: The *Kethubah* of the male children.[9] [Is not this also] obvious![10] — It might have been assumed that the Rabbis had penalized only her, since she had committed the forbidden act, but not her children, hence we were informed [that they also lose the *Kethubah*].

THE BROTHER OF THE ONE AND THE BROTHER OF THE OTHER MUST SUBMIT TO *HALIZAH*, BUT MAY NOT CONTRACT THE LEVIRATE MARRIAGE. The brother of the first husband submits to *Halizah* in accordance with the Pentateuchal law,[11] and may not contract the levirate marriage in accordance with Rabbinic law;[12] the brother of the second, however, submits to *Halizah* in accordance with Rabbinical law,[13] and may not contract the levirate marriage either in accordance with Pentateuchal, or in accordance with Rabbinical law.[14]

R. JOSE SAID: HER *KETHUBAH* [REMAINS A CHARGE] UPON THE ESTATE OF HER FIRST HUSBAND, etc. Said R. Huna: The latter agree with the former,[15] but the former do not agree with the latter: R. Simeon agrees with R. Eleazar;[16] since he[17] does not penalize [the woman[18] in the case of] cohabitation which constitutes the main prohibition. how much less [would he do so in respect of] what she finds and what she makes with her hands which are only monetary matters. R. Eleazar, however, does not agree with R. Simeon; [since it is only in respect of] what the woman finds and what she makes with her hands, which are monetary matters, that he does not penalize her, but in respect of cohabitation which is a religious prohibition he does penalize her. And both of them agree with R. Jose; [since they] do not penalize [the woman in respect of] those matters which are applicable while she continues to live with her husband,[19] how much less [would they do so in respect of] the *Kethubah* the purpose of which is[20] [for the woman] to take it and depart.[21] R. Jose, on the other hand, does not agree with them; [since it is only in respect of] the *Kethubah* [the purpose of which is for the woman] to take it and depart,[21] that he does not penalize her, but in respect of those matters which are applicable while she continues to live with her husband,[19] he does penalize her.

R. Johanan stated: The former agree with the latter, but the latter do not agree with the former: R. Jose agrees with R. Eleazar; since

he does not penalize [the woman in respect of] the *Kethubah* which has to be taken from the husband and given to the wife,[22] how much less [would be do so in respect of] what she finds and what she makes with her hands which have to be taken from her and given to him.[23] R. Eleazar, however, does not agree with him; [since it is only in respect of] what she finds and what she makes with her hands which have to be taken from the woman and given to the husband,[23] that he does not penalize her, but in respect of the *Kethubah* which has to be taken from him and given to her,[22] he does penalize her. And both of them agree with R. Simeon; since they do not penalize her in respect of matters which [are applicable] while [her first husband] is alive, how much less [would they do so in respect of] cohabitation which takes place after his death. R. Simeon, however, does not agree with them; [since it is only in respect of] cohabitation which [takes place] after [her husband's] death, that he does not penalize her, but [in respect of] those matters which [are applicable] while [he is] alive, he does penalize her.

IF SHE MARRIED WITHOUT AN AUTHORIZATION, etc. Said R. Huna in the name of Rab: This is the accepted law.[24] R. Nahman said to him: Why should you indulge in circumlocution![25] If you hold the same view as R. Simeon, say. 'The *Halachah* is in agreement with R. Simeon' for, indeed, your traditional statement runs on the same lines as that of R. Simeon! And should you reply. 'If I were to say "the *Halachah* is in agreement with R. Simeon", it might be assumed to apply even to his first statement',[26] then say. 'The *Halachah* is in agreement with R. Simeon in his latter statement'![27] — This is a difficulty.

R. Shesheth said: It occurs to me[28] that Rab made this reported statement while he was sleepy and about to doze off.[29] [His statement] 'This is the accepted law' implies that[30] [the Rabbis] differ;[31] but what could she do? She was but the victim of circumstances![32] Furthermore, it was taught: 'None of the women in incestuous marriages forbidden in the Torah, requires a letter of divorce from the man who married her,[33] except a married woman who married again in accordance with a decision of a Beth Din'. Only [where she married again] 'in accordance with a decision of a Beth Din'[34] does she require a letter of divorce, but where [the marriage took place] in accordance with the evidence of two witnesses she requires no letter of divorce.[35] Now, whose view is here represented?[36] If it be suggested [that it is the view of] R. Simeon, does she [it may be retorted] require a letter of divorce [even where her marriage took place] in accordance with a decision of the *Beth Din*? Surely it was taught: R. Simeon stated, 'If the *Beth Din* acted[37] on their own judgment[34] [the marriage is regarded] as a willful [act of adultery between] a man and a [married] woman;[38] [if, however, they acted],[30] in accordance with the evidence of [two] witnesses, [the marriage is regarded] as [intercourse between] a man and a woman that was due to error'.[39] In both cases, however,[40] no letter of divorce is thus[41] required.[42] Consequently it must represent the view of the Rabbis![43] The fact is [that it[44] represents the view of] R. Simeon, and you may interpret it as follows. R. Simeon stated: If the *Beth Din* acted[45] on their own judgment, [the marriage is regarded] as intentional [intercourse[46] between] a man and an [unmarried] woman and [the latter][47] consequently requires a letter of divorce; [If, however, they acted],[45] in accordance with the evidence of [two] witnesses [the marriage is regarded] as wanton [intercourse between] a man and an [unmarried] woman[48] and [the latter consequently] requires no letter of divorce.

R. Ashi replied: The statement[49] was mainly concerned with the question of the prohibition,[50] and is to be understood as follows:[51] If the *Beth Din* acted[52] on their own judgment, [the marriage is regarded] as a willful [act of adultery between] a man and a [married] woman, and [the latter is consequently] forbidden to her [first] husband; [if, however, they acted][49] in

accordance with the evidence of [two] witnesses, [the marriage is regarded] as [intercourse between] a man and a woman that was due to error, and [the latter is consequently] not forbidden to her [first] husband.

1. Having the status of a harlot she is obviously forbidden to marry a priest. Cf. Lev. XXI, 7.
2. As this ruling had to be mentioned the other also was included.
3. Where she is exposed to the dangers of gentiles' outrage.
4. Cohabitation with a slave, for instance, or a Halal. Cf. *supra* 68a.
5. Bek. 47a.
6. The disqualification of the Levite's daughter in our Mishnah.
7. For not instituting the necessary enquiries before she married her second husband.
8. Where the woman herself, as stated earlier in our Mishnah, is not entitled to it.
9. Of the woman. By the insertion of the prescribed clause (v. Keth. 52b), her sons are entitled to receive her *Kethubah* from their father's estate when he dies, even if their mother died first and their father married again and had sons with his second wife. They receive her *Kethubah* in addition to their shares in their father's estate to which the sons of both the first and the second wife are equally entitled. In the case spoken of in our Mishnah, however, the sons of the first wife lose their claim to her *Kethubah*.
10. If their mother herself is not entitled to it, how much less her sons whose claim is entirely derived from hers.
11. Since according to Pentateuchal law he is the brother of the proper husband.
12. As a punitive measure against the woman who did not make sufficient enquiries before contracting her second marriage.
13. Pentateuchally the widow is not subject to him at all, since her marriage with his brother was invalid. Cf. *supra* p. 617, n. 11.
14. Cf. previous two notes.
15. That in respect of the points they mentioned the woman is regarded as the wife of the first husband.
16. V. our Mishnah.
17. Having stated that, HER COHABITATION … WITH THE BROTHER OF THE FIRST HUSBAND EXEMPTS HER RIVAL.
18. In regard to her relationship to her first husband.
19. Lit., 'when she sits under him', when there is reason to apprehend that she would never be divorced in consequence.
20. Lit., 'stands'.
21. Thus actually beginning the process of separation and final divorce.
22. Lit., 'which from his to hers'.
23. Lit., 'which from hers to his'.
24. Cf. *supra* 88b.
25. [H] (rt. גמב, in Pael 'to go round about'). 'O thou cunning man, what is the use of thy going round about?' (Jast.).
26. That of cohabitation with the brother of the first husband where her second marriage was contracted on the evidence of one witness only.
27. IF SHE MARRIED WITHOUT AUTHORIZATION.
28. Lit., 'I would say'.
29. Lit., 'dozing and lying down'.
30. In the final clause, where the woman married on the evidence of two witnesses.
31. Maintaining that the woman is to be penalized.
32. [H] from rt. [H] 'to be compelled'. What better proof could she have had than the testimony of two qualified witnesses.
33. Lit., 'from him'.
34. I.e., where the evidence as to her first husband's death has been given by one witness only.
35. Since she was but an unfortunate victim of circumstances.
36. Lit., 'who is it'.
37. Permitted the remarriage of a woman whose husband's death has been reported.
38. And the woman becomes thereby forbidden to her first husband if he returns.
39. And the return of the woman to her first husband is consequently permitted.
40. Whether the marriage was on the decision of *Beth Din* or on the evidence of two witnesses.
41. Since the comparison was made with acts of presumption and error while divorce was not mentioned at all.
42. The first Baraitha cited, which required a divorce in a case where the woman married in accordance with a decision of the *Beth Din*, cannot therefore represent the view of R. Simeon.
43. Which proves that they also admit that no divorce is necessary where the marriage was contracted in reliance on two witnesses. Who is it, then, that differs from R. Simeon that it should have been necessary for Rab to declare the *Halachah* to be in agreement with his view?
44. The first Baraitha under discussion. V. p. 620. n. 13.
45. V. *supra* p. 620, n. 8.
46. For the purpose of betrothal. Cf. Kid. 2a.
47. Since her marriage was legal.
48. Which constitutes no legal union.
49. V. *supra* note 15.
50. Lit., 'he taught in respect of prohibition'.
51. Lit., 'and thus be said'.

52. V. *supra* p. 620, n. 8.

Yebamoth 91b

Rabina replied: The statement was mainly dealing with the question of sacrifice,[1] and is to be understood as follows.[2] If the *Beth Din* acted on their own judgment, [the marriage is regarded] as a willful [act of adultery between] a man and a [married] woman, and [the latter] does not bring a sacrifice;[3] if, however, they acted] in accordance with the evidence of [two] witnesses, [the marriage is regarded] as [intercourse between] a man and a woman that was due to error and [the latter] has to bring a sacrifice.[4]

If you prefer. however, I might say that the first [Baraitha][5] represents [the view of] the Rabbis, and you may explain it as follows: 'Except a married woman'[6] and one 'who married again in accordance with a decision of a Beth Din'.[7]

'Ulla raised an objection: Do we accept the plea[8] 'what could she have done'?[9] Surely we learned: [If a letter of divorce] was dated[10] according to[11] an era that was inappropriate,[12] according to[11] the Median era, or according to[11] the Greek era, according to [the era of] the building of the Temple, or the destruction of the Temple, or if he[13] was in the East and wrote, 'In the West', [or he was] in the West and wrote, 'In the East', she[14] must leave her first and her second husband,[15] and all the disabilities[16] [enumerated,[17] are applicable] to her.[18] But why?[19] Let it be argued. 'What could she have done'![20] — She should have arranged for the letter of divorce to be read.[21]

R. Shimi b. Ashi said, Come and hear: If a levir married his sister-in-law[22] and her rival went and married [another man][23] and then the former[24] was found to be incapable of procreation,[25] [the latter][26] must leave the one and the other[27] and all the disabilities[16] [mentioned[28] apply] to her.[29] But why?[30] Let it be argued. 'What could she have done'![31] — She should have waited.

Said Abaye: Come and hear: If the rivals [of] any of the forbidden relatives concerning whom it has been said[32] that they exempt their rivals went and married, and any such forbidden relatives[33] were found to be incapable of procreation,[34] [every rival] must leave the one and the other,[35] and all the disabilities[36] [mentioned[37] apply] to her.[38] But why?[39] Let it be argued. 'What could she have done'! — She should have waited.

Said Raba. Come and hear: If a scribe wrote a letter of divorce for the husband and a quittance[40] for the wife, and then made a mistake and handed the letter of divorce to the wife and the quittance to the husband, and they[41] gave them to one another,[42] and after a time[43] the letter of divorce was discovered[44] in the possession of the husband and the quittance in the possession of the wife, [the latter][45] must leave the one as well as the other,[46] and all the disabilities[36] [mentioned[47] apply] to her.[38] But why?[48] Let It be argued. 'What could she have done'! — She could have arranged for the letter of divorce to be read.[49]

Said R. Ashi, Come and hear: If he[50] changed[51] his name or her name, the name of his town or the name of her town, she must depart from the one and from the other,[52] and all the disabilities[36] [mentioned[37] apply] to her.[38] But why?[48] Let it be argued. 'What could she have done'! — She should have arranged for the letter of divorce to be read.[53]

Said Rabina, Come and hear: If a man married a woman[54] on [the strength of] a bald[55] letter of divorce she must depart from the one and from the other,[56], etc.! — She should have arranged for the letter of divorce to be read.[57]

R. Papa desired to decide a case on [the principle of] 'What could she have done',[58] Said R. Huna Son of R. Joshua to R. Papa: But surely all those[59] Baraithoth were taught?[60] The other answered him: Were they not explained?[61] 'Shall we then',[62] the former retorted, 'rely on explanations'![63]

R. Ashi said: No regard need be paid[64] to a rumor.[65] What kind of rumor [is here meant]? If it be suggested [that it means] a rumor after marriage.[66] Surely [it may be objected] R. Ashi has said this once; for R. Ashi stated:

1. Cf. *supra* n. 6, mutatis mutandis.
2. So BaH. Cf. *supra* n. 7. Cur. edd. omit, 'and is … follows'.
3. Since her willful act was performed in reliance on the ruling of *Beth Din*. V. Hor. 2b.
4. As for any other similar sin committed in error.
5. V. *supra* note 15.
6. Who married again in accordance with the evidence of two witnesses.
7. On the evidence of one witness. According to this interpretation, a marriage on the evidence of two witnesses is not excluded (as was originally suggested *supra* 91a) and it also requires a letter of divorce.
8. Lit., 'do we say'.
9. R. Shesheth's objection, *supra* 91a.
10. Lit., 'he wrote'.
11. Lit., 'for the name'.
12. For the place in which, or the time when the document was written.
13. The scribe (Rashi). It is assumed that the witnesses are from the same place as the scribe. (Cf. Tosaf s.v. [H] a.l.)
14. The woman who married again after receiving such a defective document from her husband.
15. Lit., 'from this and from this'.
16. Lit., 'these ways'.
17. *Supra* 87b and in the Mishnah cited from Gittin (v. *infra* n. 13), such as the loss of *Kethubah*, etc.
18. Cf. Git., Sonc. ed., p. 282, q. v. notes.
19. Should the woman be penalized.
20. She honestly believed the document to be valid.
21. By an expert who would have detected the irregularities and warned her in good time.
22. The widow of his brother who died without issue.
23. Which she is permitted to do, since the levirate marriage of one widow exempts all her rivals from both *Halizah* and the levirate marriage.
24. Lit., 'this', the widow who married the levir.
25. And consequently unable to exempt her rival (cf. *supra* 12a).
26. The rival mentioned.
27. Lit., 'from this and from this'. She may neither live with the husband she married nor with the levir.
28. V. *supra* n. 12.
29. Git. 80a.
30. Cf. *supra* n. 14.
31. She surely could not have anticipated the other's incapability.
32. *Supra* 2a.
33. Lit., 'these'.
34. Cf. *supra* p. 622, n. 20.
35. V. *supra* p. 622, n. 22.
36. Lit., these ways'.
37. *Supra* 87b and in the Mishnah cited from Gittin (cf. Git. 79b) such as the loss of *Kethubah*, etc.
38. Git. 80a.
39. Should the woman he penalized.
40. Which the wife gives to the husband on the receipt of her *Kethubah*.
41. Without examining the documents.
42. Lit., 'this to this and this to this'; both of them believing that the husband gave to his wife the letter of divorce, and that the wife gave to her husband the quittance.
43. When the woman had married another man.
44. Lit., 'goes out'.
45. Since her divorce was invalid, the document having been given to her not by her husband as the law requires but by the scribe.
46. Her second and her first husband.
47. V. *supra* note 7.
48. Should she be subject to the disabilities.
49. When she would immediately have discovered the scribe's error.
50. The husband.
51. In the letter of divorce which he gave to his wife.
52. Lit., 'from this and from this': from her first, and from her second husband.
53. And the change of name would have been discovered at once.
54. Lit., 'he married her'.
55. [H] i.e., a 'folded document' (cf. B.B. 160a) on one of whose folds a signature is wanting. A valid deed of such a character must bear the signature of a witness on each fold and must he signed by no less than three witnesses. V. Git., Sonc. ed., p. 391.
56. V. *supra* p. 623, n. 22.
57. And the defect would have been discovered forthwith.
58. It was his intention to allow a woman, whose second marriage was contracted on the evidence of two witnesses who had testified that her first husband was dead, to go back to him when he returned.
59. Above mentioned.
60. And in none was the principle of 'what could she have done' acted upon.
61. Special reasons were given why the principle mentioned was not acted upon. In all other cases, however, it should be taken into consideration.
62. Lit., 'shall we rise'.

63. Despite the explanations, the original objections may still be urged. Cur. edd. insert in parenthesis 'and he desisted'. i.e., R. Papa abandoned his contemplated decision.
64. If a woman was authorized by the *Beth Din* to contract a second marriage.
65. That her first husband was still alive.
66. Of the woman with her second husband.

Yebamoth 92a

No regard need be paid to a rumor that originated after marriage![1] — It might have been assumed that since she was to appear before the *Beth Din* to obtain the authorization[2] [for her marriage].[3] the rumor is regarded as one [that arose] before marriage[4] and she should in consequence he forbidden,[5] we were, therefore, taught [that even in such circumstances a rumor is disregarded].

IF SHE MARRIED WITH THE AUTHORIZATION OF THE *BETH DIN* SHE MUST LEAVE, etc. Ze'iri said: Our Mishnah cannot be authentic[6] owing to a Baraitha that was recited at the academy. For it was recited at the academy: If the *Beth Din* ruled[7] that the sun had set,[8] and later it appeared, [such a decision] is no ruling[9] but a mere error.[10]

R. Nahman. however, stated: [Such an authorization][11] is [to be regarded as] a ruling.[12] Said R. Nahman: You can have proof[13] that it [is to be regarded as] a ruling. For throughout the Torah a single witness is never believed while in this case he is believed. But why? Obviously[14] because [such an authorization is regarded as] a ruling.[15] Raba said: You can have proof[13] that it[11] is [to be regarded as a mere] error.[16] For were *Beth Din* to issue a ruling in a case of some forbidden fat or blood that it is permitted, and then find a [strong] reason for forbidding it, [their subsequent ruling], should they retract and rule again that it is permitted,[17] would be completely disregarded;[18] whereas here,[19] it should one witness present himself,[20] the woman would be permitted to marry again,[21] and should two witnesses [afterwards] appear[22] the woman would be forbidden to marry again,[23] but should another witness subsequently appear[24] the woman would again be permitted to marry. But why?[25] Obviously[26] because it[19] [is regarded as a mere] error.[27]

R. Eliezer also is of the opinion that it[19] is [to be regarded as a mere] error. For it was taught: R. Eliezer said: Let the law pierce through the mountain[28] and let her[29] bring a fat sin-offering.[30] Now, if it be granted that it[19] is [to be treated as] an error one can well see the reason why she is to bring an offering.[31] If, however, it be contended that it[19] is [to be regarded as] a ruling, why should she bring an offering![32] But is it not possible that R. Eliezer holds the opinion that an individual who committed a sin in reliance on a ruling of the *Beth Din* is liable?[33] — If so, what [could have been meant by] 'Let the law pierce through the mountain'![34]

IF THE *BETH DIN* DECIDED THAT SHE MAY MARRY AGAIN, etc. What is meant by DISGRACED HERSELF? — R. Eliezer[35] replied: She played the harlot. R. Johanan replied: [If being] a widow [she was married] to a High Priest, [or if] a divorcee or a *Haluzah* [she was married] to a common priest. He who stated, 'She played the harlot'[36] would, even more so, [subject the woman to a sin-offering. if as] a widow [she was married] to a High Priest.[37] He, however, who stated, '[If being] a widow [she was married] to a High Priest' does not[38] [subject her to a sin-offering if] she played the harlot. What is the reason? — Because she might plead, 'It is you who granted me the status of an unmarried woman'.[39]

It was taught in agreement with the opinion of R. Johanan: If *Beth Din* directed that she may be married again. and she went and disgraced herself, so that, for instance, [being] a widow [she was married] to a High Priest.[or being] a divorcee or a *Haluzah* [she was married] to a common priest. she is liable to bring an offering for every single act of cohabitation;[40] so R. Eleazar. But the Sages said: One offering for all. The Sages, however, agree with R. Eleazar that, If she was married to

five men, she is liable to bring an offering for every one, since [here it is a case of] separate bodies.

***MISHNAH*. IF A WOMAN WHOSE HUSBAND AND SON WENT TO COUNTRY BEYOND THE SEA WAS TOLD,[41] 'YOUR HUSBAND DIED AND YOUR SON DIED AFTERWARDS',[42] AND SHE MARRIED AGAIN,[43] AND LATER SHE WAS TOLD,' IT WAS OTHERWISE'.[44] SHE MUST DEPART;[45] AND ANY CHILD BORN BEFORE OR AFTER[46] IS A BASTARD.[47] IF SHE WAS TOLD. 'YOUR SON DIED AND YOUR HUSBAND DIED AFTERWARDS',[48] AND SHE CONTRACTED THE LEVIRATE MARRIAGE, AND AFTERWARDS SHE WAS TOLD, 'IT WAS OTHERWISE'[49] SHE MUST DEPART;[50] AND ANY CHILD BORN BEFORE OR AFTER[46] IS A BASTARD.[47] IF SHE WAS TOLD, 'YOUR HUSBAND IS DEAD, AND SHE MARRIED, AND AFTERWARDS SHE WAS TOLD, 'HE WAS ALIVE[51] BUT IS NOW DEAD', SHE MUST DEPART,[52] AND ANY CHILD BORN BEFORE [THE DEATH OF HER FIRST HUSBAND][53] IS A BASTARD, BUT ONE BORN AFTER IT[54] IS NO BASTARD. IF SHE WAS TOLD, 'YOUR HUSBAND IS DEAD AND SHE WAS BETROTHED, AND AFTERWARDS HER HUSBAND APPEARED, SHE IS PERMITTED TO RETURN TO HIM. ALTHOUGH THE OTHER[55] GAVE HER A LETTER OF DIVORCE HE HAS NOT THEREBY DISQUALIFIED HER FROM MARRYING A PRIEST. THIS R. ELEAZAR B. MATHIA DERIVED BY MEANS OF THE FOLLOWING EXPOSITION: NEITHER [SHALL THEY[56] TAKE] A WOMAN PUT AWAY FROM HER HUSBAND,[57] EXCLUDES ONE PUT AWAY[58] FROM A MAN WHO IS NOT HER HUSBAND.[59]**

***GEMARA*. What is meant by BEFORE[60] and what is meant by AFTER?[61] If it be suggested that BEFORE means before the [second] report and that AFTER means after that report, it should have been stated: The child is a bastard![62] Because it was desired to state in the final clause, IF SHE WAS TOLD, 'YOUR HUSBAND IS DEAD', AND SHE MARRIED, AND AFTERWARDS SHE WAS TOLD, 'HE WAS ALIVE BUT IS NOW DEAD … ANY CHILD BORN BEFORE[63] [THE DEATH OF HER FIRST HUSBAND] IS A BASTARD, BUT ONE BORN AFTER IT[64] IS NO BASTARD, the expressions BORN BEFORE OR AFTER IS A BASTARD were used in the first clause also.**

Our Rabbis taught: This[65] is the view of R. Akiba who stated: Betrothal with those who are subject [on intercourse] to the penalties of a negative commandment is invalid.[66] The Sages, however, said that [the child] of a sister-in-law[67] is no bastard.[68] Let it be said: The child of a union between those who are subject [on intercourse] to the penalties of a negative precept is no bastard![69] — This Tanna[70] is the following Tanna of the school of R. Akiba, who stated that [only a child] of a union that is subject to the penalties of a negative precept owing to consanguinity is a bastard, but one born from a union that is subject to the penalties of a mere negative precept[71] is no bastard.

Rab Judah stated

1. **If, for instance, after a priest had married, a rumor arose that before her marriage with him his wife was a divorcee or a harlot. Git. 81a, 88b, 89a.**
2. **Lit., 'and we permitted'.**
3. **Before it had taken place.**
4. **Her appearance before the court implying that, already at that time, the possibility that her husband was still alive was being considered.**
5. **To her second husband, as if the rumor had been current before her marriage.**
6. **Lit., 'our Mishnah is not'.**
7. **On a cloudy day which happened to be the Sabbath day.**
8. **And permitted the people to commence their week-day labors which are forbidden on the Sabbath.**
9. **Which exempts the individual who acted upon it from a sin- offering and affects the nature of the sin-offering which the congregation who acted upon it has to bring.**
10. **Since the erroneous ruling of the *Beth Din* was not due to an oversight on their part of a point of law but to a false assumption of a matter of fact. They assumed that the sun had set, while in fact, it had not. Similarly here, They assumed that the woman's husband was dead when as a matter of fact he was alive. Our**

Mishnah, therefore, which exempts the woman from a sin-offering cannot be authentic.
11. The permission to the woman to marry again, spoken of in our Mishnah.
12. Subject to the same laws as all erroneous rulings issued by a *Beth Din*. Cf. *supra* 11. 6. and Hor. 2aff.
13. Lit., 'thou shalt know'.
14. Lit., 'not?'
15. The woman did not act on the evidence of the witness which, as is now apparent, was due to an error, but on the ruling of the *Beth Din* who accepted the evidence of this witness. Whatever their reason may have been it was their ruling that was the cause of the woman's marriage.
16. [They assumed that every woman makes careful investigations before she marries (v. *supra* 25a) and it has been found that this was not the case].
17. [Rashi: For a reason not as strong as that which prompted them to prohibit It. Me'iri: For the very same reason which made them permit it at the very first].
18. Lit., 'we do not look to them'. Once it has been found that their first ruling was erroneous it cannot again be adopted.
19. v. *supra* p. 625, n. 8.
20. Testifying that the woman's husband was dead.
21. Lit., 'we permit'.
22. Declaring that the husband was still alive.
23. Lit., 'we forbid'.
24. Stating that the husband has died since.
25. If the first authorization is to be regarded as a ruling it should not again be adopted (cf. *supra* n. 2), once it has been proved (by the testimony of the two witnesses) that it was erroneous.
26. Lit., 'not'?
27. It is assumed that though the first witness misled the court the last is speaking the truth.
28. I.e., one should delve deeper into the subject (cf. Rashi a.l.) 'Justice under all circumstances' (Jast.).
29. The woman who married by permission of the court on the evidence of one witness.
30. Cf. Sanh. 6b. Though, if viewed superficially, it would appear that the woman, since she had acted on the decision of a court, is not liable to a sin-offering (cf. Hor. 2a). careful consideration of the case would reveal that she is liable, since the decision was based on the error of the witness and not on a legal oversight of the court. Cf. *supra* p. 625, n. 7.
31. Cf. *supra* note 14, second section.
32. Cf. *loc. cit*. first section.
33. To a sin-offering.
34. Cf. *supra* note 12 (first interpretation) and *supra* note 14.
35. Marg. note, 'Eleazar'.
36. That even in such a case a sin-offering must be brought.
37. Since it is obvious that the court's permission did not extend to a marriage which is in any case forbidden to the woman, even if her husband is dead.
38. Lit., 'but not'.
39. And since she acted on a ruling of a court, she is not liable to a sin-offering.
40. This is further explained in Ker. 15a.
41. Lit., 'and they came and said to her'.
42. As the son was alive when his father died the widow is not subject to the levirate marriage or *Halizah*.
43. A stranger.
44. Lit., 'the matter was reversed', the son died first, so that when his father died afterwards the widow was subject to *Halizah* or levirate marriage.
45. From her second husband, since he married her before she had performed the required *Halizah*.
46. The second report. Lit., 'and the first and last child'.
47. Being the issue of a union forbidden by a negative precept. V. Gemara *infra*.
48. V. p. 627. n. 10.
49. V. *supra* p. 627, n. 8.
50. From the levir, to whom, (her husband having had issue from her at the time he died) she is forbidden as 'his brother's wife'.
51. At the time she married her second husband.
52. From her second husband who married her while, as a married woman, she was forbidden to him.
53. Lit., 'and the first child'.
54. Lit., 'and the last'.
55. Lit., 'the last, the man who betrothed her.
56. Priests.
57. Lev. XXI, 7-
58. Lit., 'and not'.
59. The divorce being unnecessary it has no effect on the status of the woman.
60. In the first clauses of our Mishnah.
61. Lit., 'what is first and what is last'.
62. Since the child's legitimacy is not determined by the date of the report but by the facts.
63. Lit., 'the first'.
64. Lit., 'and the last'.
65. The statement in the first clause of our Mishnah that the child is a bastard.
66. V. *supra* 10b. And no divorce is consequently required.
67. Who married a stranger before she had performed *Halizah* with the levir.
68. Tosef. XI. Since such marriage is forbidden by a negative precept only, and is not subject to *Kareth*.

69. This more general statement would have also included the particular case of the sister-in-law mentioned.
70. Referred to in the Baraitha cited as 'the Sages'.
71. The marriage, for instance, of the sister-in-law to a stranger. The general statement (v. *supra* note 7) was consequently inadmissible.

Yebamoth 92b

in the name of Rab: Whence is it deduced that betrothal with a sister-in-law[1] is of no validity?[2] — From the Scriptural text,[3] The wife of the dead shall not be married[4] outside unto one who is not of his kin,[5] there shall be no validity in the betrothal[6] of her by a stranger.[7] Samuel, however, stated: Owing to our [intellectual] poverty[8] it is necessary [that she be given] a letter of divorce; Samuel having been in doubt as to whether the expression,[9] The wife of the dead shall not be,[10] served the purpose of[11] a negative precept[12] or rather indicated[11] that betrothal with such a woman is invalid.

R. Mari b. Rachel said to R. Ashi: Thus said Amemar, 'The law is in agreement with Samuel'. Said R. Ashi: Now that Amemar has said that the law is in agreement with Samuel, her levir,[13] if he was a priest,[14] submits to her *Halizah* and she is permitted to her second husband.[15] He[16] surely benefits[17] thereby.[18] and thus the sinner[19] is at an advantage![20] — Rather [this is the reading]: If her levir[21] was an Israelite, the other[22] gives her a letter of divorce and she is permitted to the levir.[23]

R. Giddal stated in the name of R. Hiyya b. Joseph in the name of Rab: While betrothal with a sister-in-law[24] is invalid, marriage with her is valid.[25] If betrothal, however, is invalid, marriage also should be invalid! — Read: Both betrothal and marriage with her are invalid. And if you prefer I might say. What is meant by 'marriage with her is valid'? — It constitutes an act of[26] harlotry[27] in accordance with the ruling of R. Hamnuna. For R. Hamnuna stated: A woman who, while awaiting the decision of the levir, played the harlot, is forbidden to marry the levir. And if you prefer I might say: [The reading is]. in fact, as has been originally stated, that betrothal with her is invalid but marriage with her is valid,[28] since her case might be mistaken for that of a woman whose husband went to a country beyond the sea.[29]

R. Jannai said: A vote was taken at the college and it was decided that betrothal with a sister-in-law[30] has no validity. Said R. Johanan to him: O Master, is not this [law contained in] a[31] Mishnah? For we have learnt: If a man said to a woman, 'Be thou[32] betrothed unto me after I shall have become a proselyte'. 'after thou shalt have been a proselyte'. 'after I shall have been emancipated'. 'after thou shalt have been emancipated'. 'after thy husband shall have died', 'after thy sister shall have died' or 'after thy brother-in-law shall have submitted to thy Halizah', the betrothal is invalid![33] — The other replied: Had I not lifted up the shard, would you have found the pearl beneath it?[34]

Resh Lakish said to him:[35] Had not a great man praised you. I would have told you that the Mishnah [you cited represents the view] of R. Akiba who maintains that betrothal with those who are subject to the penalties of a negative precept is invalid.[36]

If [this Mishnah, however, represents the view of] R. Akiba, betrothal [with the sister-in-law][37] should be valid where [the stranger] said to her, 'after thy brother-in-law shall have submitted to thy Halizah', since R. Akiba has been heard to state that one may transfer possession of that which is not yet in existence;[38] for we learned:

1. V. *supra* note 5.
2. And no divorce is consequently required.
3. Lit., 'because it is said'.
4. Lit., 'she shall not be', [H].
5. Deut. XXV, 5.
6. Lit., 'being'. [H], i.e., 'betrothal'.
7. Lit., 'a stranger shall have no being in her'. [H] (*supra* n. 15) is of the same rt. היה, as that of היה, (supra. 13).
8. Inability to understand the meaning of the Scriptural text mentioned.
9. Lit., 'that'.
10. Deut. xxv, 5.
11. Lit., 'that it came'.

12. And, as is the case with other unions that are forbidden by negative precepts, the betrothal is valid.
13. The brother-in-law of the widow, spoken of in the first case of our Mishnah, who married a stranger and from whom, according to Samuel, she requires a divorce.
14. To whom the sister-in-jaw would thus be forbidden even after she had been divorced by the stranger. A priest is forbidden to marry a divorced woman. V. Lev. XXI, 7.
15. Lit., 'to him', the stranger whom she married.
16. The second husband. v. *supra* n. 7.
17. He is permitted to continue to live with his wife.
18. By the *Halizah* of the levir.
19. Who contracted a union before instituting the necessary enquiries as to the circumstances of his wife's first husband's death.
20. Lit., 'gains'.
21. Cf. *supra* note 5.
22. The second husband. Cf. *supra* note 7.
23. Lit., 'to him'.
24. Who, before she performed *Halizah* with the levir had married a stranger.
25. This validity, it is at present assumed, subjects the woman to the necessity of a letter of divorce.
26. Lit., 'In'.
27. By such a marriage she becomes forbidden to marry the levir as if she had played the harlot; but no letter of divorce is required.
28. In the sense that she requires a letter of divorce. Cf. p. 630, n. 17. and the following note.
29. And she married in accordance with the decision of a court on the evidence of one witness who testified that her first husband was dead. As the woman in this case requires a letter of divorce, it was ordained, as a preventive measure, that in the case spoken of in our Mishnah also a letter of divorce shall be required. the validity spoken of extending, however, to this requirement and no further. In the case of betrothal no preventive measure was enacted since in this case also no letter of divorce is required.
30. V. p. 630, n. 16.
31. Lit., 'our'.
32. Lit., 'behold thou art'. Cf. P.B. p. 298.
33. Kid. 62a, Keth. 58b. B.M. 16b. Betrothal cannot take effect at once owing to his stipulation and it cannot take place in the future because that which is not yet in existence may not be acquired. From this it follows that before the levir has submitted to *Halizah* betrothal by a stranger is invalid, which is in effect the law reported by R. Jannai.
34. I.e., had not R. Jannai stated his ruling it might never have occurred to R. Johanan that the reason for the invalidity of the betrothal in the case of the sister-in- law was the law that betrothal with a sister-in-law by a stranger is never valid before the levir has submitted to *Halizah*. He might have assumed the invalidity in this particular case also to be due to the fact that the man distinctly desired it to take place in the future, and no one can acquire that which is not yet in existence.
35. R. Johanan.
36. Marriage of a sister-in-law by a stranger before she has performed *Halizah* with the levir is forbidden by such a negative precept. This Mishnah, therefore, provides no proof, like the statement of R. Jannai, that the Rabbis also admit invalidity in such a case.
37. Lit., 'with', or 'in her'.
38. Consequently. the betrothal here, though it was dependent on a future event which had not yet taken place. should also be valid.

Yebamoth 93a

[If a woman said to her husband]. 'Konam,[1] I do aught for your mouth',[2] he[3] need not annul [her vow].[4] R. Akiba, however, said: He[3] must annul it, since she might do more [work] than is due[5] to him![6] Surely in connection with this it was stated: R. Huna son of R. Joshua said, [This law[7] applies only] where she said, 'My hands[8] shall be consecrated to Him who made them', since her hands are in existence.[9]

This[10] differs [from the opinion] of R. Nahman b. Isaac. For R. Nahman b. Isaac stated: R. Huna [holds the same opinion] as Rab,[11] Rab as R. Jannai, R. Jannai as R. Hiyya. R. Hiyya as Rabbi,[12] Rabbi as R. Meir, R. Meir as R. Eliezer b. Jacob. and R. Eliezer b. Jacob as R. Akiba, who stated that a man may transfer possession of a thing that is not yet in existence.

What statement is it [that records the opinion of] R. Huna? It was stated: He who sold the fruit of a date-tree[13] to another may. said R. Huna, withdraw from the sale before they come into existence; but after they have come into existence he may no longer withdraw.[14] R. Nahman, however, stated: He may withdraw even after they have come Into

existence.[15] Said R. Nahman: I admit, that if he[16] had already plucked and ate them, [compensation] is not to he extracted from him.[17]

As to Rab?[18] — [In that] which R. Huna stated in the name of Rab: If a man said to another, 'let this field which I am about to buy be yours as from now the moment I buy it', [the latter] acquires It.[19]

'R. Jannai [is of the same opinion] as R. Hiyya'; for R. Jannai had a tenant[20] who used to bring him a basket of fruit every Sabbath Eve. Once as it was growing dark, and [the tenant] did not come, [R. Jannai] took[21] tithe[22] from the fruit which [he had] at home for [the redemption of] those.[23] When he subsequently came before R. Hiyya [the latter] said to him, 'You have acted well; for it was taught: That thou mayest learn to fear the Lord thy God always[24] refers to Sabbaths and festivals'.[25] Now, in 'respect of what law?[26] If in respect of giving tithe[27] so that one may be allowed to eat,[28] was it necessary [it may be asked] for a Scriptural text to permit moving,[29] [the prohibition of which is only] Rabbinical![30]

1. This is one of the expressions of a vow. V. Glos.
2. I.e., that her husband be forbidden to eat anything made by her or purchased from the proceeds of her work.
3. The husband who is empowered to annul his wife's vow. Cf. Num. XXX, 7ff.
4. A wife's work belongs to her husband and she has, therefore, no right to dispose of it by vow or otherwise. Her vow is consequently null and void and requires on invalidation.
5. A husband is entitled only to a certain amount of his wife's work (v. Keth. 64b). Any work in excess of that maximum is at the disposal of the wife who, in the opinion of R. Akiba, is entitled to forbid it to her husband by a vow, though that work has not yet been done.
6. Keth. 59a, 66a, Ned. 85a, Kid. 63a. V. *supra* note 3.
7. That a wife may by her vow cause her future work to be forbidden.
8. And through them the work they will produce.
9. At the time she made her vow.
10. The view presented by R. Huna, according to which R. Akiba maintains that a thing that is not yet in existence may not be legally transferred.
11. From whom he received it as a tradition from his master, R. Jannai. who in turn, received it from his master, R. Hiyya, and so on to R. Akiba.
12. R. Judah I, the Patriarch or Prince, compiler of the Mishnah.
13. During the winter, before they blossomed.
14. Because, according to R. Huna, the *Kinyan* that was arranged before they come into existence takes effect as soon as they come into existence.
15. In his opinion no *Kinyan* is effective unless the object sold is actually in existence at the time of the sale.
16. The buyer.
17. B.M. 66b.
18. Where was his view expressed?
19. B.M. 16b; which proves that, in the opinion of Rab, one may transfer possession of a field which one does not yet possess. obviously because he holds that one may transfer possession of that which is not yet in existence.
20. [H] כב [G], a tenant of a field who in return for his labor receives a share of the field's produce.
21. Before the Sabbath commenced.
22. An act which In Rabbinic law it is forbidden to perform on the Sabbath.
23. The fruit which he expected from the tenant, though at the time the tithe was taken they were still the property of the tenant (v. Tosaf. s.v. [H] a.l.) and not that of R. Jannai.
24. Deut. XIV, 23, speaking of the Levitical and priestly gifts.
25. On which enjoyment should not be marred by failure to set apart the prescribed gifts.
26. Was the Scriptural warning necessary.
27. On Sabbath or festivals.
28. Of his produce from which tithe was not taken before the holy day set in.
29. [H] moving the fruit before being tithed. The prohibition to set aside on holy days any of the priestly or Levitical gifts is due to the Rabbinical ordinance which is in the same category as the moving from its place, on such days, of articles that are unfit for use. (Cf. Bezah 36b).
30. Scripture, surely. could not be referring to a prohibition which was not ordained before the Rabbinical period.

Yebamoth 93b

Consequently[1] [it must refer to] an instance like this one.[2] Said the first to him, 'But in my dream[3] they read to me a Scriptural text on the "bruised reed";[4] did they not mean to tell me: Behold, thou trustest upon the staff of

this bruised reed'?[5] 'No'. [the other replied], 'It is this that they meant: A bruised reed shall he not break, and the dimly burning wick shall he not quench'.[6]

Rabbi?[7] — Where it was taught: Thou shalt not deliver unto his master a bondman,[8] Rabbi explained that Scripture speaks here of a man who bought a slave on the condition that he would set him free.[9] How is this[10] to be understood?[11] R. Nahman b. Isaac replied: In the case where [the buyer] gave him[12] a written declaration, 'Your person shall become yours as from now as soon as I have bought you'.[13]

R. Meir?[14] — Where it was taught:[15] If a man said to a woman, 'Be thou betrothed to me after I shall have become a proselyte'. 'after thou shalt have become a proselyte'. 'after I shall have been emancipated'. 'after thou shalt have been emancipated'. 'after thy husband shall have died', 'after thy sister shall have died', or 'after thy brother-in-law shall have submitted to thy Halizah', the betrothal is invalid; but R. Meir said that her betrothal is valid.[16]

R. Eliezer b. Jacob?[14] — Where it was taught: More than this did R. Eliezer b. Jacob say: Even if a man said, 'The plucked fruit of this bed shall be *Terumah* for the attached fruit of that[17] other bed', or 'The attached fruit of this[17] bed [shall be *Terumah*] for the plucked fruit of that other bed,[17] when it shall have grown[16] to a third [of its maturity] and been plucked'. his words are valid if the fruit has grown to[18] a third [of its maturity] and has been plucked.[19]

R. Akiba?[20] — Where we learned: [If a woman said to her husband]. 'Konam,[21] if I do aught for your mouth',[22] he[23] need not annul [her vow].[24] R. Akiba, however, said: He[23] must annul It, since she might do more [work] than is due[25] to him.[26]

An enquiry was addressed to R. Shesheth: What is [the law in respect of] one witness[27] in the case of a sister-in- law?[28] Is the reason why one witness [is sometimes believed elsewhere][29] because no one would tell a lie which is likely to be exposed. and consequently here also [the witness] would tell no lie;[30] or is the reason why one witness [is believed elsewhere][31] because the woman herself makes careful enquiries and [only then] marries, and consequently here, since she may sometimes be in love with [her brother-in-law]. she might marry him without proper enquiry?[32] — R. Shesheth answered them: You have learned it, IF SHE WAS TOLD, 'YOUR SON DIED AND YOUR HUSBAND DIED AFTERWARDS', AND SHE CONTRACTED THE LEVIRATE MARRIAGE, AND LATER SHE WAS TOLD, 'IT WAS OTHERWISE, SHE MUST DEPART; AND ANY CHILD BORN BEFORE OR AFTER IS A BASTARD.[33] Now, how is this to be understood? If it be suggested [that there were] two witnesses against two,[34] what reason do you see [it may be asked] for relying on the latter? Rely rather on the former! Furthermore. [how could the child be described as] BASTARD [when he is only] an uncertain bastard! And should you reply that he[35] was not exact in his expression. surely [it may be pointed out] since in the final clause he[35] stated, ANY CHILD BORN BEFORE [THE DEATH OF HER FIRST HUSBAND] IS A BASTARD, BUT ONE BORN AFTER IT IS NO BASTARD,[33] it may well be inferred that he was exact In his expressions, Consequently[36] it must be concluded [that the first report was that of] one witness, and that the reason [why he is not believed is] because two witnesses came and contradicted his evidence, but had this not been the case[37] he would have been believed.[38]

Another reading: This question[39] does not arise, since even the woman herself is believed.[40] For we learned: A woman who stated, 'My husband is dead' may be married again.[41] and she may similarly contract levirate marriage [if she stated] 'My husband is dead'.[42] The question arises only in respect of permitting a sister-in-law to marry a stranger.[43] Is the reason why one witness [is elsewhere sometimes believed][44] because no

one would tell a lie which is likely to be exposed, and consequently, here also [the witness] would tell no lie;[45] or is the reason why one witness [is elsewhere believed][44] because [the woman] herself makes careful enquiries and [only then] marries, and consequently here she might marry without proper enquiry. since she might fiercely

1. Lit., 'but not'.
2. That of R. Jannai; the text indicating that tithe may be given for the redemption of fruit which has not yet come into one's possession, in order that thereby a man's enjoyment on Sabbaths and festivals might not be disturbed by his inability to partake of untithed fruit that arrived too late. Thus it follows that R. Jannai received the tradition from R. Hiyya that a man may legally dispose of that which is not yet in existence.
3. On the evening of the incident with his tithe.
4. Mentioned in II Kings XVIII, 21 and lsa. XLII, 3.
5. II Kings XVIII, 21, implying that his action was blameworthy.
6. Isa. XLII, 3, concluding, He shall make the right to go forth according to the truth, a text suggesting approval.
7. Where was the view attributed to him, *supra* 93a, expressed?
8. Deut. XXIII, 16.
9. Such a slave shall not be delivered to the bondage of the man who bought him, but must be given his emancipation.
10. The buyer's undertaking.
11. It cannot refer to an undertaking given at, or after the time of purchase. Such an undertaking is obviously binding and the ruling of Rabbi in such a case would he superfluous.
12. The slave.
13. Kid. 63a, Git. 45a, which shows that, according to Rabbi, one may dispose of what is not yet his
14. Where was the view attributed to him, *supra* 93a, expressed?
15. Cur. edd., 'we learned'.
16. Kid. 63a, Keth. 58b, B.M. 16b, and *supra* 92b, q.v. for notes. Though at the time of the stipulation the conditions were not yet fulfilled, R. Meir regards the betrothal as valid. Thus it has been shown that, according to him, one may effect a *Kinyan* of that which is not yet in existence.
17. V. BaH, a.l.
18. Lit., 'brought'.
19. Tosef. Ter. II, Kid. 62a, which clearly proves that according to R. Eliezer b. Jacob one may legally dispose of things which are not yet in existence.
20. V. *supra* note 1.
21. Cf. *supra* p. 632, n. 4.
22. Cf. *supra* p. 632 n. 8.
23. Cf. *supra* p. 632, n. 6.
24. Cf. *supra* p. 632, n. 7.
25. Cf. *supra* p. 632, n. 8.
26. Cf. *supra* p. 632. n. 9. This proves that, according to R. Akiba, one may legally dispose of work even if It is not yet in existence, and the same naturally applies to other things also.
27. Who testifies that the husband of the woman is dead.
28. Whose husband died without issue, and who is in consequence subject to the levirate marriage. Is the witness in such a case believed?
29. In respect of allowing a woman to marry again if he testified that her husband was dead.
30. And his evidence is, therefore, accepted.
31. v. p. 635. n. 16.
32. And the one witness, therefore, is not to be relied upon.
33. *Supra* 92a.
34. One pair testifying to the veracity of the first report and the other to that of the second.
35. The author of our Mishnah.
36. Lit., 'but not'.
37. Lit., 'not thus'.
38. Which proves that the evidence of one witness is relied upon in permitting a sister-in-law to marry a levir.
39. In the case just proved. V. *supra* note 9.
40. Much more so a witness.
41. Where she is not otherwise subject to the levirate marriage.
42. And was survived by no issue. 'Ed. I, 12, Sheb. 32b, *infra* 114b. V. p. 636. n. II.
43. Where one witness testified that her brother-in-law' was dead or that her husband died first and her son died after him.
44. V. *supra* p. 635, n. 16.
45. V. *supra* p. 636, n.I.

Yebamoth 94a

hate her brother-in-law?[1] — R. Shesheth answered them: You have learned it, IF A WOMAN WAS TOLD, YOUR HUSBAND DIED AND YOUR SON DIED AFTERWARDS', AND SHE MARRIED AGAIN, AND LATER SHE WAS TOLD, 'IT WAS OTHERWISE', SHE MUST DEPART; AND ANY CHILD BORN BEFORE OR AFTER IS A BASTARD.[2] Now, how is this to be understood? If it be suggested [that there

were] two witnesses against two,[3] what reason do you see [it may be asked] for relying on the latter? Rely rather on the former! Furthermore, [how could the child be described as a] BASTARD, [when he is only] an uncertain bastard! And should you reply that he[4] was not exact in his expression. Surely [it may be pointed out] since in the final clause he[4] stated, ANY CHILD BORN BEFORE [THE DEATH OF HER FIRST HUSBAND] IS A BASTARD, BUT ONE BORN AFTER IT IS NO BASTARD,[2] it may be inferred that he was exact in his expressions! Consequently[5] [it must be concluded that the first report was that of] one witness, and that the reason [why he is not believed is] because two witnesses came and contradicted his evidence, but had this not been the case[6] he would have been believed![7] [No]. In fact [it may be retorted, there may have been] two witnesses against two, and [this is the explanation]:[8] As R. Aha b. Manyumi stated, 'Where the witnesses have proved an alibi',[9] so here also [It is a case where the second pair of] witnesses have proved an alibi.[10]

Said R. Mordecai to R. Ashi, — others Say. R. Aha said to R. Ashi: Come and hear: A woman is not believed if she says. 'My brother-in-law is dead, and so I may marry again', or, 'My sister is dead, and so I may enter[11] her house'.[12] Only she is not believed but one witness is believed![13] According to your argument, however, [it may be retorted] read the final clause: A man is not believed when he says, 'My brother is dead, and so I may contract the levirate marriage with his wife', or, 'My own wife is dead, and so I may marry her sister' — 10 Is it only he who is not believed, but one witness is believed? In the case of a woman[14] one can well understand that in order to prevent her perpetual desertion the Rabbis have relaxed the law in her favour.[15] What, however, can be said in the case of a man! [This statement][16] then [it must be explained] was required in accordance with the view of R. Akiba.[17] It might have been assumed that, since R. Akiba stated that the offspring of a union between those who are subject to the penalty of negative commandments is a bastard, she[18] may be presumed to be desirous of avoiding injury[19] and to institute, therefore, careful enquiries.[20] hence we were taught[21] [that she is not to be believed].[22]

Raba said:[23] That one witness is believed in the case of a sister-in-law[24] [may be inferred] a minori ad majus: If you have permitted [a woman to marry again][25] in face of a prohibition involving *Kareth*[26] how much more so in face of a mere prohibitory law.[27] Said one of the Rabbis to Raba: Her own case proves [the contrary]: In face of a prohibition involving *Kareth*[24] you have permitted her [to marry again][28] while in face of a mere prohibitory law[27] you have not permitted her![29] The fact, however, is this:[30] Why is she not believed?[29] Because, as she may sometimes hate the levir, she might marry a stranger without first instituting careful enquiries;[31] so also in the case of one witness, since she may sometimes hate the levir, she might marry [a stranger] without first instituting the necessary enquiries.[31]

THIS DID R. ELEAZAR B. MATHIA DERIVE BY MEANS OF THE FOLLOWING EXPOSITION, etc. Said Rab Judah in the name of Rab:[32] R. Eleazar could have produced[33] a pearl and produced but a potsherd. What is meant by 'pearl'? — That which was taught: Neither [shall they take] a woman put away from her husband.[34] even if she was divorced from her husband alone[35] she[36] is disqualified from marrying a priest.[37] And it is this [that was meant by] the 'scent of the divorce'[38] which disqualifies a woman from marrying a priest.

MISHNAH. IF A MAN'S WIFE HAD GONE TO A COUNTRY BEYOND THE SEA AND HE WAS TOLD,[39] YOUR WIFE IS DEAD', AND, AFTER HE MARRIED HER SISTER, HIS WIFE CAME BACK, [THE LATTER] IS PERMITTED TO RETURN

1. V. *supra* p. 636. n. 3.
2. V. *supra* p. 636, n. 4.
3. V. *supra* p. 636, n. 5.

4. V. *supra* p. 636, n. 6.
5. Lit., 'but not'.
6. Lit., 'not thus'.
7. From which it follows that the evidence of one witness is accepted in permitting a sister-in-law to marry a stranger.
8. Why the evidence of the second pair is regarded as more reliable than that of the first pair.
9. [H] (rt. [H], cf. Deut. XIX, 19) 'causing witnesses to be subjected to the law of retaliation' by disproving their evidence. This is effected when a second pair of witnesses testify that the first pair were with them at a certain place at the time when according to their evidence an act had been committed or an event had occurred at another place.
10. They testified that the former were with them at the time they alleged the death of the husband or that of the son to have occurred. Cf. Mak. 5a. In such a case, the second report is accepted.
11. To marry her husband. A sister's husband is forbidden while the sister is alive.
12. V. *Infra* 118b with slight variants.
13. Could not then this Mishnah supply the answer to the enquiry addressed to R. Shesheth?
14. Who is permitted to marry again on the evidence of one witness.
15. *Supra* n. 6.
16. In the Mishnah cited, that a woman is not believed.
17. It Is for this purpose only that was recorded; and no inference, such as those suggested. may be drawn from it.
18. A woman who is subject to a levir, and marriage with whom by a stranger is forbidden by a negative commandment.
19. To her person and status. Should the report prove to have been false, she is penalized as stated *supra*. 'Of the child', In cur. edd. is deleted by BaH.
20. Before she definitely asserts that her brother-in-law is dead.
21. Cur. edd. insert in parenthesis: 'That she apprehends her own injury; she does not apprehend the injury of the child' (v. Rashi).
22. For fear she might hate her levir, v. *supra* 93b.
23. In reply to the enquiry addressed to R. Shesheth. *supra*.
24. V. *supra* p. 637, n. 2.
25. On the evidence of one witness who testified that her husband was dead.
26. One of the major penalties for connubial intercourse with a married woman.
27. Marriage of a sister- in-law by a stranger in the circumstances postulated in the enquiry.
28. If she herself declared that her husband was dead.
29. To marry a stranger, though she declared that her brother-in-law was dead.
30. Lit., 'and but'.
31. As to whether the levir had really died.
32. Alfasi and Asheri read, 'Rab said'.
33. Lit., 'expounded'.
34. Lev. XXI, 7.
35. If the husband inserted in the letter of divorce a clause forbidding her to marry anyone else, v. Git., 82b.
36. Though her letter of divorce is, owing to its restrictive clause, of no validity.
37. Even if her husband died, and she remained a widow.
38. I.e., even the mere semblance of a divorce, though the document is invalid.
39. Lit., 'they came and said to him'.

Yebamoth 94b

TO HIM;[1] AND HE IS PERMITTED TO MARRY THE RELATIVES OF THE SECOND WOMAN,[2] AND THE SECOND WOMAN IS PERMITTED TO MARRY HIS RELATIVES. IF THE FIRST DIED HE IS PERMITTED TO MARRY THE SECOND. IF HE WAS TOLD, HOWEVER, THAT HIS WIFE WAS DEAD, AND HE MARRIED HER SISTER, AND THEN HE WAS TOLD THAT SHE WAS THEN[3] ALIVE BUT HAD SINCE DIED, ANY CHILD BORN BEFORE[4] [HIS FIRST WIFE'S DEATH] IS A BASTARD, BUT ANYONE BORN AFTER THAT[5] IS NO BASTARD. R. JOSE STATED:[6] WHOSOEVER DISQUALIFIES FOR OTHERS DISQUALIFIES FOR HIMSELF AND WHOSOEVER DOES NOT DISQUALIFY FOR OTHERS DOES NOT DISQUALIFY FOR HIMSELF.

***GEMARA*. Even though his wife and his brother-in-law[7] went to a country beyond the sea,[8] so that such marriage[9] had the effect of causing the prohibition of the wife of his brother-in-law to his brother-in-law, it is nevertheless the wife of his brother-in-law that is forbidden,[10] while his own wife is permitted.[11] and we do not say that, since the wife of his brother-in-law is forbidden to his brother-in-law, his Own wife also should be forbidden to him.[12]**

Are we to assume that our Mishnah does not represent the view of R. Akiba? For if [it be in

agreement with] R. Akiba [his wife][13] would be the sister of his divorcee![14] For it was taught: None of the women In incestuous marriages forbidden in the Torah require a letter of divorce,[15] except a married woman[16] who remarried in accordance with the decision of the *Beth Din*.[17] R. Akiba, however, adds[18] also a brother's wife[19] and a wife's sister.[20] Now, since R. Akiba ruled that she[21] requires a letter of divorce, [his first wife] becomes ipso facto forbidden to him because she is the sister of his divorcee![22]

Was not, however, the following statement made in connection with this[23] ruling: R. Giddal said in the name of R. Hiyya b. Joseph in the name of Rab, 'How is one to understand this "brother's wife"?[24] Where a man's brother, for instance, betrothed a woman and went to a country beyond the sea, and he,[25] on hearing that his brother was dead, married his wife;[26] since people might say[27] that the first[28] had attached a certain condition to the betrothal[29] and that the latter[25] had lawfully married her.[30] And how is one to understand a "wife's sister"?[24] Where a man, for instance, betrothed a woman and she went to a country beyond the sea, and he, on hearing that she died, married her sister;[26] since people might say[31] that he had attached a certain condition to the betrothal[32] of the first[33] and that he, therefore, legally married the other'.[34] In respect of marriage,[35] however, can it be said that one had attached a condition to marriage![36]

Said R. Ashi to R. Kahana: If [our Mishnah represents the view of] R. Akiba, one's mother-in-law[37] should also be mentioned,[38] since R. Akiba was heard to state: [The marriage of] a man's mother-in-law after the death [of his wife] is not punishable by burning![39] For it was taught: They shall be burnt with fire. both he and they,[40] he and one of them;[41] so R. Ishmael. R. Akiba said: He and both of them.[42] This presents no difficulty according to Abaye who explained that the difference between them[43] lies in the interpretation of the text,[40] R. Ishmael maintaining that the text mentioned only one[44] while R. Akiba maintains that the text spoke of two.[45] According to Raba, however, who explained that the difference between them[43] is [the case of marriage of] a man's mother-in-law after the death [of his wife].[46] his mother-in-law should also have been mentioned![47] — The other replied: Granted that Scripture has excluded her[48] from the penalty of burning. has Scripture. however, excluded her from the prohibition?[49]

Let her,[50] however, be forbidden [to her husband] through his cohabitation with her sister, her case being similar to that of a woman whose husband went to a country beyond the sea![51] — [The two cases are] not alike: His wife who, [if she had acted] presumptuously,[52] is forbidden to him by Pentateuchal law, has been forbidden to him, when [she acted] unwittingly, by a preventive measure of the Rabbis;

1. Since the marriage with the second was invalid V. *infra* 95a.
2. V. *infra* 97a.
3. At the time he married her sister.
4. Lit., 'the first child'.
5. Lit., 'and the last'.
6. His statement is explained *infra*.
7. The husband of his wife's sister.
8. And on the evidence of one witness, who testified that both were dead, the man married his wife's sister; and subsequently both travelers returned.
9. Of the man with his sister-in-law.
10. To her husband.
11. To him
12. So that the same marriage which results in a prohibition of the one woman does not effect the permissibility of the other.
13. Who comes back and who, according to our Mishnah, is permitted to return to him.
14. With whom marital relationship is forbidden. The second wife, according to R. Akiba, as will tentatively be shown anon, must be divorced.
15. If they were married, such an unlawful marriage being regarded as mere harlotry.
16. Whose husband is reported, by one witness, to be dead.
17. Who accepted the evidence; and later the husband returned. In such a case the women requires a divorce from her second husband also. V. *infra* 88b.
18. To the women who require a letter of divorce.

19. Whom a man married on the evidence that her husband (his brother) was dead, and her husband subsequently returned.
20. Cf. the first case in our Mishnah.
21. His wife's sister. V. *supra* n. 8.
22. How, then, could it be said in our Mishnah that his first wife is PERMITTED TO RETURN TO HIM?
23. R. Akiba's.
24. In whose case a letter of divorce is required.
25. The brother at home.
26. In such a case a divorce was necessary.
27. Should the brother return, and the brother at home not give his wife a letter of divorce.
28. The brother who came back from a country beyond the sea.
29. A condition which had not been fulfilled and had thus rendered the betrothal invalid.
30. And so, in order that it be not suspected that a lawful marriage had been dissolved without a letter of divorce, It was enacted, as a preventive measure, that a letter of divorce was in such a case necessary.
31. Should the woman return, and her sister not be given a letter of divorce.
32. V. p. 641. n. 17.
33. The woman who now returned.
34. The sister who remained at home. Cf. *supra* p. 641, n. 18.
35. The case spoken of in our Mishnah.
36. [Surely no condition is attachable to marriage; and even on the view that marriage may be contracted conditionally, it is unusual for a person to invalidate a marriage because of the non-fulfillment of a condition attached to it (v. Tosaf. s.v. [H])]. All would consequently know that the first marriage was a valid one and that the second was, therefore, invalid. No letter of divorce was, therefore, necessary even according to R. Akiba, whose view, contrary to the previous assumption, may well be represented in our Mishnah.
37. Whom one married on receiving a report that his wife (her daughter) was dead.
38. In our Mishnah.
39. And is presumably permitted.
40. Lev. XX. 14, speaking of a man who take with his wife also her mother (ibid.).
41. The one whom the man was forbidden to marry, viz., the woman he married last.
42. Sanh. 76b.
43. R. Ishmael and R. Akiba.
44. Forbidden woman (v. *supra* n. 10). the first having been lawfully married.
45. Women that were both forbidden to the man; where, for instance, he married his mother-in-law and her mother. According to this explanation of Abaye the question of marrying a mother-in-law after the death of one's lawful wife did not arise in the dispute, and R. Akiba's opinion on the subject cannot, therefore, be inferred from it.
46. R. Ishmael maintaining that even when a man had married his mother-in-law after the death of his wife he is to be burned, while R. Akiba maintains that he is burned only if both women were alive. (Cf. Sanh. 76b).
47. In our Mishnah; since, as has been shown, according to Raba's explanation, marriage of a mother-in-law after the death of her daughter is, according to R. Akiba, permitted
48. A mother-in-law that was married by her son-in- law.
49. Evidently not. Her case, therefore, could not have been mentioned in our Mishnah.
50. The first wife spoken of in our Mishnah, who IS PERMITTED TO RETURN TO HIM.
51. And she married a second husband. In both cases the women acted unwittingly. As in the latter case the woman is forbidden to her husband, so should the woman in the case in our Mishnah.
52. In marrying a second husband.

Yebamoth 95a

with his wife's sister, however, presumptuous [marriage with whom does] not [cause his first wife to be] forbidden [to him] by Pentateuchal law, no preventive measure has been instituted by the Rabbis in her case where [he acted] unwittingly.[1] Whence, however, is it deduced that she[2] is not forbidden?[3] — [From that] which was taught: With her;[4] only cohabitation[5] with her causes her to be prohibited;[3] cohabitation[6] with her sister, however, does not cause her to be prohibited. [This, Scriptural text was required] since [otherwise] It might have been argued [as follows]: If where a man cohabited with [a woman forbidden by] a lighter prohibition.[7] [the person][8] who caused the prohibition [itself][9] is forbidden [to her],[10] how much more should [the person][11] who caused the prohibition become forbidden in the case of cohabiting with [one[12] forbidden by] a heavier prohibition.[13]

R. Judah stated: Beth Shammai and Beth Hillel are agreed[14] that a man who cohabited with his mother-in-law renders his wife unfit [to live with him]; they only differ where a man cohabited with his wife's sister, in which case Beth Shammai maintain that thereby he

causes [his wife] to be unfit for him, while Beth Hillel maintain that he does not thereby cause her to be unfit for him.

R. Jose stated: Beth Shammai and Beth Hillel are agreed[14] that a man who cohabits with his wife's sister does not thereby render his wife unfit for him; they differ only where a man cohabited with his mother-in-law, in which case Beth Shammai maintain that thereby he causes [his wife] to be unfit for him, while Beth Hillel maintain that he does not thereby cause her to be unfit for him. [Both agree][15] for the following reason:[16] Originally all the women of the world were permitted to him,[17] and all the men of the world were permitted to her;[18] but when he betrothed her he imposed a prohibition upon her and she imposed a prohibition upon him; the prohibition, however, which he imposed upon her is greater than the prohibition which she imposes upon him, since he caused all the men of the world to be forbidden to her, while she caused her relatives only to be forbidden to him. This,[19] then, may be arrived at by an inference: If she, to whom he[20] caused[21] all the men in the world to be prohibited, is, if she cohabited unwittingly with one who was forbidden to her,[22] not forbidden to the man[23] who was permitted to her,[24] how much more reason is there why he[23] to whom she[25] caused[26] the prohibition of her relatives only, should, if he cohabited unwittingly with one who was forbidden to him,[27] not be forbidden[28] to her[25] who was permitted to him. This argument is applicable to one who acted unwittingly. Whence is it deduced [that the same law[29] is applicable] to one who acted willfully? It was expressly stated With her,[30] cohabitation[31] with her only causes her to be prohibited;[32] cohabitation[33] with her sister, however, does not cause her to be prohibited.[32]

Said R. Ammi in the name of Resh Lakish: What is R. Judah's reason?[34] — Because it is written, They shall be burnt with fire. both he and they;[35] is the whole household to be burned![36] If this, then, is not a case for burning[36] regard the text as indicating a prohibition.[37]

Rab Judah stated in the name of Samuel: The law is not in agreement with R. Judah.[37]

A man once committed incest with his mother-in-law, and Rab Judah summoned him and ordered him to receive a flogging. 'Had Samuel not stated', he said to him, 'that the law was not in agreement with R. Judah. I would have forbidden [your wife] to you for all time'.

What was meant by a 'lighter prohibition'?[38] — R. Hisda replied: Remarrying one's divorced wife after her marriage to another man — 39 When that man[40] cohabited with her, he caused her to be prohibited to the other,[41] and when the other[41] cohabited with her[42] he caused her to be prohibited to the former.[43] [But, it may be argued,] remarrying one's divorced wife after her marriage to another man is different[44] since her body[45] was defiled and she is[46] prohibited for all time![47] — Rather, said Resh Lakish, [it means] a *Yebamah*.[48]

A *Yebamah* with whom?[49] If it be suggested: With a stranger,[50] [the ruling] being in accordance with R. Hamnuna who ruled[51] that a woman awaiting the decision of the levir who played the harlot is forbidden to the levir,[52] [it may be objected that] a *Yebamah* is different,[44] since her body was defiled and she is prohibited to the majority of men.[53] If, however, [it be suggested that it refers[54] to] a *Yebamah* in relation to [her deceased husband's] brothers: Where one [brother, for instance] addressed to her a Ma'amar he caused her to be prohibited to the other,[55] and when the other cohabited with her he caused her to be prohibited to the former.[56] [But in this case] what point is there, [it may be retorted, in stating][57] that the second cohabited with her,[58] [when the same law is applicable] also even where he[59] only addressed to her a Ma'amar![60] — This is no difficulty; [a Ma'amar could not be postulated], in accordance with R. Gamaliel who ruled: There is no validity in a Ma'amar that was addressed after a previous Ma'amar.[61] But [still the objection is that the same law is applicable] even if he[59] gave her a

letter of divorce and even if he submitted to her *Halizah*! — Rather, said R. Johanan, [it means] a *Sotah*.[62]

A *Sotah*, with whom?[63] If it be suggested: With her husband who, if he cohabited with her,[64] caused her to be prohibited to her seducer,[65] what point is there, [it may be objected, in stating] that he cohabited with her? Even if he[66] only gave her a letter of divorce and even if he only said, 'I am not allowing her to drink',[67] [the same law is applicable]![68] [If it be suggested] however: The *Sotah* with the seducer;[69] is this[70] [it may be objected] a 'lighter prohibition'? It is surely a grave prohibition, since she is a married woman! —

1. As is the case in our Mishnah.
2. A wife whose husband has had connubial intercourse with her sister.
3. To her husband, in accordance with Pentateuchal law.
4. And a man lie with her, Num. V, 13.
5. Of a stranger.
6. Of her husband.
7. This, as will be explained *infra*, refers to a married woman, intercourse with whom is regarded as a comparatively lighter prohibition than that of a wife's sister (v. p. 644, n. 5), since it may at any time be raised by means of a letter of divorce severing the relationship between the husband and the wife.
8. The husband.
9. The husband causes the prohibition of his wife to all men. It is owing to his marriage with her that she is forbidden to marry any other man.
10. One must not retain a faithless wife.
11. I.e., the wife who caused the prohibition of her sister to her husband.
12. His wife's sister.
13. Since his wife causes her sister to be forbidden to him during the whole of her lifetime. Hence It was necessary to have a Scriptural text to show that the law is not so.
14. Lit., 'did not dispute'.
15. That cohabitation with his wife's sister does not render his wife unfit to live with him.
16. Lit., 'because'.
17. The husband, before he married his wife.
18. The wife, before she married her husband.
19. V. *supra* n. 7.
20. Her husband.
21. By marrying her.
22. If, for instance, she was outraged.
23. Her husband.
24. Her husband. Cf. *supra* 56b.
25. His wife.
26. By marrying him.
27. His wife's sister.
28. 'To him' in cur. edd. is deleted with BaH.
29. V. *supra* p. 644, n. 7.
30. Num. V, 13. V. *supra* p. 643. n. 10.
31. Of a stranger.
32. To her husband.
33. Of her husband.
34. For maintaining that both Beth Shammai and Beth Hillel agree that a man's cohabitation with his mother-in-law causes his wife to be prohibited to him.
35. Lev. XX, 14. Cf. *supra* p. 642, n. 9.
36. His first wife, surely, who was lawfully married, should not suffer because her husband bad subsequently contracted an unlawful marriage!
37. V. *supra* note 13.
38. Spoken of *supra*.
39. Which is a 'lighter prohibition'. being only a prohibitory law which involves no *Kareth*. V. *infra* p. 646, n. I.
40. Her second husband.
41. Her first husband.
42. After her second husband had divorced her.
43. V. *supra* p. 645, n. 18, the prohibition being due to the prohibitory law in Deut. XXIV, 4. Thus the second husband 'who caused the prohibition of his wife is thereby himself forbidden to her'.
44. From a marriage with one's wife's sister.
45. That of the divorced woman.
46. Cur. edd., insert, 'and she is prohibited to the majority' which (cf. Rashi a.l.) is to be deleted.
47. To both husbands. A wife's sister, however, is forbidden only during the lifetime of one's wife but permitted after her death, while furthermore the marriage of a wife's sister does not cause the defilement of the wife's body. The latter case cannot, therefore, be compared to the former. What, then, was meant by the 'lighter prohibition'?
48. Marriage with her by a stranger is regarded as a 'lighter prohibition'.
49. I.e., with whom did she cohabit that her act should have the result that he 'who caused the prohibition is thereby himself forbidden to her'?
50. The prohibition to marry whom, before she had performed the *Halizah*, is only a prohibitory law involving no *Kareth*.
51. *Supra* 81a, 92b, Cit. 80b, Sot. 18b.
52. Thus the levir 'who caused the prohibition' of his sister-in-law to others is 'himself forbidden to her' by the cohabitation of the stranger.
53. I.e., to everybody except the levir or levirs. A wife's sister, however, is forbidden to him (her sister's husband) alone, and his wife's body is

not defiled by his marriage with her sister. The two cases, therefore, cannot be compared.
54. Cf. *supra* note 6.
55. Brother, this being regarded as a 'lighter prohibition', since it is due to a Rabbinic measure only.
56. Cf. *supra* note so, mutatis mutandis.
57. *Supra*.
58. I.e., that be prohibits her to the first only because he cohabited with her.
59. The second brother.
60. He should still thereby prohibit her to the first brother, in view of the ruling *supra* 50a that a Ma'amar is effective after a Ma'amar.
61. *Supra* 50a.
62. V. Glos. Cohabitation with a *Sotah* is regarded as the 'lighter prohibition'.
63. V. *supra* p. 646, n. 7.
64. After she had been warned by him against intimacy with a stranger, and after she had met that stranger privately, when all connubial intercourse between the woman and her husband is forbidden.
65. Even after his own death or after he had divorced her. Thus, the seducer 'who caused the prohibition' of the woman to her husband becomes 'himself forbidden' to her for all time.
66. Her husband.
67. The water of bitterness (cf. Num. V, 18). V. *supra* n. 6.
68. She becomes forbidden to the seducer for all time. Cf. *supra* n' 7.
69. By his cohabitation the woman becomes prohibited to her husband who was the cause of her prohibition to others.
70. Cohabitation with a married woman.

Yebamoth 95b

Rather, said Raba, it means a married woman. Similarly when Rabin came[1] he stated in the name of R. Johanan: A married woman. But why should this[2] be described as 'a lighter prohibition'? — Because [her husband] who causes her to be prohibited [to other men] does not cause her to be so prohibited during the whole of his lifetime.[3]

It[4] was taught likewise: Abba Hanan stated in the name of R. Eleazar: [It means] a married man. [And the argument runs thus:] If where a man cohabits with [a woman forbidden by] a lighter prohibition,[5] in which case he[6] who caused the prohibition of her does not cause her to be prohibited during the whole of his lifetime,[7] [it is nevertheless ruled] that the very person who causes the prohibition becomes prohibited,[8] then, in a case of cohabiting with [one forbidden] by a graver prohibition,[9] where the person, who causes the prohibition of her,[10] prohibits her during the whole of her lifetime,[11] how much more should we rule that the very person who causes the prohibition should become prohibited;[12] hence it was expressly stated, With her,[13] only cohabition[14] with her[15] causes her to be prohibited[16] but cohabitation[17] with her sister does not cause her[18] to be prohibited.[16]

R. JOSE STATED: WHOSOEVER DISQUALIFIES, etc. What does R. Jose mean?[19] If it be suggested that while the first Tanna implied that 'Where a man's wife and his brother-in-law[20] went to a country beyond the sea,[21] the wife of his brother- in-law is forbidden,[22] though his own wife is permitted',[23] R. Jose said to him, 'As his own wife is permitted[23] so is the wife of his brother-in-law also permitted';[22] if so, [it may be objected, why the expression] WHOSOEVER DOES NOT DISQUALIFY FOR OTHERS DOES NOT DISQUALIFY FOR HIMSELF[24] where it should have been. 'Whosoever does not disqualify[25] for himself, does not disqualify for others'![26]

If, however, [it be suggested that R. Jose implied]. 'As the wife of his brother-in-law is forbidden,[27] so is his wife also forbidden',[28] [the expression,] WHOSOEVER DISQUALIFIES would be satisfactorily explained; what, however, would be the purport of WHOSOEVER DOES NOT DISQUALIFY?[24] — R. Ammi replied: [He[29] refers] to an earlier clause:[30] 'If she married with the authorization of the *Beth Din*, she must leave, but is exempt from an offering. If she married, however, without the authorization of the *Beth Din*, she must leave and is also liable to an offering, the authorization of the *Beth Din* is thus more effective in that it exempts her from the offering.[31] Concerning this, the first Tanna stated [that his wife may return to him][32] 'irrespective of whether [the marriage[33] took

place] on the evidence of two witnesses,[34] where the wife of his brother-in-law is permitted,[35] or whether [it took place] in accordance with a decision of the *Beth Din*,[36] where the wife of his brother-in- law is forbidden',[35] and [to this] R. Jose replied. '[If the marriage took place] in accordance with a decision of the *Beth Din*,[36] where he DISQUALIFIES FOR OTHERS[37] he DISQUALIFIES FOR HIMSELF;[38] [if, however, it took place] on the basis of the evidence of two witnesses,[34] where he DOES NOT DISQUALIFY FOR OTHERS[39] he DOES NOT DISQUALIFY FOR HIMSELF.[40]

R. Isaac Nappaha replied: [R. Jose may], in fact, refer to the latter clause,[41] one[42] [of his rulings applying] where [the persons who] had gone [were] the man's wife[43] and his brother-in-law. and the other [applying] where his betrothed and brother-in-law had gone. The first Tanna having ruled that 'irrespective of whether it was his wife and his brother-in-law or whether it was his betrothed and his brother-in-law, the wife of his brother-in-law is forbidden[44] while his wife is permitted,'[45] R. Jose said to him, 'In the case of his wife and brother-in-law where no one would assume that he had attached some condition to his marriage[46] and where consequently he does not cause [his sister-in-law] to be prohibited to the other,[47] he does not cause [his first wife] to be prohibited to him either; in the case of his betrothed and his brother-in-law, however, where someone might assume that he had attached some condition to his betrothal[48] and where, in consequence, he causes [his sister- in-law] to be prohibited to the other,[49] he causes [his first wife] also to be prohibited to him.

Rab Judah Stated in the name of Samuel: The *Halachah* is in agreement with R. Jose.

R. Joseph demurred: Could Samuel have said this?[50] Surely it was stated: A *Yebamah*,[51] Rab said, has the status of a married woman; and Samuel said: She has not the status of a married woman. And R. Huna said: Where, for instance, a man's brother betrothed a woman[52] and then went to a country beyond the sea, and he,[53] on hearing that his brother was dead, married his wife. [It is in such a case] that Rab ruled that 'she has the status of a married woman' and is consequently forbidden to the brother-inlaw;[54] and Samuel ruled that 'she has not the status of a married woman' and is, therefore, permitted to him![55] Said Abaye to him:[56] Whence [do you infer] that when Samuel stated that 'the *Halachah* is in agreement with R. Jose', he was referring to R. Isaac Nappaha's interpretation? Is it not possible that he was referring to that of R. Ammi![57] And even if he refers to that of R. Isaac Nappaha, whence the proof that [he referred to the ruling] 'DISQUALIFIED'?[58]

1. From Palestine to Babylon.
2. Illicit intercourse with a married woman.
3. As soon as be divorces her she is free again. A prohibition of this nature, which may terminate at any time, is regarded as 'lighter' than the prohibition of a man's wife's sister, which remains in force throughout the whole of the lifetime of his wife.
4. The lighter prohibition referred to.
5. A married woman. The prohibition is considered light for the reason that follows.
6. The husband.
7. The prohibition of a married woman terminates with divorce by her husband.
8. The woman becomes forbidden to her own husband through illicit intercourse.
9. His wife's sister.
10. I.e., the wife who causes her sister to be prohibited to her husband.
11. The prohibition [If a man's wife's sister remains in force throughout the whole of the lifetime of his wife.
12. To her own husband.
13. Num. V, 13.
14. Of a stranger
15. His wife.
16. To her husband.
17. Of her husband.
18. The wife.
19. His statement seems to have no apparent connection with the preceding clause.
20. His wife's sister's husband.
21. And they both returned after be had married his wife's sister on the strength of the evidence of one witness who testified that they were both dead.
22. To her husband, his brother-in-law.
23. To him.
24. Cases about which R. Jose, according to this suggestion, did not speak.
25. His own wife.

26. His wife's sister to her husband. These last mentioned cases being those of which R. Jose presumably spoke.
27. To her husband, his brother-in- law.
28. To him.
29. R. Jose.
30. In a previous Mishnah.
31. V. *supra* 87b.
32. V. our Mishnah, first clause.
33. Of the husband (whose wife had gone away) with his wife's sister (whose husband also bad gone away).
34. Who testified that both his wife and brother-in-law were dead.
35. To her husband, if be returned.
36. On the evidence of one witness. V. *supra* n. 11.
37. He causes his wife's sister to be forbidden to return to her husband owing to his illicit marriage with her.
38. His first wife is forbidden to him also.
39. His wife's sister being in this case permitted to her husband.
40. And his first wife may return to him.
41. I.e., our Mishnah which speaks of a marriage permitted on the evidence of one witness.
42. Lit., 'that'. Cur. edd. insert in parenthesis 'that, where he married the wife of his brother-in-law; and that, where he married the betrothed of his brother-in-law.'
43. This is the reading of Rashi (a.l. s.v. ה"ג). Cur. edd., transpose 'wife' and 'betrothed'.
44. To her husband, if be returned.
45. To him.
46. With his first wife; since no condition is admissible in a marriage contract. (V., however, *supra* p. 642, n. 5).
47. Her husband, his brother-in-law. His own first marriage being known to be valid it should be obvious to all that his subsequent marriage with his sister-in-law was invalid. Were it even assumed that his brother-in-law had divorced her, the invalidity of his marriage with his sister-in-law would not thereby be affected since even after her divorce she still remains forbidden to him as his wife's sister. This being the case no one will suspect his brother-in-law when his wife returns to him of having remarried his divorcee. Hence R. Jose's ruling that she is not forbidden to her husband.
48. Which, on non-fulfillment, had rendered the betrothal invalid and thus enabled him lawfully to contract his subsequent marriage; his presumed sister-in-law being to him (owing to the invalidity of her sister's betrothal) no more than a mere stranger.
49. Her former husband. Were she permitted to return to him it might be assumed that he had divorced her prior to her marriage with her brother-in-law and that the latter had now divorced her; and so it would be concluded that (contrary to Deut. XXIV, 4) a man married again the woman he had once divorced though she had in the meantime been married to another man.
50. Lit., 'thus', that the *Halachah* is in agreement with the full statement of R. Jose, including the part relating to the marriage with the sister of one's betrothed, it being necessary in case of betrothal to provide against the erroneous assumption that the betrothal was invalid and that consequently a man's divorcee had been married again by him. Cf. p. 650, nn. 8 and 9.
51. This is explained anon.
52. Had he married her there would have been no question that she may return to him. Cf. *supra* p. 650, n. 7.
53. The brother at home.
54. I.e., to the man who first betrothed her and then left her and now returned, and who, owing to his brother's marriage with her, has become her brother-in-law. Were she to be permitted to return to him it might be assumed that his original betrothal was invalid owing to some disqualifying condition, that his brother's marriage was, therefore, valid, and that be now married his brother's wife.
55. Because, in the opinion of Samuel, no provision need be made against the erroneous assumption that the betrothal was invalid (cf. *supra* n. 5). How, then, could it be said that Samuel adopted the complete statement of R. Jose.
56. R. Joseph.
57. So that the question of the assumption of a disqualifying condition in a betrothal would not at all arise.
58. The case of one's betrothed and brother-in-law.

Yebamoth 96a

Is it not possible [that he referred] to the ruling 'DOES NOT DISQUALIFY'![1] Or else [it might be argued], whence is it proved that R. Huna's explanation[2] is tenable? Is it not possible that R. Huna's explanation is altogether untenable and that they[3] differ on the ruling of R. Hamnuna who stated that 'A woman awaiting the decision of the levir, who played the harlot, is forbidden to her levir';[4] Rab maintaining that she 'has the status of a married woman' and is consequently prohibited[5] by reason of her immoral act,[6] while Samuel maintains that 'she has not the status of a married woman' and does not therefore, become prohibited[5] by reason of

her immoral act? Or else [it might be replied] that they[3] differ on the question whether betrothal of a sister-in-law[7] is valid, Rab maintaining that she 'has the status of a married woman' and betrothal[7] with her is, in consequence, invalid, while Samuel maintains that 'she has not the status of a married woman' and betrothal[7] with her is, therefore, valid. But on this question[8] they[3] had already disputed once![9] — The one was stated as an inference from the other.[10]

MISHNAH. IF A MAN WAS TOLD 'YOUR WIFE IS DEAD AND HE MARRIED HER PATERNAL SISTER; [AND WHEN HE WAS TOLD] 'SHE[11] ALSO IS DEAD', HE MARRIED HER MATERNAL SISTER;[12] SHE[13] TOO IS DEAD, AND HE MARRIED HER PATERNAL SISTER;[14] 'SHE[15] ALSO IS DEAD, AND HE MARRIED HER MATERNAL SISTER;[16] AND LATER IT WAS FOUND THAT THEY WERE ALL ALIVE, HE IS PERMITTED TO LIVE WITH THE FIRST,[17] THIRD[18] AND FIFTH,[19] WHO ALSO EXEMPT THEIR RIVALS;[20] BUT HE IS FORBIDDEN TO LIVE WITH THE SECOND OR THE FOURTH,[21] AND COHABITATION[22] WITH ONE OF THESE DOES NOT EXEMPT HER RIVAL. IF, HOWEVER, HE[23] COHABITED WITH THE SECOND AFTER THE DEATH OF THE FIRST,[24] HE IS PERMITTED TO LIVE WITH THE SECOND[25] AND FOURTH,[26] WHO ALSO EXEMPT THEIR RIVALS;[27] BUT HE[23] IS FORBIDDEN TO LIVE[28] WITH THE THIRD AND WITH THE FIFTH, AND COHABITATION[22] WITH ONE OF THESE DOES NOT EXEMPT HER RIVAL. A BOY OF THE AGE OF NINE YEARS AND ONE DAY RENDERS[29] [HIS SISTER-IN-LAW] UNFIT [FOR MARRIAGE] WITH HIS BROTHERS, AND HIS BROTHERS RENDER HER UNFIT FOR HIM, BUT WHILE HE RENDERS HER UNFIT FROM THE OUTSET ONLY, THE BROTHERS RENDER HER UNFIT BOTH FROM THE OUTSET AND AT THE END. IN WHAT MANNER?[29] A BOY OF THE AGE OF NINE YEARS AND ONE DAY WHO COHABITED WITH HIS SISTER-IN-LAW RENDERS HER UNFIT [FOR MARRIAGE] WITH HIS BROTHERS; THE BROTHERS, HOWEVER, RENDER HER UNFIT FOR HIM WHETHER THEY COHABITED WITH HER, ADDRESSED TO HER A MA'AMAR, GAVE HER A LETTER OF DIVORCE OR SUBMITTED TO HER *HALIZAH*.

GEMARA. Did not all those [marriages[30] take place] after the death of the first wife![31] — R. Shesheth replied: [By this[32] was meant]. AFTER THE ASCERTAINED[33] DEATH OF THE FIRST WIFE.

A BOY OF THE AGE OF NINE YEARS, etc. Does a boy of the age of nine years and one day cause unfitness[34] [only where his act took place] at the outset,[35] but if at the end[36] he causes no unfitness? Surely R. Zebid son of R. Oshaia learnt: If [a brother][37] addressed a *Ma'amar* to his sister-in-law, his brother of the age of nine years and one day, cohabiting with her afterwards, causes her to be unfit [for marriage with him]![38] — It may be replied: Cohabitation causes unfitness[32] even [if it took place] at the end,[36] while a *Ma'amar* causes unfitness [only if it was addressed] at the outset,[35] but if at the end,[36] it causes no unfitness. But does cohabitation[39] cause unfitness even [if it took place] at the end? Surely it was taught: BUT WHILE HE RENDERS HER UNFIT FROM THE OUTSET ONLY, THEY [RENDER HER UNFIT] BOTH FROM THE OUTSET AND AT THE END. IN WHAT MANNER? A BOY OF THE AGE OF NINE YEARS AND ONE DAY WHO COHABITED WITH HIS SISTER-IN-LAW, etc.![40] — Something, indeed, is here missing, and this is the proper reading: 'A BOY OF THE AGE OF NINE YEARS AND ONE DAY RENDERS [HIS SISTER-IN-LAW] UNFIT [FOR MARRIAGE WITH HIS BROTHERS, if his action took place] AT THE OUTSET, but they RENDER HER UNFIT FOR HIM BOTH AT THE OUTSET AND AT THE END. This is applicable only in the case of a *Ma'amar*, but cohabitation[41] causes unfitness even [if it took place] at the end. IN WHAT MANNER? A BOY OF THE AGE OF NINE YEARS AND ONE DAY WHO COHABITED WITH HIS SISTER-IN-

LAW[42] RENDERS HER UNFIT FOR MARRIAGE WITH HIS BROTHERS.

Has his *Ma'amar*, however, any validity[43] at all?[44] Surely it was taught: A boy of the age of nine years and one day renders [his sister-in-law] unfit for his brothers[45] by one kind of act only, while the brothers render her unfit for him by four kinds of acts. He renders her unfit for the brothers by cohabitation,[46] while the brothers render her unfit for him by cohabitation, by a *Ma'amar*, by a letter of divorce and by *Halizah*![47] — Cohabitation, which causes unfitness both from the outset and at the end, presented to him a definite law,[48] [the law of the] *Ma'amar*, however, which causes unfitness front the outset only but not at the end, could not be regarded by him as definite.[49]

So it was also stated: Rab Judah said in the name of Samuel: He[50] has [the power to give] a letter of divorce.[51] And so said R. Tahlifa b. Abimi: He[50] has [the power to address] a *Ma'amar*.[51]

It was taught likewise: He[50] has [the right to give] a letter of divorce[51] and he has [the right to address] a *Ma'amar*;[51] so R. Meir.

Could R. Meir, however, hold the view [that such a boy] has [the power to give] a letter of divorce?[51] Surely it was taught: Cohabitation with a boy of the age of nine years [and one day] was given the same validity as that of a *Ma'amar* by an adult; and R. Meir said: The *Halizah* of a boy of the age of nine years was given the same validity as that of a letter of divorce by an adult.[52] Now, if that were so,[53] it should have been stated, 'As that of his own letter of divorce'! — R. Huna son of R. Joshua replied: He[54] has [the right],[55] but [his divorce is of a] lesser validity.[56] For according to R. Gamaliel who ruled that there is no [validity in a] letter of divorce after another letter of divorce, his ruling is applicable only [in the case of a divorce] by an adult after that of an adult, or one by a minor after that of a minor, but [a divorce] by an adult after that of a minor is effective,[57] while according to the Rabbis who ruled that a letter of divorce given after another letter of divorce is valid, the ruling applies only to [a divorce] by adult after that of an adult, or one by a minor after that of a minor, but [a divorce by] a minor after [that of] an adult is not effective.[57]

1. **The case of one's wife and brother-in-law-; Samuel indicating that in this case, and in this case alone, the *Halachah* is in agreement with R. Jose that the sister-in-law is permitted to her first husband contrary to the view of the first Tanna who forbids her.**
2. ***Supra* 95b.**
3. **Rab and Samuel.**
4. **Cit. 80b, Sot 18b, *supra* 95a.**
5. **To the levir.**
6. **As a married woman is prohibited to her husband if she has committed such an act.**
7. **To a stranger before she had performed *Halizah*.**
8. **The validity of betrothal of a sister- in-law. V. *supra* n. 7.**
9. ***Supra* 92b. Why should they dispute the same point twice.**
10. **By disciples. Rab and Samuel, however disputed the point only once.**
11. **His second wife.**
12. **Who was thus a perfect stranger to the first wife.**
13. **His third wife.**
14. **A perfect stranger to the second.**
15. **The fourth.**
16. **A stranger to the third.**
17. **Since his marriage with her was valid.**
18. **Who was a complete stranger to him when he married her (V. *supra* p. 652. n. 12). His previous marriage with her maternal sister (his second wife) had no validity because the latter was a sister of his first wife and was forbidden to him as 'his wife's sister'.**
19. **Marriage with whom was valid since the marriage with her sister (the fourth) was invalid. Cf. *supra* n. 2, mutatis mutandis.**
20. **If the man died without issue and one of his surviving brothers contracted the levirate marriage with or submitted to *Halizah* from one of these widows.**
21. **The validity of his marriage wife the first and third causes the second and the fourth to be prohibited to him as his wives' respective sisters. Cf. *supra* note 2.**
22. **By one of the levirs. Cf. *supra* note 4.**
23. **The husband.**
24. **I.e., it was proved that the first report of her death was true (Rashi).**
25. **The death of the first wife has removed from the second the prohibition of wife's sister (since a wife's sister is prohibited only during the**

lifetime of the wife) marriage with whom becomes valid.
26. The marriage with the second having become valid (v. *supra* n. 9), that with the third (being now the man's wife's sister) becomes invalid and, consequently, the marriage with the fourth who is now a perfect stranger becomes valid.
27. V. *supra* note 4.
28. Cf. previous notes, mutatis mutandis.
29. This will be explained in the Gemara *infra*.
30. That were enumerated in the first clause of our Mishnah.
31. Why then was 'AFTER THE DEATH OF THE FIRST' mentioned only in the second clause in the case where HE COHABITED WITH THE SECOND?
32. V. *supra* n. 2.
33. In the other cases death was only reported.
34. Of his sister-in-law for his brothers.
35. Before any of the adult brothers bad addressed a *Ma'amar* to the widow.
36. After an elder brother had addressed to her a *Ma'amar*.
37. Of a deceased husband who died without issue.
38. Which shows that a boy of this age may cause unfitness even 'at the end'.
39. On the part of the boy of the age of nine years and one day.
40. Emphasis on COHABITED. Since the illustration is limited to an act of cohabitation only the general statement that the boy RENDERS HER UNFIT FROM THE OUTSET ONLY, on which the illustration apparently hangs must also be limited to cohabitation.
41. On the part of the boy of the age of nine years and one day.
42. Even at the end, i.e., after his brothers had addressed to her a *Ma'amar*.
43. Lit., 'has he a *Ma'amar*'?
44. Cur. edd. insert 'for the brothers', which, with MS.M. and Pesaro ed. 1509, should be omitted. V. *infra* n. 5.
45. The last three words are wanting in cur. edd., but are rightly included in the Pesaro ed. V. *supra* n. 4.
46. And by no other act.
47. How then could it be said that the boy's *Ma'amar* has any validity at all.
48. [H] rt. [H] 'to cut', 'to decide', i.e., the law relating to cohabitation is definite and absolute. The act is always valid. Hence he mentioned it.
49. And being undesirous of entering into details of the law he preferred to omit it.
50. A boy of the age of nine years and one day.
51. His act is effective and causes his sister-in- law to be unfit for marriage to his brothers.
52. Cf. Nid. 45a, *supra* 68a.
53. That according to R. Meir the letter of divorce of a boy of the age of nine years and one day is valid.
54. A boy the age of nine years and one day.
55. To give a letter of divorce. V. *supra* p. 655. n. 11.
56. Lit., 'and small'. Hence no comparison could be made between his *Halizah* which is as valid as that of a divorce by on adult, and his own divorce which is not so valid.
57. Since the divorce of the minor is of lesser validity.

Yebamoth 96b

MISHNAH. IF A BOY OF THE AGE OF NINE YEARS AND ONE DAY COHABITED WITH HIS SISTER-IN-LAW[1] AND THEN HIS BROTHER WHO WAS OF THE AGE OF NINE YEARS AND ONE DAY COHABITED WITH HER, [THE LATTER] RENDERS HER UNFIT[2] FOR [THE FORMER].[3] R. SIMEON SAID: HE DOES NOT RENDER HER UNFIT.[4] IF A BOY OF THE AGE OF NINE YEARS AND ONE DAY COHABITED WITH HIS SISTER-IN-LAW[5] AND AFTERWARDS HE COHABITED WITH HER RIVAL, HE HAS RENDERED [THEREBY THE FIRST AS WELL AS THE SECOND] UNFIT FOR MARRIAGE WITH HIMSELF.[6] R. SIMEON SAID: HE DOES NOT RENDER [THEM] UNFIT.[7]

GEMARA. It was taught: R. Simeon said to the Sages, 'If the first cohabitation[8] was a valid act,[9] the second cohabitation[10] cannot have any validity;[11] if, the first cohabitation, however, has no validity,[12] the second cohabitation also should have no validity'.[13]

Our Mishnah[14] cannot represent the view of Ben 'Azzai; for it was taught: Ben 'Azzai stated, 'A *Ma'amar* is valid after another *Ma'amar* where it concerns two levirs[15] and one sister-in-law,[16] but no *Ma'amar* is valid after a *Ma'amar* where it concerns two sisters-in-law and one levir.'[17]

MISHNAH. IF A BOY OF THE AGE OF NINE YEARS AND ONE DAY COHABITED WITH HIS SISTER-IN-LAW[18] AND THEN DIED, SHE MUST PERFORM *HALIZAH* BUT MAY NOT CONTRACT THE LEVIRATE MARRIAGE.[19] IF HE HAD MARRIED [ANY OTHER] WOMAN

AND SUBSEQUENTLY DIED, SHE IS EXEMPT [FROM BOTH].[20] IF A BOY OF THE AGE OF NINE YEARS AND ONE DAY COHABITED WITH HIS SISTER-IN-LAW, AND AFTER HE HAD COME OF AGE HE MARRIED ANOTHER WOMAN AND SUBSEQUENTLY DIED, IF HE HAD NOT [CARNALLY] KNOWN THE FIRST WOMAN AFTER HE HAD BECOME OF AGE, THE FIRST ONE MUST PERFORM *HALIZAH* BUT MAY NOT CONTRACT THE LEVIRATE MARRIAGE,[21] WHILE THE SECOND[22] MAY EITHER PERFORM *HALIZAH* OR CONTRACT LEVIRATE MARRIAGE. R. SIMEON SAID: [THE SURVIVING LEVIR] MAY CONTRACT LEVIRATE MARRIAGE WITH WHICHEVER OF THEM HE MAY DESIRE[23] AND SUBMITS TO *HALIZAH* FROM THE OTHER.[24] [THE SAME LAW APPLIES] WHETHER HE IS OF THE AGE OF NINE YEARS AND ONE DAY, OR WHETHER HE IS OF THE AGE OF TWENTY YEARS BUT HAD NOT PRODUCED TWO PUBIC HAIRS.[25]

***GEMARA*. Raba stated: With reference to the statement of the Rabbis that in the case of the levirate bond originating from two levirs [the sister-in-law] must perform *Halizah* only but may not contract levirate marriage, it must not be assumed that this is applicable only where there is a rival, because [in that case] a preventive measure was necessary on account of the rival;[26] for here[27] there is no rival and yet [the sister-in-law] must perform *Halizah* only but may not contract the levirate marriage.[28]**

IF HE HAD MARRIED [ANY OTHER] WOMAN AND SUBSEQUENTLY DIED, etc. Here[27] we learned what the Rabbis taught: If an imbecile or a minor married and then died, their wives are exempt from *Halizah* and from the levirate marriage.[29]

A BOY OF THE AGE OF NINE YEARS, etc. AND AFTER HE HAD COME OF AGE, etc. Let the cohabitation of the boy of nine[27] be given the same validity as that of a *Ma'amar* by an adult,[30] and so let the rival [here][27] be debarred from the levirate marriage![31] — Now said Rab: The cohabitation of a boy of nine was not given the same validity as that of a *Ma'amar* by an adult. Samuel, however, said: It was certainly given the same validity:[32] and so said R. Johanan: It certainly was given the same validity. Then[33] let the same validity be given here also![34] — This [question is a matter of dispute between] Tannaim. That Tanna [whose ruling is contained in the chapter] of the 'Four Brothers'[35] enacted a preventive measure on account of the rival;[36] and though he stated the law in respect of an adult the same law is applicable to a minor, the reason why he mentioned the adult being only because he was engaged on the question of[37] the adult. The Tanna here[38] however, is of the opinion that they[39] were given the same validity,[40] and he enacted no preventive measure on account of the rival; and though he spoke of the minor the same law applies to an adult, the reason why he spoke of the minor being only because he was dealing with the minor.[37]

R. Eleazar came and reported this statement at the schoolhouse but did not report it in the name of R. Johanan. When R. Johanan heard this he was annoyed.[41] Thereupon R. Ammi and R. Assi came in and said to him: Did it not happen at the Synagogue of Tiberias that R. Eleazar and R. Jose disputed [so hotly] concerning a door bolt which had a knob[42] at one end[43] that they tore a Scroll of the Law in their excitement. 'They tore?[44] Could this be imagined! Say rather 'That a Scroll of the Law was torn[45] in their excitement'. R. Jose b. Kisma who was then present exclaimed, 'I shall be surprised if this Synagogue[46] is not turned into a house of idolatry', and so it happened. [On hearing this] he was annoyed all the more. 'Comradeship too' he exclaimed.[47]

Thereupon R. Jacob b. Idi came in and said to him: *'As the Lord commanded Moses his servant, so did Moses command Joshua, and so did Joshua; he left nothing undone of all that the Lord commanded Moses*;[48] did Joshua, then, concerning every word which he said, tell them, "Thus did Moses tell me"? But, the fact is that Joshua was sitting and delivering his discourse without mentioning names, and

all knew that it was the Torah of Moses. So did your disciple R. Eleazar sit and deliver his discourse without mentioning names and all knew that it was yours'. 'Why', he[49] chided them,[50] are you not capable of conciliating like the son of Idi our friend?'

Why was R. Johanan so annoyed? — [For the following reason]. For Rab Judah stated in the name of Rab: What is the meaning of the Scriptural text, I will dwell in Thy tent forever?[51] Is it possible for a man to dwell in two worlds! But [in fact it is this that] David said to the Holy One, blessed be He, 'Lord of the Universe, May it be Thy will

1. **The widow of his brother who died without issue.**
2. **For the levirate marriage.**
3. **Because, as in the case of a *Ma'amar* after a *Ma'amar*, the act of either levir is valid and, as no two levirs may marry the same sister-in-law, the latter must divorce her; and a sister-in-law divorced by one of the levirs may never again be married by any of them.**
4. **His reason is given in the Gemara, *infra*.**
5. **The widow of his brother who died without issue.**
6. **Since levirate marriage may be contracted with one sister-in- law only. The first cohabitation constituting an imperfect *Kinyan*, the second is effective to the extent of necessitating a divorce, and with a sister-in-law that was divorced by a levir, none of the levirs may subsequently contract levirate marriage. Cf. *supra* p. 656, n. 9.**
7. **His reason is given in the Gemara, *infra*.**
8. **Of the first young levir.**
9. **Constituting a *Kinyan* of the sister-in-law.**
10. **That of the second young levir.**
11. **Since there is no validity in an act of cohabitation that follows an act of cohabitation (v. *supra* 50a), the second act is regarded as irregular intercourse with a stranger; and since it was committed unwittingly, the woman remains permitted to the first levir.**
12. **Owing to the levir's tender age.**
13. **V. *supra* n. 8 and cf. *supra* 51b.**
14. **Which regards the cohabitation of a young levir as having the same validity as a *Ma'amar* (cf. *supra* p. 656, n. 9), and yet rules that an act of cohabitation after another act of cohabitation is legally effective whether in the case of two levirs and one sister- in-law (first case) or two sisters-in-law and one levir (second case).**
15. **The one as well as the other having addressed to the widow one *Ma'amar* only.**
16. **Because each levir (v. *supra* 51a) has equally the power to address such a *Ma'amar*.**
17. **The second *Ma'amar* having no validity owing to the first *Ma'amar* which had completely effected the *Kinyan* of the first sister-in-law; and no levir is permitted to contract levirate marriage with more than one of the widows of his deceased childless brother.**
18. **The widow of his brother who died childless.**
19. **The act of the minor, while it is valid enough to subject his sister- in-law to the levirate bond of his surviving brothers, does not sever the first levirate bond which is due to her union with the first deceased brother. Being now subject to the levirate bond originating from two levirs, she is deprived (cf. *supra* 31b) of her right to the levirate marriage, and must perform *Halizah* only.**
20. **Levirate marriage and *Halizah*. The betrothal of a minor having no validity, the woman is not regarded as his wife in respect of the levirate. It is only in the case of a sister-in-law (v. *supra* n. 2) that his cohabitation is valid enough to subject the woman to the levirate bond.**
21. **Because, as the minor did not cohabit with her since he became of age, she remained subject to the levirate bond originating from two levirs (cf. *supra* note 2).**
22. **Being the deceased's lawful wife.**
23. **R. Simeon does not admit the ineligibility for levirate marriage of a sister-in- law who is subject to the levirate bond originating from two levirs, V. *supra* 31b.**
24. **Since they cannot be regarded as rivals, the marriage of the one does not exempt the other, Both, however, may not be taken in levirate marriage, as a preventive measure against erroneous comparisons with two sisters-in-law who were lawfully married.**
25. **The marks of maturity. So long as these have not appeared he retains the legal status of a minor.**
26. **V. *supra* 31b and cf. *supra* p. 658, n. 7 end.**
27. **In our Mishnah.**
28. **Cf. *supra* p. 658, n. 2.**
29. ***Supra* 69b, *infra* 112b. A minor and an imbecile have the same legal status, and our Mishnah, speaking of the minor confirms this ruling.**
30. **Which (as stated *supra* 31b) debars the rival of the widow to whom the [*Ma'amar* had been addressed, from the levirate marriage, though the rival's marriage with the deceased was in every respect a lawful union.**
31. **Why then was it stated that THE SECOND MAY EITHER PERFORM *HALIZAH* OR CONTRACT THE LEVIRATE MARRIAGE?**
32. **Lit., 'they made and they made'.**

33. According to Samuel and R. Johanan.
34. Lit., 'and let them make'. Cf. *supra* n. 6.
35. The chapter which contains the Mishnah referred to is named after the first two words with which it begins. V. *supra* 260.
36. Cf. *supra* 31b.
37. Lit., 'stood'.
38. In our Mishnah.
39. The cohabitation of a minor and the *Ma'amar* of an adult.
40. Lit., 'they made'.
41. Perhaps because R. Eleazar did not act in accordance with Aboth VI, 6, 'Whosoever reports a thing in the name of him who said it brings deliverance into the world'. V., however, the Gemara's explanation *infra*.
42. Or, 'a fastening contrivance' (Jast.).
43. R. Eleazar forbids its use on the Sabbath because it cannot be regarded as a 'vessel' and is consequently forbidden to be moved from its place; while R. Jose maintains that the knob at its end, whereby the bolt may occasionally be used as a pestle for crushing foodstuffs, imports to it the character of a vessel and it may. therefore. be used and moved on the Sabbath. V. 'Er. 101b.
44. The active form, [H], implies intentionally.
45. The Niph'al. accidentally.
46. Which permitted strife among its scholars.
47. They compared his resentment against his disciple R. Eleazar to a dispute between colleagues, as if he and his disciple were school companions. 'The fellows (my pupils) too, are quoted against me?' (Jast.)
48. Josh. XI, 15.
49. R. Johanan.
50. R. Ammi and R. Assi.
51. Ps. LXI, 5; [H] lit., 'worlds'.

Yebamoth 97a

that a traditional statement may be reported in my name in this world'; for R. Johanan[1] stated in the name of R. Simeon b. Yohai: The lips of a [deceased] scholar, in whose name a traditional statement is reported in this world, move gently in the grave. Said R. Isaac b. Ze'ira, or it might be said, Simeon the Nazirite: What is the Scriptural proof of this? And the roof of thy mouth like the best wine that glideth down smoothly for my beloved, moving gently the lips of those who are asleep,[2] like a heated mass of grapes. As a heated mass of grapes, as soon as a man places his finger upon it, exudes[3] immediately so with the scholars as soon as a traditional statement is made in their name in this world, their lips move gently[4] in the grave.

WHETHER HE IS OF THE AGE OF NINE YEARS, etc. A contradiction was pointed out: If at the age of twenty he[5] did not produce two [pubic] hairs,[6] they[7] must bring evidence that he is twenty years of age, and he [is then confirmed as a] *Saris*;[8] he may neither submit to *Halizah* nor may he perform the levirate marriage. If a woman[9] at the age of twenty did not produce two [pubic] hairs, they[10] must bring evidence that she is twenty years of age, and she [is then confirmed as a] woman who is incapable of procreation; she may neither perform *Halizah* nor contract levirate marriage![11] — Surely in connection with this Mishnah it was stated: R. Samuel b. Isaac said in the name of Rab that this[12] applies only to the case where [other] symptoms[13] of a *Saris* also appeared on him.[14]

Said Raba: This[15] may also be arrived at by deduction. For it was taught, 'And he [is confirmed as a] *Saris*',[16] from which this[15] may well be deduced.

And where no symptoms of a *Saris* developed, how long [is one regarded as a minor]?[17] — It was taught at the school of R. Hiyya: Until he has passed middle age.[18]

Whenever people came [with such a case][19] before Raba,[20] he used to tell them, if [the youth was] emaciated, 'Let him first be fattened'; and if he was stout, he used to tell them, 'Let him first be made to lose weight'; for these symptoms disappear[21] sometimes as a result of emaciation and sometimes they disappear[21] as a result of stoutness.

CHAPTER XI

***MISHNAH*. A MAN IS PERMITTED TO MARRY [THE NEAR RELATIVE] OF A WOMAN [WHOM HE HAS] OUTRAGED OR SEDUCED.[22] HE, HOWEVER, WHO OUTRAGED OR SEDUCED [A RELATIVE] OF HIS MARRIED WIFE, IS GUILTY.[23] A MAN MAY MARRY THE WOMAN WHOM HIS FATHER HAS OUTRAGED OR SEDUCED OR THE WOMAN**

WHOM HIS SON HAS OUTRAGED OR SEDUCED. R. JUDAH FORBIDS [MARRIAGE] WITH THE WOMAN WHOM ONE'S FATHER HAS OUTRAGED OR SEDUCED.

GEMARA. Here[24] we learn what the Rabbis taught: 'A man who has outraged a woman[25] is permitted to marry her daughter; if, however, he married the woman, he is forbidden to marry her daughter'. A contradiction, however, may be pointed out: A man who is suspected of intercourse with a woman is forbidden to marry her mother, her daughter and her sister![26] — This [prohibition[27] is only] Rabbinical.[28]

Would it be stated, however, where a Rabbinical prohibition exists, that A MAN IS PERMITTED TO MARRY even from the outset! — Our Mishnah refers only to [a marriage] after [the suspected woman's] death.[29]

Whence is this ruling deduced? — From what the Rabbis taught: In the case of all those [illicit relationships][30] Scripture used the expression of 'lying',[31] but here[32] it made use of the expression of 'taking',[33] in order to tell you [that only when intercourse with a woman was in] the manner of 'taking'[34] did the Torah forbid [marriage with her relatives].[35]

Said R. Papa to Abaye: If that is so,[36] then in respect of one's sister, concerning whom it is written, And if a man shall take his sister, his father's daughter, or his mother's daughter;[37] is [intercourse] here also forbidden only [if it is in] the manner of 'taking',[34] but permitted [if it is in] the manner of 'lying'![38] — The other replied: The word 'taking' is used in the Torah without being defined, [so that a text] to which 'taking' is applicable,[39] [signifies] 'taking'[40] while one to which only 'lying' is applicable,[41] [signifies] 'lying'.[42]

Raba stated: [That a man who] outraged a woman is permitted to marry her daughter, [is deduced] from here: It is written, The nakedness of thy son's daughter, or of thy daughter's daughter, thou shalt not uncover;[43] from which it follows[44] that the daughter of her[45] son and the daughter of her[45] daughter may be uncovered; but it is also written in Scripture, Thou shalt not uncover the nakedness of a woman and her daughter; thou shalt not take her son's daughter, or her daughter's daughter![46] How then [are these to be reconciled]? The former[47] refers to cases of outrage and the latter to those of marriage. Might not [the application][48] be reversed? — In respect of forbidden relatives the expression kin[49] is written, and kinship exists only by means of marriage; but no kinship exists by means of outrage.

R. JUDAH FORBIDS MARRIAGE WITH THE WOMAN WHOM ONE'S FATHER HAD OUTRAGED, etc. R. Giddal stated 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:[50] the skirt which his father saw[51] he shall not uncover. Whence, however, is it inferred that Scripture speaks of 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 damsels father fifty *Shekels* of silver.[52] And the Rabbis?[53] — If one text had occurred in close proximity to the other your exposition would have been justified;[54] now, however, that it does not occur in close proximity, the text is required for [an exposition] like that of R. Anan. For R. Anan stated in the name of Samuel that the Scriptural text[50] speaks of a woman awaiting the levirate decision of his father; and the meaning of[55] his father's skirt[50] is: He[56] shall not uncover the skirt which is designated for his father.[57]

[This prohibition,[58] however], might be deduced from the fact that she is his aunt![59] — [The text[50] was necessary] to make him[60] guilty of the transgression of two negative commandments.[61] [The prohibition,[62] however] might be inferred from the fact [that the widow as a] sister-in-law[63] [is forbidden] to marry any stranger![64] — [The text[50] was necessary] to make him guilty of

the transgression of three negative commandments.[65] And if you prefer I might say:[66] After [his father's] death.[67]

1. Or Jehozadak (cf. Sanh. 90b).
2. Cant. VII. 10. [H] moving gently.
3. [H].
4. V. *supra* n. 5. The rt. [H] signifies both 'to exude' and 'to whisper'.
5. A levir whose brother died without issue and whose duty it is to marry the widow of the deceased or to submit to her *Halizah*.
6. The legal signs of maturity.
7. The relatives of the widow, who are desirous of procuring her exemption from the levirate marriage and the *Halizah*.
8. One incapable of procreation. V. Glos. He is no longer regarded as a minor for whose maturity the widow must wait.
9. A widow whose husband died childless. Cf. *supra* p. 661, n. 8.
10. The levir's relatives, cf. *supra* p. 661, n. 10 mutatis mutandis.
11. *Supra* 80a, Ned. 57b, Cf. B.B. 155b. From this (cf. p. 661, n. 11) it follows that at the age of twenty a person is considered to have attained legal majority, though his body has not developed any signs of maturity, contrary to our Mishnah which gives such a person the status of a minor.
12. The law that he is regarded as a *Saris*.
13. Described *supra* 80b.
14. If, however, these additional symptoms of a *Saris* did not appear, he is as stated in our Mishnah regarded as a minor so long as he has not produced two pubic hairs.
15. That a boy is not regarded as a *Saris* unless apart from the absence of pubic hairs, he has developed also other symptoms of a *Saris*.
16. Implying that he had already other symptoms of a *Saris*.
17. If two pubic hairs did not appear.
18. Lit., 'most of his years', i.e., until he is thirty-six years of age. Man's span of life is taken to be seventy years (cf. Ps. XC, 10).
19. Of one who reached the age of twenty without having produced two hairs.
20. Or, 'R. Hiyya'. Cf. B.B. 155b and Nid. 47b.
21. [H] (rt. [H] Pi'el, 'to fall off'). MS.M. reads, [H] (rt. [H] 'come', 'appear') a reading adopted by Tosaf. in B.B. 155b, s.v. [H].
22. Only relatives of a married wife are subject to the law of incest.
23. And must suffer the prescribed penalties.
24. In our Mishnah.
25. By immoral intercourse, whether without, or with her consent.
26. Tosef. Yeb. IV and *supra* 262 q.v. for notes.
27. In the Tosefta cited.
28. In order that illicit intercourse with the suspected woman may not be facilitated through a marriage with one of her near relatives.
29. If the woman outraged or seduced is dead the marriage with any one of her relatives would obviously provide no further facilities for illicit intercourse with her (cf. *supra* n. 7). Hence no preventive measure was instituted.
30. Such as, e.g., a father's wife, a daughter-in-law and an aunt (v. Lev. XX, 11ff).
31. E.g., lieth (Lev. XX, 11), lie (ibid. 12).
32. In respect of a woman and her mother, and similar relatives that are forbidden through one's wife.
33. E.g., take (Lev. XVIII, 17, 18, ibid. XX, 14, 17).
34. I.e., when the man contracted with her a lawful marriage; cf. Deut. XXIV, 1: 'When a man taketh a wife'.
35. The relatives of a woman with whom he had illicit intercourse are, therefore permitted.
36. Lit., 'but now'.
37. Lev. XX, 17 emphasis on take. Cf. *supra* n. 6.
38. This would be absurd.
39. As in the case of a woman and her mother or two sisters, where marriage with the first is lawful.
40. Lawful marriage. Only when legal marriage took place with the first is marriage with the second forbidden.
41. Intercourse, for instance, with one's sister.
42. Even illicit intercourse.
43. Lev. XVIII, 10.
44. Lit., 'thus'.
45. A wife's.
46. Lev. XVIII, 17.
47. Lit., 'here'.
48. I.e., applying the first text to cases of marriage and the second to those of outrage.
49. V. Lev. XVIII, 6.
50. Deut. XXIII, 1.
51. Even through outrage.
52. Deut. XXII, 29. a case of outrage.
53. How can they maintain their view in our Mishnah against the Scriptural text.
54. Lit., 'as you said'.
55. Lit., 'and what'.
56. A son.
57. Such a woman, unless she has performed *Halizah* with his father, is permitted to marry no one but his father.
58. To marry the widow who was subject to his father's Levirate marriage. Cf. *supra* n. 9.
59. Having been the wife of his father's brother. V. Lev. XX, 20. What need then was there for the additional text of Deut. XXIII, 1?
60. The son. v.. *supra* note 10.
61. Prescribed in (1) Lev. XX, 20 and (2) Deut. XXIII, 1.
62. V. *supra* note 10.

63. Cf. *supra* note 9.
64. Lit., 'to the market', i.e., any man other than the levir. Cf. *supra* n. 11 second clause.
65. The two referred to *supra* p. 665, n. 13 as well as the one last mentioned.
66. In reply to the last objection.
67. When marriage with the widow is not subject to the last mentioned prohibition (that of a sister-in-law to a stranger) and only two prohibitions (v. *supra* p. 665, n. 13) remain.

Yebamoth 97b

'My[1] paternal, but not my maternal brother; and he is the husband of my mother and I am the daughter of his wife'![2] — Rami b. Hama said: Such [a relationship is] not [legally possible] according to the ruling of R. Judah in our Mishnah.[3]

'He[4] whom I carry on my shoulder is my brother and my son and I am his sister'? — This is possible when an idolater cohabited with his daughter'.[5]

'Greetings[4] to you my son; I am the daughter of your sister'? — This is possible where an idolater cohabited with his daughter's daughter.[6]

'Ye[4] water-drawers,[7] we shall ask you[8] a riddle that defies solution: He whom I carry is my son and I am the daughter of his brother'? — This is possible where an idolater cohabited with the daughter of his son.[9]

'Woe,[4] woe, for my brother who is my father; he is my husband and the son of my husband; he is the husband of my mother and I am the daughter of his wife; and he provides no food for his orphan brothers, the children of his daughter'? — This is possible when an idolater cohabited with his mother and begot from her a daughter; then he cohabited with that daughter; and then the grandfather[10] cohabited with her[11] and begot from her sons.[12]

'I[13] and you are brother and sister,[14] I and your father are brother and sister, and I and your mother are sisters'? — This is possible where an idolater cohabited with his mother and from her begot two daughters, and then he cohabited with one of these and begot from her a son. When the son's mother's sister[15] carries[16] him[17] she addresses him thus.[18]

'I[13] and you are the children of sisters,[14] I and your father are the children of brothers, and I and your mother are the children of brothers'? — This indeed is possible also in the case of a lawful marriage; where, for instance, Reuben had two daughters, and Simeon[19] came and married one of them, and then came the son of Levi[19] and married the other.

The son of Simeon can thus[20] address the son of the son of Levi.[21]

MISHNAH. THE SONS OF A FEMALE PROSELYTE WHO BECOME PROSELYTES TOGETHER WITH HER NEITHER[22] PARTICIPATE IN *HALIZAH* NOR CONTRACT LEVIRATE MARRIAGE, EVEN IF THE ONE WAS NOT CONCEIVED IN HOLINESS.[23] BUT WAS BORN IN HOLINESS,[24] AND THE OTHER WAS BOTH CONCEIVED AND BORN IN HOLINESS. SO ALSO [IS THE LAW] WHERE THE SONS OF A BONDWOMAN WERE EMANCIPATED TOGETHER WITH HER.

GEMARA. When the sons of the bondwoman Yudan were emancipated. R. Aha b. Jacob permitted them to marry one another's wives.[25] Said Raba to him: But R. Shesheth forbade [such marriages]. The other replied: He forbade, but I allow.

[In respect of proselyte brothers] from the same father and not from the same mother, there is no difference of opinion[26] that this[27] is permitted;[28] [in respect of brothers] from the same mother and not from the same father, there is no difference of opinion[26] that this[27] is forbidden.[29] They differ only [in respect of proselytes whose brotherhood is] both paternal and maternal. He[30] who permits it[27] [does so because children are] ascribed to their father, since they are spoken of as 'the children of such and such a man'.[31] R. Shesheth, however, [holds that they] are also spoken of as 'the children of such and such a woman'.[29]

Another reading: R. Aha b. Jacob disputed [the illegality of marriage][27] even in respect of maternal brothers. And what is his reason? — Because a man who has become a proselyte is like a child newly born.[32]

We learned, THE SONS OF A FEMALE PROSELYTE WHO BECAME PROSELYTES TOGETHER WITH HER NEITHER PARTICIPATE IN *HALIZAH* NOR CONTRACT THE LEVIRATE MARRIAGE, is not the reason[33] because they are forbidden [to marry a brother's wife]![34] — No; it is because [the widow] is not subject to the law of *Halizah* and levirate marriage.[35] She is permitted, however, to strangers.[36] and the brothers also are permitted[to marry her]. But, surely, it was stated EVEN! Now were you to admit that [the brothers] are forbidden.[37] one could well justify the expression of EVEN: EVEN IF THE ONE WAS NOT CONCEIVED IN HOLINESS BUT WAS BORN IN HOLINESS. AND THE OTHER WAS BOTH CONCEIVED AND BORN IN HOLINESS, [so that the two might well be regarded] as [the sons of] two mothers,[38] they are nevertheless forbidden; if you maintain, however, that they are permitted,[39] what [can be the purport of] EVEN![40] — Even though the birth of both was in holiness, and people might mistake[41] them for Israelites,[42] [the widow] is nevertheless permitted [to marry a stranger].[43]

Others read: Logical reasoning also supports the view that they are permitted,[39] since the expression EVEN was used. For, if you grant that they are permitted[39] it is quite correct to say EVEN: Even though the birth of both was in holiness and people might mistake[41] them for Israelites.[42] they are nevertheless permitted;[43] if, however, you maintain that they are for bidden[44] what [can be the purport of] EVEN![45] — EVEN IF THE ONE WAS NOT CONCEIVED IN HOLINESS BUT WAS BORN IN HOLINESS, AND THE OTHER WAS BOTH CONCEIVED AND BORN IN HOLINESS [so that they might well be regarded] as [the sons of] two mothers,[46] they are nevertheless forbidden.

Come and hear: Twin brothers who were proselytes, and similarly if they were emancipated slaves,[47] may neither participate in *Halizah* nor contract levirate marriage, nor are they guilty [of a punishable offence] for [marrying] a brother's wife.[48] If however, they were not conceived in holiness but were born in holiness, they neither participate in *Halizah* nor contract levirate marriage[49] but are guilty [of a punishable offence][50] for [marrying] a brother's wife.[51] If they were both conceived and born in holiness, they are regarded as Israelites in all respects. At all events, it was stated that they are not 'guilty [of a punishable offence] for [marrying] a brother's wife'; [from which it follows that] no punishable offence is incurred

1. This and the following unlikely propositions are merely riddles on the possible complications of consanguinity.
2. Such a riddle may be put by a daughter who was born as a result of outrage by his father where the son of the man by another wife has subsequently married her mother.
3. Since, according to R. Judah, marriage is forbidden with a woman one's father had outraged.
4. V. *supra* n. 4.
5. And a son was born from the union. The mother of the child might put such a riddle.
6. The son born from such a union, since he is the paternal brother of his mother's mother, might be addressed by his mother in the terms of this riddle.
7. Lit., 'drawers who draw the bucket'. Men engaged in the irrigation of fields (cf. Rashi and last.); scholars drawing from the fountains of wisdom (cf. Aruk. and Tosaf. s.v. [H].
8. So Aruk. Cur. edd., 'let it fall among you'.
9. The son born from this union is the paternal brother of his mother's father.
10. The idolater's father.
11. The daughter.
12. The daughter may describe the idolater as her maternal brother, her natural father and her actual husband. Owing to her cohabitation with his father (the grandfather) he is the son of her husband, while through his cohabitation with her mother he is her mother's husband and she is, of course, the daughter of his wife. The children resulting from the union between her and the grandfather are his (the idolater's) paternal brothers and, of course, the children of his daughter.
13. V. *supra* p. 666, n. 4.

14. [H] may be rendered 'brothers', 'brother and sister' and 'sisters'. It sometimes signifies 'relatives' or mere 'friends'.
15. [MS.M. 'when his sister'].
16. So MS.M. Cur. edd., 'calls'.
17. The son.
18. She and the son are brother and sister, being the offspring of the same father. She and his father are brother and sister from the same mother, while she and his mother are sisters both paternally and maternally.
19. His brother, Reuben, Simeon and Levi, the sons of Jacob and Leah (v. Gen. XXIX, 32ff) are chosen as an illustration of brotherly relationship.
20. So BaH a.l. wanting in cur. edd.
21. He and Levi's grandson are the children of two sisters (Reuben's daughters); he and Levi's son (the grandson's father) are children of two brothers (Simeon and Levi), while he and the grandson's mother are children of the two brothers Reuben and Simeon.
22. Should one of the brothers die without issue.
23. I.e., before his mother became a proselyte.
24. After his mother became a proselyte.
25. A proselyte having the status of a newly born child, all his previous family relationships are dissolved. The prohibition against marriage with a brother's wife does not, therefore, apply.
26. Between R. Aba and R. Shesheth.
27. Marriage of a brother's wife in the case of proselytes.
28. It is well known that their father was no Israelite, and that it is for this reason that the marriage was permitted. No one would assume that they were the sons of the same father, since idolaters' wives were known to be faithless, and, consequently, no one would erroneously infer that proper Israelites may also marry their brother's wives.
29. Their mother being known, they might he assumed to be lawful brothers and, should marriage of a brother's wife he permitted in their case, an erroneous conclusion (v. *supra* note 6) might he formed.
30. R. Aba.
31. Cf. *supra* note 6.
32. V. *supra* 22a and cf. *supra* note 3.
33. Of the prohibition. Lit., 'what is the reason'.
34. The law of the levirate marriage being inapplicable in their case, the prohibition against marrying a brother's wife remains in force. An objection against R. Aha
35. The Mishnah implying that the brothers are not obliged to perform the religious rites.
36. Lit., 'to the world'.
37. Marriage of a brother's wife in the case of proselytes.
38. Who may marry one another's wives.
39. To marry each other's wives.
40. On the contrary; this should be an additional reason for permissibility.
41. Lit., 'exchange'.
42. And so permit a deceased brother's wife to marry a stranger without previous *Halizah*.
43. Because (cf. Rashi) it is known that the duty of levirate marriage and *Halizah* is determined by paternal brotherhood which is inapplicable in the case of a father who was an idolater (cf. *supra* p. 668, n. 6.) [They, themselves, would however be forbidden to marry each other's widows where they were both born in holiness. It is only with reference to the first clause of our Mishnah that R. Aha stated *supra* that they were permitted (Rashi)].
44. To marry each other's wives.
45. The fact that they were both born in holiness should be an additional reason for the prohibition.
46. Who may marry one another's wives.
47. Though, in the case of twins, paternal brotherhood is certain (cf. *infra* 89a).
48. V. *supra* p. 668, n. 3.
49. Since the duty of levirate marriage and *Halizah* is dependent on paternal brotherhood. Cf. *supra* p. 669, n. 3.
50. *Kareth*.
51. Whom even a maternal brother is forbidden to marry.

Yebamoth 98a

but that a [Rabbinical] prohibition is 'nevertheless involved![1] — The law, in fact, is that even a [Rabbinical] prohibition is not involved; only, because it was desired to state in the final clause, 'but are guilty [of a punishable offence]', it was stated in the first clause also, 'they are not guilty [of a punishable offence]'.

Raba stated: With reference to the Rabbinical statement that [legally] an Egyptian has no father,[2] it must not be imagined that this is due to [the Egyptians'] excessive indulgence in carnal gratification, owing to which it is not known [who the father was], but that if this were known[3] it is to be taken into consideration;[4] but [the fact is] that even if this is known it is not taken into consideration. For, surely, in respect of twin brothers, who originated in one drop that divided itself into two, it was nevertheless stated in the final clause,[5] that they 'neither

participate in *Halizah* nor perform levirate marriage'.[6] Thus it may be inferred that the All Merciful declared their children to be legally fatherless,[7] for [so indeed it is also] written, Whose flesh is as the flesh of asses, and whose issue is like the issue of horses.[8]

Come and hear what R. Jose related: It once happened with the proselyte Niphates[9] that he married the wife of his [deceased][10] maternal brother,[11] and when the case was submitted to the Sages their verdict was that the law of matrimony does not apply to a proselyte. But then, should a proselyte betroth a woman, would also the betrothal be invalid? — Say then rather: The prohibition of a brother's wife does not apply to a proselyte. Now does not [this refer to the case] where his brother[11] had married her while he was a proselyte![12] — No; where he married her while he was still an idolater.[13] But if [betrothal took place] while he was still an idolater, what [need is there] to state it?[14] — It might have been assumed that [in the case of a brother's betrothal] while he is still an idolater a preventive measure should be enacted lest [erroneous conclusions be drawn in the case] where he is a proselyte, hence we were taught [that no such measure was enacted].

Come and hear what Ben Yasyan[15] related: When I went to the coastal towns[16] I came across a certain proselyte who had married the wife of his maternal brother. 'Who, my son', I said to him, 'permitted you [this marriage]?' 'Behold', he replied. 'the woman and her seven children;[17] on this bench sat R. Akiba when he made two statements: "A proselyte may marry the wife of his maternal brother", and he also stated, "And the word of the Lord came unto Jonah the second time, saying,[18] only a second time did the *Shechinah* speak to him; a third time the *Shechinah* did not speak to him."'[19] At any rate, it was stated here that 'a proselyte may marry the wife of his maternal brother'. Does not [this refer to a case] where his brother married her while he was a proselyte! — No; where he married her while he was still an idolater.[20] What [need then was there] to state [such an obvious law]? — It might have been assumed that [in the case of a brother's betrothal] while he is still an idolater a preventive measure should be enacted lest [erroneous conclusions be drawn in the case] where he is a proselyte. hence we were taught [that no such measure was enacted].

Is he,[21] however, believed? Surely R. Abba stated in the name of R. Huna in the name of Rab: Wherever a scholar gives directions[22] on a point of law and such a point comes up for a practical decision, he is obeyed if he made the statement[23] before the event;[24] but if it was not so made, he is not obeyed![25] — If you wish I might say: The incident occurred after he made his statement. If you prefer, I might say: Because he stated, 'Behold the woman and her seven children'.[26] And if you prefer I might say: Here it is different[27] because with it he related another incident.[28]

The Master said, 'And the word of the Lord came to Jonah a second time, saying,[29] only a second time did the *Shechinah* speak unto him, a third time the *Shechinah* did not speak to him'. But surely it is written in Scripture, He restored the border of Israel from the entrance of Hamath unto the sea of the Arabah, according to the word of the Lord, which He spoke by the hand of His servant Jonah the son of Amittai, the prophet![30] — Rabina replied: He[31] referred to the affairs of Nineveh.

R. Nahman b. Isaac replied, It is this that was meant:[32] According to the word of the Lord … which He spoke by the hand of his servant, the prophet,[33] as his intention towards Nineveh was turned from evil to good, so was his intention towards Israel, in the days of Jeroboam the son of Joash, turned from evil to good.

Come and hear: A proselyte who was born in holiness[34] but was not conceived in holiness[35] has [legally] maternal consanguinity but no paternal consanguinity. For instance:[36] If he married his maternal sister,[37] he must divorce her;[38] if his paternal one, he may retain her.[39] His father's maternal sister he must divorce;[40]

1. Lit., 'guilt there is not but a prohibition there is'. The Rabbis had instituted a preventive measure against the possibility of taking such a marriage as a precedent for allowing similar marriages to proper Israelites. Objection then against R. Aha!
2. Not only where he became a proselyte himself in which case he is regarded as newly born (v. *supra*), but even where he was only conceived before his mother became a proselyte and was born subsequently.
3. If, for instance, his father and mother were confined under lock and key, where it was impossible for any other man to have had intercourse with the woman.
4. And, if the child was born after his mother had become a proselyte (v. *supra* p. 670, n. 10), he is to be regarded legally as having a father.
5. Which speaks of proselytes who were born after their mother had become a proselyte.
6. *Supra* 97b end.
7. Lit., 'made them free', 'ownerless'.
8. Ezek. XXIII, 20.
9. [G] So MS.M. Cur. edd. 'Niphatem'. The suggestion to read [G] is rejected by Golds.
10. V. Rashi, a.l. s.v. [H].
11. Who was a proselyte.
12. And yet it was stated that the prohibition of 'brother's wife' does not apply.
13. When his betrothal has no validity; and after he had become a proselyte he no longer cohabited with her.
14. The law being self-evident.
15. MS.M., 'R. Jose b. Yasin'.
16. Mercantile ports (Jast.).
17. Proselytes. whom R. Akiba (v. *infra*) permitted to marry brothers' wives.
18. Jonah III, 1.
19. Mekilta, Bo.
20. V. *supra* p. 671, n. 11.
21. A proselyte in the circumstances of the one who reported R. Akiba's ruling.
22. Basing his ruling on a tradition he received from his teachers.
23. In the course of his discourses.
24. Before the law was required in connection with a practical issue.
25. Much less should an ordinary proselyte be relied upon in a case in which he himself is involved. v. *supra* 770.
26. An incident which had obviously occurred 'before he made his statement.
27. From the case of the scholar's ruling spoken of by Rab.
28. R. Akiba's discourse on Jonah III, 1 while he was sitting on a certain bench. As the one statement could be safely accepted, the other also was accepted.
29. Jonah III, 1.
30. II Kings XIV, 25, which shows that He spoke a third time.
31. R. Akiba, in stating that the *Shechinah* spoke to him only twice.
32. By the text of II Kings cited.
33. Ibid.
34. I.e., after his mother became a proselyte.
35. I.e., before his mother became a proselyte.
36. Lit., 'how'.
37. Though she was born while their mother was still an idolatress, and though he, as a proselyte, is regarded as a newly born child.
38. As a preventive measure against the possibility of marrying a sister, who like himself was born after their mother's conversion. Such a marriage, since brother and sister were born 'in holiness', is punishable by *Kareth*.
39. No preventive measure in this case is necessary, since, a proselyte having legally no father, any daughter that may be begotten by his father, even after his conversion, would not be legally his sister.
40. A preventive measure against marriage with his own maternal sister. Cf. *supra* n. 13.

Yebamoth 98b

his paternal one he may retain. His mother's maternal sister he must divorce. As to her paternal sister, R. Meir said: He must divorce her,[1] and the Sages said: He may retain her;[2] R. Meir maintaining that any woman forbidden on account of maternal consanguinity must be divorced, but if on account of paternal consanguinity he may retain her. He is also permitted [to marry] his brother's wife,[3] and the wife of his father's brother. All other forbidden relatives are also permitted to him, including his father's wife. If [a proselyte][4] married a woman and her daughter[5] she may[6] retain[7] one, but must release the other.[8] In the first instance he may not marry[7] her.[9] If his wife died, he is permitted to marry his mother-in-law. Another opinion is that he is forbidden to marry his mother-in-law.[10] At all events, it was here stated that he is 'permitted [to marry] his brother's wife'; does not [this apply to a woman] whom his brother had married while he was a proselyte! — No; where he married her while he was still an idolater. What [need was there] to state it?[11] — It might have been assumed that [in the case of a brother's marriage] while he was still

an idolater a preventive measure[12] should be enacted to preclude [the same thing being done] where he is already a proselyte, hence were we taught [that in such a case a brother's wife was permitted].

The Master stated, 'If [a proselyte] married a woman and her daughter, he may retain one but must release the other; in the first instance he may not marry her'. Now, if he must even release her, is there any need [to speak of a prohibition to marry her] from the outset?[13] — It refers to a previous clause,[14] and the meaning is this: That [woman]. concerning whom the Rabbis ruled that he[15] may retain her,[16] may nevertheless not be married by him from the outset.

'If his wife died he is permitted to marry his mother-in-law. Another opinion is that he is forbidden to marry his mother-in-law'. One is in agreement with R. Ishmael and the other is in agreement with R. Akiba. He who forbade the marriage agrees with R. Ishmael who stated: A man's mother-in-law after [his wife's] death retains the former prohibitions;[17] and in respect of a proselyte a preventive measure was enacted.[18] He, however, who permits the marriage follows R. Akiba who stated that the prohibition [to marry] one's mother-in-law is weakened after [one's wife's] death;[19] and, consequently, no preventive measure has been enacted by the Rabbis in respect of a proselyte.

MISHNAH. IF THE [MALE] CHILDREN OF FIVE WOMEN WERE MIXED UP[20] AND, WHEN THESE INTERCHANGED CHILDREN GREW UP, THEY TOOK WIVES AND THEN DIED, FOUR[21] SUBMIT TO *HALIZAH* FROM ONE [OF THE WIDOWS][22] AND ONE[23] CONTRACTS WITH HER THE LEVIRATE MARRIAGE.[24] [THEN] HE[25] AND THREE [BROTHERS][21] SUBMIT TO *HALIZAH* FROM ONE [OTHER OF THE WIDOWS]. AND ONE[26] CONTRACTS WITH HER[27] THE LEVIRATE MARRIAGE.[28] THUS[29] EVERY ONE [OF THE WIDOWS] PERFORMS *HALIZAH* FOUR TIMES AND CONTRACTS THE LEVIRATE MARRIAGE ONCE.

GEMARA. Only the *Halizah* [must take place[30] first] and the levirate marriage afterwards; the levirate marriage, however, must not take place first, since, thereby, one[31] might infringe the prohibition against a sister-in-law's marriage with a stranger.[32]

What [was the object of the statement], HE AND THREE [BROTHERS] SUBMIT TO *HALIZAH* FROM ONE [OTHER OF THE WIDOWS]?[33] — That it be not suggested that one brother only should contract levirate marriage with all of them. Rather let every brother contract levirate marriage with only one [of the widows], when it is possible his own [sister-in-law] might happen to fall to his lot.

Our Rabbis taught:[34] 'If some of them[35] were brothers[36] and some were no brothers,[36] the brothers submit to *Halizah* while those who are no brothers contract the levirate marriage.' What does this exactly mean? — R. Safra replied. It is this that is meant: If some of them[35] were paternal brothers[36] and some were [also] maternal brothers,[37] the maternal brothers submit to *Halizah*[38] and the paternal brothers may [also] contract levirate marriage.[39] 'If some of them[40] were priests and some were non-priests, the priests submit to *Halizah*[41] and those who are non-priests may [also] contract levirate marriage. If some of them[42] were priests and some maternal brothers, the former as well as the latter submit to *Halizah* but may not contract levirate marriage.'[43]

1. The reason is given presently.
2. No preventive measure being necessary in such a case which is quite unlike that of a maternal sister.
3. Cur. edd. insert 'from his mother' which is to be deleted with BaH a.l. The proselyte is, in fact, permitted to marry the wife of his paternal brother as well as the wife of his maternal brother if the latter was born before the conversion. A preventive measure (cf. *supra* p. 673, n. 13) was not instituted in the case of a relationship which is not due to consanguinity but is dependent on betrothal.
4. Before his conversion. One born 'in holiness' is forbidden to marry a mother and her daughter.

5. Who were also converted.
6. After his conversion.
7. Lit., 'bring in', sc. to his home.
8. This is a preventive measure against marriage with an Israelitish mother and daughter.
9. This sentence is explained *infra*.
10. V. Sanh., Sonc. ed., p. 394. notes.
11. The law being so obvious.
12. Forbidding his wife to his brother.
13. Why, then, was the superfluous clause, 'In the first instance he may not marry her', inserted.
14. Lit., 'there he stands'.
15. The proselyte.
16. E.g., his paternal sister.
17. V. *supra* 94b, Sanh. 76b.
18. To prevent such a marriage in the case of an Israelite.
19. It is no longer punishable by the severe penalty of burning. v. *supra* 94b.
20. And each woman had also another son who was not involved in the confusion.
21. Of the five brothers who were not mixed up with these. V. *supra* note 6.
22. Since everyone of them might be her brother-in-law.
23. Of the five brothers (v. *supra* n. 7) i.e., the fifth who had not submitted to *Halizah*.
24. As four brothers have, by their *Halizah*, severed their levirate bond with the widow mentioned, the fifth may marry her either as her brother-in-law (in case it was his brother who was her husband) or as a stranger (if her husband was a brother of one of the four who had now set her free).
25. The brother who contracted the levirate marriage.
26. Of the brothers (v. *supra* n. 7) who had submitted to *Halizah* from the first widow.
27. The second widow.
28. For reasons similar to those explained *supra* n. 10.
29. Lit., 'it is found'. The same procedure being followed in respect of all the five widows.
30. In our Mishnah, in respect of every widow.
31. Should a brother happen to marry the widow who was not the wife of his deceased brother.
32. Lit., 'for he met a sister-in-law for the market'.
33. The same brother who contracted the first levirate marriage is, surely, entitled to contract similar marriages with all the widows, as soon as the other four brothers had submitted to their *Halizah*.
34. So BaH. Cur. edd. omit.
35. Of the brothers who were not involved in the confusion.
36. Of those who were mixed up and are now dead.
37. I.e., paternal brother to one and maternal brother to another.
38. Thereby setting free the widows of their paternal brothers. They may not contract levirate marriage even after the widows had performed *Halizah* with all the other brothers, since, should one of them happen to marry the widow of his maternal brother, he would thereby incur the penalty of *Kareth*.
39. With any of the widow's, after each of the other brothers had submitted to her *Halizah*.
40. of the brothers who were not involved in the confusion.
41. The levirate marriage is forbidden to them because any one of them might happen to marry the widow who was not a sister-in-law to him but to one of the other brothers. and who, by the *Halizah* with her brother-in-law, has become a *Haluzah* whom a priest is forbidden to marry.
42. Of the brothers who were not involved in the confusion.
43. Tosef. Yeb. XII. Cf. *supra* p. 676. n. 9 (re maternal brothers) and *supra* n. 1 (re priests).

Yebamoth 99a

Our Rabbis taught: A man must sometimes submit to *Halizah* from his mother[1] owing to an uncertainty; from his sister, owing to an uncertainty: and from his daughter, owing to an uncertainty'. For instance?[2] If his mother and another woman had two male children, and then gave birth to two male children[3] in a hiding place;[4] and a son[5] of the one mother[6] married the mother[7] of the other son while the son[8] of the other mother[6] married the mother of the first, and both[9] died without issue, the one[10] must submit to *Halizah* from both women[11] and the other[10] must submit to *Halizah* from both women.[11] Thus it follows that each submits to *Halizah* from his mother owing to an uncertainty. 'From his sister. owing to an uncertainty'; for instance?[2] When his mother and another woman gave birth to two female children[12] In a hiding place,[13] and their brothers[14] who were not from the same mother[15] married them[16] and died without issue, he[17] must submit to *Halizah* from both widows.[18] Thus it follows that a man submits to *Halizah* from his sister owing to an uncertainty. 'From his daughter, owing to an uncertainty'; for instance?[19] When his wife and another woman gave birth to two female children[20] in a hiding place,[21]

and their[22] [husbands'] brothers[23] married them[16] and died without issue, the one [father][24] submits to *Halizah* from his daughter[25] owing to the uncertainty and the other [father][24] submits to *Halizah* from his daughter[25] owing to the uncertainty.[26]

It was taught: R. Meir said, A husband and wife may sometimes produce five different castes.[27] How? If an Israelite bought a bondman and a bondwoman in the market, and these had two sons[28] one of whom became a proselyte, the result is that one is a proselyte and the other is an idolater.[29] If [subsequently] he made them[30] perform the prescribed immersion for the purpose of slavery and then they cohabited with one another [and bore a son], behold here we have a proselyte, an idolater and a slave.[31] If he subsequently emancipated the bondwoman[32] and the slave cohabited with her [and had another son], behold here[33] we have a proselyte, an idolater, a slave and a bastard.[34] If he then emancipated both of them[30] and made them marry one another, behold here[35] we have a proselyte, an idolater, a slave, a bastard and an Israelite.[36] What does this teach us? — That when an idolater or a slave cohabits with an Israelitish woman their child is a bastard.[37]

Our Rabbis taught: Sometimes a man sells his father to enable his mother to collect her *Kethubah*. How? If an Israelite bought in the market a bondman and a bondwoman who had a son,[38] and having emancipated the bondwoman he married her and bequeathed, in writing, all his estate to her son, the result is that this son[39] sells his father[40] in order to enable his mother[41] to collect her *Kethubah*.[42] What does this teach us? — That all this [Baraitha[43] represents the views of] R. Meir. and that a slave [is regarded as] movable property, such property being mortgaged for a *Kethubah*![44]

And if you prefer I might say. It is this that we were taught: A slave [is on the same footing as] real estate.[45]

MISHNAH. IF THE CHILD OF A WOMAN WAS INTERCHANGED WITH THE CHILD OF HER DAUGHTER-IN-LAW. AND WHEN THE INTERCHANGED CHILDREN GREW UP THEY TOOK WIVES AND THEN DIED,[46] THE [OTHER] SONS OF THE DAUGHTER-IN-LAW[47] SUBMIT TO *HALIZAH*[48] BUT MAY NOT CONTRACT LEVIRATE MARRIAGE.[49] FOR [IN THE CASE OF EACH WIDOW AND BROTHER] IT IS UNCERTAIN WHETHER SHE IS THE WIFE OF HIS BROTHER[50] OF THE WIFE OF HIS FATHER'S BROTHER.[51] THE [OTHER] SONS OF THE GRANDMOTHER[52] EITHER SUBMIT TO *HALIZAH*[53] OR CONTRACT LEVIRATE MARRIAGE,[54] SINCE [IN THE CASE OF EACH WIDOW AND BROTHER] THE ONLY DOUBT IS WHETHER SHE IS THE WIFE OF HIS BROTHER[55] OR THE WIFE OF HIS BROTHER'S SON.[55] IF THE UNTAINTED SONS[56] DIED,[57] THEN THE INTERCHANGED SONS SUBMIT [IN RESPECT OF THE WIDOWS] OF THE SONS OF THE GRANDMOTHER TO *HALIZAH* BUT MUST NOT CONTRACT[54] THE LEVIRATE MARRIAGE. SINCE [IN THE CASE OF EACH WIDOW AND BROTHER] IT IS UNCERTAIN WHETHER SHE IS THE WIFE OF HIS BROTHER[55] OR THE WIFE OF HIS FATHER'S BROTHER;[58] [WHILE IN RESPECT OF THE WIDOWS] OF THE SONS OF THE DAUGHTER-IN- LAW ONE[59] SUBMITS TO *HALIZAH*[60] AND THE OTHER[59] [MAY ALSO] CONTRACT THE LEVIRATE MARRIAGE.[61]

IF THE CHILD OF A PRIEST'S WIFE WAS INTERCHANGED WITH THE CHILD OF HER BONDWOMAN, BEHOLD BOTH MAY EAT *TERUMAH*[62] AND RECEIVE ONE SHARE AT THE THRESHINGFLOOR[63]

1. Though she belongs to one of the fifteen classes of relatives (*supra* 2a) who are themselves exempt from the levirate marriage and *Halizah* and who also exempt their rivals from these obligations.
2. Lit., 'how'.
3. One child each, he being one of them.
4. Where the women were sheltering from some enemy and where, owing to the confusion or the darkness of the place, the children were interchanged and it was impossible for either mother to ascertain which was her own child.

5. Concerning whose motherhood no doubt existed.
6. And her 'first husband.
7. Her husband having died.
8. Concerning whose motherhood no doubt existed.
9. These sons, each of whom is paternal as well as maternal brother of one of the interchanged sons.
10. Of the interchanged, as brother to one of the deceased. V. *supra* n. 12.
11. It being unknown which of them is] his mother who is exempt from *Halizah*, he must submit to *Halizah* from the two, one of whom is certainly a stranger to him and subject to his *Halizah*.
12. Each woman to one child.
13. V. *supra* note 7.
14. The paternal brothers of each of the girls' maternal brothers. [Rashi, basing himself on the Tosef. (Yeb. XII) from where the passage is taken, reads: And (his) two paternal brothers married them].
15. But from a former wife of their father, and who are consequently perfect strangers to the girls and their mothers.
16. The girls.
17. The maternal brother of one of the girls, who is the paternal brother of both the deceased.
18. V. *supra* p. 677. n. 14, mutatis mutandis.
19. Lit., 'how'.
20. Each woman to one child.
21. V. *supra* p. 677, n. 7.
22. The mothers'.
23. Two brothers, of the one husband or two of the other. An uncle is permitted to marry his niece.
24. If the interchanged girls were married by his brothers.
25. V. *supra* p. 677. n. 14. mutatis mutandis
26. Tosef. Yeb. XII.
27. Lit., 'nations'.
28. Who are regarded as idolaters but not as slaves. Cf. *supra* 46a.
29. Though the sons of the same father and mother.
30. The slaves he bought.
31. The son of the slave of an Israelite has the status of a slave. Cf. *supra* 462.
32. Who thereby gains the status of an Israelitish woman.
33. Though sons of the same father and mother.
34. Being the result of a union between an Israelitish woman (v. *supra* n. 18) and a slave.
35. Though sons of the same father and mother.
36. Tosef. Kid. V; the issue of a union between emancipated slaves has the status of an Israelite.
37. Cf. *supra* 16b. 450. Kid. 70a.
38. Whom he did not buy.
39. When the Israelite dies.
40. The slave who forms a part of the Israelite's estate.
41. Who claims her *Kethubah* from the estate of her deceased husband.
42. Tosef. Kid. V.
43. The section dealing with the sale of one's father just cited, as well as the section relating to the five castes cited above.
44. A view expressed by R. Meir in Keth. 80b.
45. Which, all agree, is mortgaged for the *Kethubah*.
46. Without issue.
47. In respect of whom her motherhood was never in doubt.
48. From the widows of the deceased.
49. With the widows.
50. With whom either *Halizah* or levirate marriage is permitted.
51. Whom one is forbidden to marry.
52. In respect of whom her motherhood was never in doubt.
53. From the widows of the deceased.
54. With the widows.
55. With whom either *Halizah* or levirate marriage is permitted.
56. I.e., those who were never involved in the interchange.
57. Without issue.
58. Whom one is forbidden to marry.
59. Of the two interchanged sons.
60. From either of the widows. He may not, however, contract levirate marriage since in respect of each widow it might be assumed that she was not his, but the other's brother's wife, and that she is consequently forbidden to him or to anyone else before the other had submitted to her *Halizah*.
61. For if the widow was his brother's wife he is obviously entitled to marry her, and if she was his brother's son's wife he may also marry her since her deceased husband's brother had already submitted to her *Halizah* and had thereby set her free to marry even a stranger.
62. A priest's slave also being allowed to eat *Terumah*.
63. This is explained *infra*.

Yebamoth 99b

THEY MAY NOT DEFILE THEMSELVES FOR THE DEAD[1] NOR MAY THEY MARRY ANY WOMEN WHETHER THESE ARE ELIGIBLE [FOR MARRIAGE WITH A PRIEST][2] OR INELIGIBLE.[3] IF WHEN THEY[4] GREW UP, THE INTERCHANGED CHILDREN EMANCIPATED ONE ANOTHER THEY MAY MARRY WOMEN WHO ARE ELIGIBLE FOR

MARRIAGE WITH A PRIEST[5] AND THEY MAY NOT DEFILE THEMSELVES FOR THE DEAD.[6] IF, HOWEVER, THEY DEFILED THEMSELVES, THE PENALTY OF FORTY STRIPES[7] IS NOT INFLICTED UPON THEM.[8] THEY MAY NOT EAT *TERUMAH*,[9] BUT IF THEY DID EAT THEY NEED NOT PAY COMPENSATION EITHER FOR THE PRINCIPAL OR [THE ADDITIONAL] FIFTH.[10] THEY ARE NOT TO RECEIVE A SHARE[11] AT THE THRESHING-FLOOR, BUT THEY MAY SELL [THEIR OWN] *TERUMAH*[12] AND THE PROCEEDS ARE THEIRS.[13] THEY RECEIVE NO SHARE IN THE CONSECRATED THINGS OF THE TEMPLE,[14] AND NO CONSECRATED THINGS[15] ARE GIVEN TO THEM. BUT THEY ARE NOT DEPRIVED OF THEIR OWN.[13] THEY ARE EXEMPT FROM [GIVING TO ANY PRIEST] THE SHOULDER, THE CHEEKS AND THE MAW,[16] WHILE THE FIRSTLING OF EITHER OF THEM MUST REMAIN IN THE PASTURE[13] UNTIL IT CONTRACTS A BLEMISH.[17] THE RESTRICTIONS RELATING TO PRIESTS AND THE RESTRICTIONS RELATING TO ISRAELITES ARE BOTH IMPOSED UPON THEM.[18]

GEMARA. IF THE UNTAINTED SONS DIED, etc.; are, then, the others,[19] because they were mixed up, tainted! — R. Papa replied: Read, 'If those [whose parentage was] certain died'.

[IN RESPECT, HOWEVER, OF THE WIDOWS] OF THE SONS OF THE DAUGHTER-IN-LAW ONE SUBMITS TO *HALIZAH*, etc. Only *Halizah* [must take place first] and the levirate marriage afterwards. The levirate marriage, however, must not take place first; since thereby one might infringe the prohibition against a sister-in-law's marriage with a stranger.[20]

[IF THE CHILD OF] A PRIEST'S WIFE WAS INTERCHANGED, etc. Obviously only ONE SHARE![21] — Read 'ONE SHARE together'.[22] Here we learn [a thing] which is in agreement with him who ruled that no share of *Terumah* is given to a slave unless his master is with him.[23] For it was taught: No share in *Terumah* is given to a slave unless his master is with him; so R. Judah. R. Jose, however, ruled: The slave[24] may claim, 'If I am a priest, give me for my own sake; and if I am a priest's slave, give me for the sake of my master'. In the place of R. Judah, [men of doubtful status] were raised to the status of priesthood[25] [on the evidence that they received a share] of *Terumah*.[26] In the place of R. Jose, however, no one was raised to the status of priesthood [on the evidence of having received a share] of *Terumah*.[27]

It was taught: R. Eleazar b. Zadok said, 'During the whole of my lifetime I have given evidence but once, and through my statement they raised a slave to the priesthood'. 'They raised'? Is [such an error] conceivable! If through the beasts of the righteous the Holy One, blessed be He, does not cause an offence to be committed, how much less through the righteous themselves! — Rather, read. 'They desired to raise a slave to the priesthood, through my statement'. He witnessed [the occurrence][28] in the place of R. Jose. but went and tendered his evidence in the place of R. Judah.[29]

Our Rabbis taught: Ten [classes of people] must not be given a share of *Terumah* at the threshing-floors. They are the following: The deaf,[30] the imbecile, the minor, the *tumtum*,[31] the hermaphrodite the slave, the woman,[32] the uncircumcised,[33] the Levitically unclean, and he who married a woman who is unsuitable for him.[34] In the case of all these, however, [*Terumah*] may be sent to their houses, with the exception[35] of the one who is Levitically unclean and one who married a woman who is unsuitable for him.[36] Now, one can well understand [the prohibition[37] in respect of] the deaf, the imbecile and the minor, since they lack intelligence;[38] [in respect of] the *Tumtum* and the hermaphrodite also,[39]

1. Since either of them might be assumed to be the priest (cf. Lev. XXI, 1).
2. Since such women are forbidden to the slave.
3. A bondswoman, for instance, who is forbidden to the priest.
4. The son of the priest and the slave who were interchanged.
5. Any freed man may marry such a woman.

6. V. p. 680, n. 13.
7. 'Forty' is a round number for the penalty of flogging which in fact consisted of thirty-nine stripes only.
8. Because each of them can plead that he is not the priest.
9. On account of the slave who, being now a freed man, is, like any Israelite, forbidden to eat *Terumah*.
10. Which an Israelite must pay (cf. Lev. XXII, 14). Each one of them can plead that he is the priest.
11. In *Terumah*. Cf. *supra* n. 5'
12. Of their own produce.
13. No priest can claim it from either of them since each can reply that it is he who is the priest.
14. Not even a share in the skins of the sacrifices.
15. Firstlings, for instance, or *Herem* (v. Glos.). Cf. Num. XVIII, 14f.
16. Priestly gifts prescribed in Deut. XVIII, 3.
17. When it is unfit for the altar, and may be eaten by its owner. The reason why an Israelite owner may not eat of the flesh of his firstling, even after it has contracted a blemish, is not because of its sanctity but because its consumption by a non-priest is regarded as robbing the priests. No such consideration arises in a case where the owner can claim that he himself is a priest. (Cf. *supra* note 9).
18. MS.M. and cur. edd. *infra* 100a. The reading here is 'upon him'.
19. Lit., 'those'.
20. Lit., 'because he met a sister-in-law for the market'.
21. Since no more than one of them can lay claim to the priesthood. Why then was the obvious stated?
22. Only when the two come together do they receive one share. One without the other receives nothing. The reason is given *infra*.
23. As one of the two is obviously a slave neither of them can claim a share unless the other is with him.
24. In circumstances like those spoken of in our Mishnah, where it is uncertain whether he is a slave or a priest.
25. Lit., 'genealogical (priestly) records', enabling them to marry women of unblemished and priestly descent. V. Keth., Sonc. ed., p. 233, n. 4.
26. Hence no *Terumah* must be given to a slave in the absence of his master.
27. Tosef. Yeb. Xli, Keth. 28b.
28. That a slave received a share of *Terumah*.
29. Cf. Keth., Sonc., ed., p. 156. notes.
30. Deaf-mute.
31. V. Glos.
32. A priest's wife.
33. A priest whose brothers died as a result of their circumcision, and who, owing to the fatal effect of such an operation on members of his family, is himself exempt from circumcision.
34. I.e., one whom a priest is forbidden to marry.
35. The uncircumcised priest is not excluded since his wives and slaves, though not he himself, are permitted to eat *Terumah*.
36. Tosef. Ter. X end.
37. To give him a share of *Terumah* at the threshing-floor.
38. It would be a mark of disrespect were the sacred *Terumah* to be entrusted to the care of persons who are mentally defective, or undeveloped, or in any other way below the normal standard of intellectual or physical fitness.
39. One can understand the reason for the prohibition.

Yebamoth 100a

since either of them is a peculiar creature; the slave, too, because owing to the *Terumah*[1] he might be raised to the priesthood;[2] the uncircumcised and the unclean also, owing to their repulsiveness; and the priest who married a woman unsuitable for him, as a penalty. But why should not a woman [be given a share of *Terumah*]? — On this question R. Papa and R. Huna son of R. Joshua differ. One explains: Owing [to possible abuse by] a divorced woman;[3] and the other explains: Owing to [the necessity of avoiding] privacy between the sexes.[4] What is the practical difference between them? — The practical difference between them is the case of a threshing-floor that is near a town but is unfrequented by people,[5] or one that is distant [from a town] but frequented by people.[6]

'In the case of all these, however, [*Terumah*] may be sent to their houses, with the exception of the one who is Levitically unclean and one who married a woman who is unsuitable for him'. [May *Terumah*], then, be sent to the uncircumcised?[7] What is the reason! [Is it] because he is a victim of circumstances? The man who is Levitically unclean is also a victim of circumstances![8] — The force of circumstances in the former case is great;[9] in the latter, the force is not so great.[10]

Our Rabbis taught: Neither to a slave nor to a woman may a share in *Terumah* be given at the threshing-floors. In places, however, where a share is given. It is to be given to the woman first, and she is immediately dismissed. What can this mean?[11] — It is this that was meant: The[12] poor mans tithe which is distributed at home[13] is to be given to the woman first.[14] What is the reason? — That the degradation [of the woman may be avoided].[15]

Raba said: Formerly, when a man and a woman[16] came before me for a legal decision, I used to dispose of the man's lawsuit first, because I thought a man is subject to the fulfillment of all the commandments;[17] since, however, I heard this,[18] I dispose of a woman's lawsuit first. Why? In order [to save her from] degradation.[19]

IF WHEN THEY GREW UP, THE INTERCHANGED CHILDREN, etc. [It states] THEY EMANCIPATED. [Implying] only[20] if they wished, but if they did not wish they need not [emancipate one another]! But why? Neither of them could marry either a bondwoman[21] or a free woman![22] Raba replied: Read: Pressure is brought to bear upon them so that they emancipate one another.

THE RESTRICTIONS … ARE IMPOSED UPON THEM. In what respect?[23] — R. Papa replied: In respect of their meal-offering. A handful[24] must be taken from it,[25] as of a meal-offering of an Israelite, but it may not be eaten,[26] as is the case with a meal-offering of the priests.[27] But how [is one to proceed]? The handful is offered up separately and the remnants are also offered up separately. But [surely] there is to be applied here the Scriptural deduction that any offering a portion of which had been put on the fire of the altar[28] is subject to the prohibition you shall not burn![29] — R. Judah son of R. Simeon b. Pazzi replied: They are burned as wood,[30] in accordance with a ruling of R. Eleazar. For it was taught: R. Eleazar said, For it sweet savour[31] you may not offer them;[32] you may offer them, however, as mere[30] wood.[33] This is satisfactory according to R. Eleazar, what, however, can be said according to the Rabbis?[34] — One proceeds in accordance with a ruling of R. Eleazar son of R. Simeon. For it was taught: R. Eleazar son of R. Simeon said: The handful is offered up separately and the remnants are scattered over the enclosure of the sacrificial ashes.[35] And even the Rabbis differ from R. Eleazar only in respect of a priestly sinner's meal-offering which is suitable for offering up;[36] but here,[37] even the Rabbis agree.[38]

MISHNAH. IF A WOMAN DID NOT WAIT THREE MONTHS AFTER [SEPARATION[39] FROM] HER HUSBAND, AND MARRIED AGAIN AND GAVE BIRTH [TO A SON], AND IT IS UNKNOWN WHETHER IT IS A NINE-MONTHS CHILD BY THE FIRST HUSBAND OR A SEVEN-MONTHS CHILD BY THE SECOND, IF SHE HAD OTHER SONS BY THE FIRST HUSBAND AND OTHER SONS BY THE SECOND, THESE MUST SUBMIT TO *HALIZAH*[40] BUT MAY NOT CONTRACT WITH HER LEVIRATE MARRIAGE.[41] AND HE, IN RESPECT OF THEIR WIDOWS,[42] LIKEWISE, SUBMITS TO *HALIZAH*[43] BUT MAY NOT CONTRACT LEVIRATE MARRIAGE.[44]

1. Which he receives.
2. As was explained *supra*.
3. Who might, after her divorce when she is no more permitted to eat *Terumah*. continue to collect it.
4. Yihud, v. Glos. Cf. *supra* 86a.
5. No preventive measure against (a) abuse by a divorced woman is here necessary, since the proximity of the threshing-floor to the town enables its owner to keep in touch with social events in the town. The precautions, however, against (b) privacy, owing to the loneliness of the floor, cannot be neglected.
6. Cf. *supra* note 1 *mutatis mutandis*; (b) has to, but (a) need not be disregarded.
7. Since he is not included in the exceptions. Cf. *supra* p. 683, n. 8.
8. If the latter was not excluded why then was the former?
9. The uncircumcised cannot help the infirmity of the constitution of the members of his family. It is not through any fault of his that he must remain uncircumcised (v. *supra* p. 683, n. 6).
10. By the exercise of due care uncleanness might be avoided.

11. In the first sentence it was stated that a woman receives no share; and in the following it is tacitly assumed that in certain places she does receive a share!
12. Cf. BaH. Cur. edd. read, 'Where the poor man's tithe is distributed'.
13. In town.
14. Though privacy between the sexes need not be apprehended there.
15. It is degrading for a woman to have to wait her turn in a crowd of men.
16. With different law suits.
17. While a woman is exempt from certain commandments. Hence it is the man that should receive precedence.
18. The reason why a woman should be given her share of the poor man's tithe first.
19. Cf. *supra* p. 684. n. 11.
20. Lit., 'yes'.
21. Owing to the priest.
22. Since one of them is a slave. How, then, could they ever fulfill the religious duty of propagation which is incumbent upon all?
23. Lit., for what law'.
24. V. Lev. II, 2.
25. Since he might be the Israelite.
26. As he might also be the priest.
27. V. Lev. VI, 16.
28. As was the case here where the handful was offered up.
29. Lev. II. Once the prescribed portion of an offering had been duly offered up on the altar the remnants of that offering may no longer be burned in the altar. Cf. Zeb 77a. How then could the remnants of the meal-offering be offered up when a portion of the offering (the handful) is also offered up.
30. Not as an offering.
31. Lev II, 12.
32. V. *supra* note 13.
33. Yoma 47b, Sot. 23a, Zeb. 76b, Men. 106b.
34. Who do not permit the offering of the remnants on the altar even as wood.
35. [H] Sot. 23a, Men. 74a. A place near the altar, where a certain portion of the ashes of the altar was deposited.
36. In its entirety, as is the case with a priest's voluntary meal-offering.
37. Where there is the possibility that it is not the offering of a priest at all.
38. That the remnants are to be scattered in the enclosure of the ashes. V. Sot., Sonc ed., p. 116, notes.
39. By her husband's death or by divorce.
40. From the widow of the son whose father is unknown, if he died childless.
41. Since it is possible that they are only the maternal brothers of the deceased, whose widow is forbidden to them under the penalty of *Kareth*.
42. Lit., 'to them'.
43. From their widows, if they died without issue.
44. Cf. *supra* n. 8 mutatis mutandis.

Yebamoth 100b

IF HE[1] HAD BROTHERS BY THE FIRST[2] AND ALSO BROTHERS BY THE SECOND,[2] BUT NOT BY THE SAME MOTHER, HE[1] MAY EITHER SUBMIT TO *HALIZAH* OR CONTRACT THE LEVIRATE MARRIAGE,[3] BUT AS FOR THEM, ONE[4] SUBMITS TO *HALIZAH*[5] AND THE OTHER MAY [THEN] CONTRACT LEVIRATE MARRIAGE.[6]

IF ONE OF [THE TWO HUSBANDS] WAS AN ISRAELITE AND THE OTHER A PRIEST, HE[7] MAY ONLY MARRY A WOMAN WHO IS ELIGIBLE TO MARRY A PRIEST.[8] HE[7] MAY NOT DEFILE HIMSELF FOR THE DEAD,[8] BUT IF HE DID DEFILE HIMSELF HE DOES NOT SUFFER THE PENALTY OF FORTY STRIPES.[9] HE MAY NOT EAT *TERUMAH*,[9] BUT IF HE DID EAT HE NEED NOT PAY COMPENSATION EITHER FOR THE PRINCIPAL OR [FOR THE ADDITIONAL] FIFTH.[10] HE DOES NOT RECEIVE A SHARE[11] AT THE THRESHING-FLOOR, BUT HE MAY SELL [HIS OWN] *TERUMAH*[12] AND THE PROCEEDS ARE HIS.[13] HE RECEIVES NO SHARE IN THE CONSECRATED THINGS OF THE TEMPLE,[14] NO CONSECRATED THINGS ARE GIVEN TO HIM,[15] BUT HE IS NOT DEPRIVED OF HIS OWN.[13] HE IS EXEMPT FROM [GIVING TO ANY PRIEST] THE SHOULDER, THE CHEEKS AND THE MAW,[16] WHILE HIS FIRSTLING MUST REMAIN IN THE PASTURE[17] UNTIL IT CONTRACTS A BLEMISH.[18] THE RESTRICTIONS RELATING TO PRIESTS AND THE RESTRICTIONS RELATING TO ISRAELITES ARE IMPOSED UPON HIM.

IF THE TWO [HUSBANDS] WERE PRIESTS, HE[7] MUST MOURN AS ONAN[19] FOR THEM[20] AND THEY MUST MOURN AS ONENIM[21] FOR HIM,[22] BUT HE MAY NOT DEFILE HIMSELF FOR THEM,[23] NOR MAY THEY DEFILE THEMSELVES FOR HIM.[23] HE MAY NOT INHERIT FROM THEM,[24] BUT THEY MAY INHERIT FROM HIM.[25] HE IS EXONERATED[26]

IF HE STRIKES OR CURSES[27] THE ONE OR THE OTHER. HE GOES UP [TO SERVE] IN THE MISHMAR[28] OF THE ONE AS WELL AS OF THE OTHER,[29] BUT HE DOES NOT RECEIVE A SHARE [IN THE OFFERINGS].[30] IF, HOWEVER BOTH SERVED IN THE SAME MISHMAR,[28] HE RECEIVES A SINGLE PORTION.[31]

GEMARA. Only the *Halizah* [must take place first][32] and the levirate marriage afterwards; the levirate marriage, however, must not take place first, since, thereby, one[33] might infringe the prohibition against the marriage of a sister-in-law with a stranger.[34]

Samuel said: If ten priests stood together and one of them separated [from the company] and cohabited [with a feme sole]. the child [that may result from the union][35] is a *Shethuki*.[28] In what [respect is he] a *Shethuki*? If it be suggested that he is silenced[36] [when he claims a share] of his father's estate, [is not this, it may be retorted] self-evident? Do we know who is his father! — Rather,[37] he is silenced [if he claims any] of the rights of priesthood.[38] What is the reason? — Scripture stated, And it shall be unto him, and to his seed after him,[39] it is, therefore, required that 'his seed' shall be traced to 'him',[40] but this is not the case here.[41]

R. Papa demurred: If that is so in the case of Abraham where it is written, To be a God to thee and to thy seed after thee,[42] what does the All Merciful exhort him thereby![43] — It is this that he said to him: Marry not an idolatress or a bondwoman so that your seed shall not be ascribed to her.[44]

An objection was raised: The first[45] is fit to be a High Priest.[46] But, surely, it is required that a priest's child shall be traced to his father,[47] which is not the case here![48] — [The requirement that] a priest's child shall be traced to his father[49] is a Rabbinical provision. while the Scriptural text is a mere prop;[50] and it is only in respect of prostitution that the Rabbis have made their preventive measure; in respect of marriage, however, no such measure was enacted by them. But did the Rabbis introduce such a preventive measure in the case of prostitution? Surely we learned: IF A WOMAN DID NOT WAIT THREE MONTHS AFTER [SEPARATION FROM] HER HUSBAND, AND MARRIED AGAIN AND GAVE BIRTH [TO A SON]; now, what is meant by AFTER [SEPARATION FROM] HER HUSBAND? If it be suggested: AFTER the death OF HER HUSBAND, read the final clause: HE MUST MOURN AS ONAN FOR THEM AND THEY MUST MOURN AS ONENIM FOR HIM; one can well understand [the circumstances in which] HE MOURNS AS ONAN FOR THEM, such mourning being possible [even in the case] of marriage with the second [husband, on the occasion of the] collecting of the bones of the first.[51] But how is it possible that they MOURN AS ONENIM FOR HIM, when the first husband is dead![52] If, however, [it be suggested that our Mishnah speaks] of a divorced woman, and that the meaning of AFTER [SEPARATION FROM] HER HUSBAND is AFTER the divorce OF HER HUSBAND, then read the final clause: HE MAY NOT DEFILE HIMSELF FOR THEM, NOR MAY THEY DEFILE THEMSELVES FOR HIM; now, one can understand that THEY MAY NOT DEFILE THEMSELVES FOR HIM as a restrictive measure, [since in respect of every one of them it may be assumed that] he is possibly not his son; but why MAY HE NOT DEFILE HIMSELF FOR THEM? Granted that he must not defile himself for the second;[53] for the first, however, he should be allowed to defile himself in any case! For if he is his son, then he may justly defile himself for him; and if he is the son of the second[54] he may legitimately defile himself for him since he is a halal![55] Consequently [our Mishnah must refer to a case] of prostitution,[56] and the meaning of AFTER [SEPARATION FROM] HER HUSBAND must be, AFTER [SEPARATION FROM] THE MAN WHO IRREGULARLY COHABITED WITH HER;[57] and yet it was stated in the final clause, HE MAY GO UP [TO SERVE] IN THE MISHMAR OF THE ONE AS WELL AS OF THE OTHER. This, then, presents an objection against the ruling

of Samuel![58] — R. Shemaia replied: [Our Mishnah refers] to a minor who made a declaration of refusal.[59] But is a minor[60] capable of propagation? Surely R. Bebai recited before R. Nahman: Three categories of women may use an absorbent in their marital intercourse:[61] A minor, an expectant mother, and a nursing wife. The minor,[62] because she[63] might become pregnant and, as a result, she might die. An expectant mother,[62] because she[63] might cause her fetus to degenerate into a sandal.[64] A nursing wife,[62] because she[63] might have to wean her child [prematurely][65] and this would result in his death. And what is the age of such a minor?[66] From the age of eleven years and one day until the age of twelve years and one day. One who is under,[67] or over this age[68] must carry on her marital intercourse in the usual manner. This is the opinion of R. Meir. The Sages, however, said: The one as well as the other carries on her marital intercourse in the usual manner, and mercy will be vouchsafed from heaven,[69] for it is said in the Scriptures, The Lord preserveth the simple![70] — [The case of our Mishnah] is possible with a mistaken betrothal,[71] and on the basis of a ruling of Rab Judah in the name of Samuel. For Rab Judah stated in the name of Samuel in the name of R. Ishmael: And she be not seized[72] [only then[73] is she] forbidden;[74] if, however, she was seized[75] she is permitted;[74] there is, however, another kind of woman who is permitted[74] even if she was not seized.[76] And who is she? — A woman whose betrothal was a mistaken one,[77] who may, even if her son sits riding on her shoulder, make a declaration of refusal [against her husband] and go away.[78]

1. The son whose father is unknown.
2. Husband of his mother.
3. If there were no other surviving brothers. The widow is either his sister-in-law with whom levirate marriage is lawful, or a stranger with whom he may contract an ordinary marriage.
4. Either a son of the first, or a son of the second husband.
5. From the widow of the son whose father is unknown, if he died childless.
6. Since the widow is either his sister-in-law and the levirate marriage with her is lawful, or she is a stranger and permitted to marry him because her brother-in-law had submitted to her *Halizah*.
7. The son whose father is unknown.
8. It being possible that he is the son of the priest.
9. Since it is possible that he is the son of the Israelite, Cf. also *supra* p. 681, n. 3.
10. V. *supra* p. 681, n. 6 mutatis mutandis.
11. In *Terumah*.
12. Separated from his own produce.
13. V. *supra* p. 681, n. 9, mutatis mutandis.
14. V. *loc. cit*. n. 10. This reading is that of MSS. and the separate editions of the Mishnah. Cur. edd., 'in the holy of holies'.
15. V. *supra* p. 681, n. 11.
16. Cf. Deut. XVIII, 3.
17. V. *supra* p. 681, n. 9.
18. V. *loc. cit*. n. 13.
19. V. Glos.
20. On the day of their death; since either of them might have been his father.
21. Plur. of Onan.
22. Cf. *supra* n. 16 mutatis mutandis.
23. Since, in the case of either of them, it is not certain that he is the son of the person concerned. V. Lev XXI, 2.
24. The heirs of the one husband may refer him to those of the other while the heirs of the other may refer him back to the first, since in either case he has no proof that the deceased in question was his father.
25. If he has no other heirs. As there is no one to dispute their claim, and since the claim of the one is of equal validity with that of the other, the inheritance is divided between the two groups of brothers.
26. From the death penalty.
27. V. Ex XXI. 15, 17 and cf. *supra* p. 687, n. 19.
28. V. Glos.
29. And the other priests of the Mishmar have no right to prevent him.
30. Each Mishmar may send him to the others.
31. Since one of the two is certainly his father.
32. Where HE HAD BROTHERS IN THE FIRST AND … SECOND, BUT NOT BY THE SAME MOTHER … ONE SUBMITS TO *HALIZAH* AND THE OTHER MAY [THEN] CONTRACT LEVIRATE MARRIAGE.
33. Should that brother not he the son of the father of the deceased.
34. Lit., 'for he met a sister-in-law for the market'.
35. Though, as his mother was feme sole, he is no bastard.
36. *Shethuki* is derived from [H] which in Pi'el signifies 'to make silent'.
37. Though he is undoubtedly a priest, since his father, whoever he may have been, was certainly one of the group of priests.

38. He is not allowed to take part in the Temple service though eligible to marry a woman of pure stock.
39. Num. XXV, 13, speaking of the priesthood.
40. Only such a priest can transmit the rights of priesthood to his seed.
41. Lit., 'and it is not'. Since the father of the *Shethuki* is unknown he cannot transmit the rights of priesthood to him.
42. Gen. XVII, 7.
43. By the expression. Thy seed after thee, which is analogous to that of Num. XXV, 23. but, referring to Israelites and not to priests. could not bear the same exposition,
44. The child of any such woman is ascribed to his mother and not to his father. Cf. Kid. 68b.
45. Child born from a levirate marriage that took place within three months after the death of the deceased brother, when it is doubtful whether the child is the offspring of the deceased or of the levir.
46. *Supra* 37a.
47. Lit., 'that "his seed" shall be traced "to him"'.
48. Cf. *supra* n. 7 end.
49. To be eligible for the rights of priesthood.
50. Not actual proof.
51. For the purpose of re-burial. Whenever such collecting takes place, even many years after death, the son must on that day observe the laws relating to an Onan (cf. Pes. 91b). Such mourning, therefore, is possible even after the marriage of his mother with her second husband.
52. Having died, according to the present assumption, before the birth of the son.
53. Owing to the possibility that he is the son of the first and, consequently, a legitimate priest who is forbidden to defile himself for the corpses of strangers.
54. Who married his mother while she was a divorced woman.
55. V. Glos. The child of a union between a priest and a divorced woman is disqualified for the priesthood and may defile himself for the dead.
56. Where neither of the men had contracted legal marriage with her. Her son, since she has the status of feme sole, has also the status of a legitimate priest who must observe the laws of priestly sanctity, and must not, therefore, defile himself for either of the men. Death and divorce being excluded as factors in the separation of the woman from the first man, it is also possible that the son should he in the position of Onan for them and that they should he Onenim for him.
57. [H]. The consonants [H] are the same as those of 'her husband', [H].
58. Who disqualified such a child for the priesthood. Cf. *supra* p. 688, n. 15.
59. V. Glos. s.v. *Mi'un*. Such a minor requires no letter of divorce. It is, therefore, possible for her to be separated from her first husband and yet remain permitted to marry a priest. Her son would consequently be subject to the restrictions spoken of in our Mishnah. Cf. *supra* p. 690. n. 6.
60. Lit., 'a female who refused'.
61. To prevent conception.
62. Is permitted the use of an absorbent.
63. Were she not to use one.
64. A flat, fish-shaped abortion. V. n. on [H] *supra* 12b.
65. Owing to her second conception.
66. Who, though capable of conception, is exposed to the danger of death.
67. When no conception is possible.
68. When no fatal consequences are involved in conception or birth.
69. Divine mercy will safeguard her from danger.
70. Ps. CXVI, 6, those who are incapable of preserving themselves. Tosef. Nid. II. *supra* 12b q. v. notes. Now, since a minor may not make a declaration of refusal unless she is under the age of twelve years and one day, and since a minor under that age either dies if she conceives, or does not conceive at all if she is younger, how could our Mishnah speak of a minor who made a declaration of refusal and who also had a child?
71. When a condition which remained unfulfilled was attached to it. In such a case, the woman may leave her husband without a letter of divorce and is, consequently, permitted to marry a priest. Her son who is, therefore, a legitimate priest may well be subject to the restrictions enumerated in our Mishnah. Cf. *supra* p. 690. n. 6.
72. Num. V. 13. (E.V., Neither she be taken in the act), referring to a woman who was defiled secretly and there were no witnesses against her.
73. Only if she was not seized, i.e., she did not act under compulsion but willingly. Cf. *supra* 56b.
74. To her husband.
75. Violated.
76. Cf. *supra* n. 2.
77. Cf. *supra* p. 691, n. 14.
78. In any subsequent intercourse, whether lawful or illicit, her status is that of feme sole who had never before been married; v. Keth. Sonc. ed. p. 298, notes.

Yebamoth 101a

IF THE TWO [HUSBANDS] WERE PRIESTS, etc. Our Rabbis taught: If he[1] struck one[2] and then struck the other, or if he

cursed one[2] and then cursed the other, or cursed them both simultaneously or struck them both simultaneously, he is guilty.[3] R. Judah. however, said: If[4] simultaneously, he is guilty;[5] if[4] successively he is exonerated.[6] But, surely, it was taught: R. Judah stated that he[7] is exonerated [even if his offences were] simultaneous! — Two Tannaim differ as to what was the opinion of R. Judah.

What is the reason of him who exonerated?[8] R. Hanina replied: 'Blessing'[9] is spoken of in Scripture [in respect of parents] on earth[10] and blessing[9] is spoken of [in respect of God] above.[11] As there is no association above so must there be no association below;[12] and striking has been compared to cursing.[13]

HE MAY GO UP [TO SERVE] IN THE MISHMAR, etc. Since, however, HE DOES NOT RECEIVE A SHARE why should he go up? — [You ask] 'Why should he go up'; surely. he might say: I wish to perform a commandment![14] — But [this is the difficulty]: It does not say. '[If] he went up'[15] but HE GOES up, implying even against his will![16] — R. Aha b. Hanina in the name of Abaye in the name of R. Assi in the name of R. Johanan replied: In order [to avert any possible] reflection on his family.[17]

IF, HOWEVER, BOTH SERVED IN THE SAME MISHMAR, etc. In what respect do two mishmaroth[18] differ [from one] that [in the former case] he should not [receive a share]? [Is it] because when he comes to the one Mishmar he is driven away and when he comes to the other Mishmar he is again driven away?[19] Then, even in the case of one Mishmar also, when he comes to one Beth ab[20] he is driven away and[21] when he comes to the other Beth ab he is also driven away! — R. Papa replied: It is this that was meant: IF, HOWEVER, BOTH SERVED IN THE SAME MISHMAR and in the same Beth ab, HE RECEIVES A SINGLE PORTION.

CHAPTER XII

MISHNAH. THE COMMANDMENT OF *HALIZAH* MUST BE PERFORMED IN THE PRESENCE OF THREE JUDGES, EVEN THOUGH ALL THE THREE ARE LAYMEN.[22] IF THE WOMAN PERFORMED THE *HALIZAH* WITH A SHOE,[23] HER *HALIZAH* IS VALID,[24] [BUT IF] WITH A SOCK[25] IT IS INVALID; IF WITH A SANDAL[26] TO WHICH A HEEL IS ATTACHED IT IS VALID, BUT [IF WITH ONE] THAT HAS NO HEEL IT IS INVALID. [IF THE SHOE WAS WORN][27] BELOW THE KNEE[28] THE *HALIZAH* IS VALID, BUT IF ABOVE THE KNEE[28] IT IS INVALID. IF THE WOMAN PERFORMED THE *HALIZAH* WITH A SANDAL[26] THAT DID NOT BELONG TO HIM,[29] OR WITH A WOODEN SANDAL, OR WITH THE ONE OF THE LEFT FOOT [WHICH HE[29] WAS WEARING] ON HIS RIGHT FOOT, THE *HALIZAH* IS VALID.

IF SHE PERFORMED THE *HALIZAH* WITH A SANDAL TOO LARGE [FOR HIM],[29] IN WHICH, HOWEVER, HE IS ABLE TO WALK, OR WITH ONE TOO SMALL WHICH, HOWEVER, COVERS THE GREATER PART OF HIS FOOT, HER *HALIZAH* IS VALID.

GEMARA. Since even THREE LAYMEN [are sufficient],[30] what need is there for JUDGES? — It is this that we were taught: That three men are required, who are capable of dictating [the prescribed texts][31] like judges.[32] Thus we have learned here what the Rabbis taught: The commandment of *Halizah* is performed in the presence of three men who are able to dictate [the prescribed texts][31] like judges.[32] R. Judah said: In the presence of five.[33]

What is the first Tanna's reason? — Because it was taught: Elders[34] [implies] two; but as no court may be evenly balanced,[35] one man more is added to them; behold here three. And R. Judah?[36] — The elders of[37] [implies] two; and elders[38] [implies another] two; but since no court may be evenly balanced,[35] one man more is added to them; behold here five.

As to the first Tanna, what deduction does he make [from the expression] the elders of?[37] — He requires it for the purpose of including[39] even three laymen. Whence, then, does R. Judah deduce the eligibility of laymen?[39] —

He deduces it from Before the eyes of;[40] a Master having said: 'Before the eyes of', excludes blind men. Now, since the expression 'Before the eyes of' is required to exclude blind men it follows that even laymen [are eligible]. For should it be suggested [that only members of] the Sanhedrin[41] are required. what need was there to exclude blind men, [an exclusion which could have been] deduced from that which R. Joseph learnt! For R. Joseph learnt: As the *Beth Din*[42] must be clean[43] in respect of righteousness so must they be clear from all physical defects,[44]

1. The son concerning whom it is unknown, as in our Mishnah, which of his mother's two husbands was his father.
2. Lit., 'this', one of his mother's two husbands.
3. Since one of the two is certainly his father. As to the necessary caution v. *infra* nn. 12 and 13.
4. He struck or cursed.
5. The specific caution that must precede any forbidden act that is punishable by a court is here effected when the witnesses cautioned the offender by one statement against the striking or the cursing of the two, e.g., 'do not strike them'.
6. Though he may have been duly cautioned in each particular case, no penalty can be imposed upon him by any court, since each caution was of a doubtful character, it being unknown in each case whether the particular man he was about to strike or curse was his father or not. A caution of a doubtful character is, in the opinion of R. Judah, of no validity. while in the opinion of the first Tanna it is valid.
7. V. *supra* note 8.
8. If the offender struck or cursed simultaneously. One of the victims must surely have been his father!
9. Euph. for 'cursing'.
10. Lit., 'below'. V. Ex. XXI. 17.
11. V. Lev. XXIV, 15.
12. Only when the curse referred to a single individual is the offender subject to punishment.
13. Since both acts, in the case of parents. appear in Ex. XXI, in close proximity. vv. 15 (striking) and 17 (cursing). Such proximity, according to the opinion here expressed, serves the purpose of an analogy. According to another opinion, the analogy is disturbed by the intervening v. 16. Cf. Sanh. 85a.
14. To take part in the Temple service, even though he derives no material benefit from it.
15. The past tense, implying contingency.
16. Why should he be compelled?
17. Should he abstain from the Temple service, rumor might attribute his abstention to some serious disqualification which would bring discredit upon all his family. Its members, therefore, may compel him to join in the service.
18. Plur. of Mishmar.
19. Each Mishmar asserting that he does not belong to them.
20. V. Glos. A Mishmar consisted of six families each of which was described as Beth ab, performing service on a different day in the week.
21. Cf. MS.M. and BaH. Cur. edd. omit to the end of the sentence.
22. Not professional judges.
23. Made of soft leather and covering the upper part of the foot (cf. Rashi and Jast.) opp. to sandal (v. *infra* n. 3).
24. Though the shoe required for *Halizah* purposes should properly be a sandal made of hard leather and consisting of a sole with straps attached for fastening it to the foot.
25. [H] Cf. infilia, [G], shoes or socks made of felt.
26. [H], [G].
27. Cf. Rashi. According to others the law refers not to the shoe itself but to the sandal straps.
28. Where, for instance, the levir (according to Rashi) had his foot amputated. According to the other interpretation 'below', and 'above' the knee refers to the position of the straps on the leg.
29. The levir.
30. To constitute a tribunal for *Halizah*.
31. Deut. XXV, 7-9.
32. The appropriate texts in the original Hebrew are dictated by members of the court to the levir and his sister-in-law, respectively, who must repeat them precisely as they hear them. Cf. Sot. 32a.
33. Tosef. Yeb. XII. Our Mishnah is in agreement with the first Tanna of this Baraitha.
34. Deut. XXV, 7.
35. An even number of judges might, when a difference of opinion arose, be equally divided and this would make a decision by majority impossible.
36. Why does he require five?
37. Deut. XXV, 8.
38. Ibid. 9.
39. As eligible members of the tribunal.
40. Deut. XXV, 9 (E.V., In the presence of).
41. I.e., professional judges.
42. [H], lit., 'house of law' 'court', applied also to the members of the Sanhedrin or of any court engaged in legal decisions or in the administration of the law.
43. In their character, free from all possible suspicion.

44. Heb, mum, 'blemish'.

Yebamoth 101b

for it is said in Scripture, Thou art all fair, my love; and there is no spot in thee.[1]

As to the former,[2] however, what deduction does he make from the expression. 'Before the eyes of'? — That expression serves the purpose of a deduction like that of Raba, Raba having stated: The judges must see the spittle issuing from the mouth of the sister-in-law, because it is written in Scripture, Before the eyes of the elders … and spit.[3] But does not the other[4] also require the text[5] for a deduction like that of Raba! — This is so indeed. Whence, then,[6] does he deduce [the eligibility of] laymen?[7] — He deduces it from in Israel[8] [implying] any Israelite whatsoever. As to the former,[9] however, what deduction does he make from 'In Israel'?[10] — He requires it for a deduction like that which R. Samuel b. Judah taught: 'In Israel' [implies that *Halizah* must be performed] at a *Beth Din* of Israelites but not at a *Beth Din* of proselytes.[11] And the other?[4] — 'In Israel' is written a second time.[12] And the former?[9] — He requires it[13] for another deduction in accordance with what was taught: R. Judah stated, 'We were once sitting before R. Tarfon when a sister-in-law came to perform *Halizah*, and he said to us, "Exclaim all of you: The man that had his shoe drawn off"'.[14] And the other? — This is deduced from And [his name] shall be called.[14] If this is so'[15] And they shall call[16] [implies] two;[17] And they shall speak[16] [also implies] two,[17] [so that] here also [one might deduce]: According to R. Judah,[18] behold there are here nine; and according to the Rabbis,[19] behold there are here seven! — That text[16] is required for a deduction in accordance with what was taught: And they[20] shall call him[16] but not their representative; And they shall speak unto him[16] teaches that they give him suitable advice. If he,[21] for instance, was young and she[22] old, or if he was old and she was young, he is told, 'What would you with[23] a young woman?' Or 'What would you[23] with an old woman? Go to one who [is of the same age] as yourself, and introduce no quarrels into your home'.[24]

Raba stated in the name of R. Nahman: The *Halachah* is that *Halizah* is to be performed in the presence of three men, since the Tanna[25] has taught us so[26] anonymously.[27] Said Raba to R. Nahman: If so [the same ruling should apply to] *Mi'un*[28] also, for we learned:[29] *Mi'un* and *Halizah* [must be witnessed] by three men![30] And should you reply [that the *Halachah*] is so indeed, surely [It may be retorted] it was taught: *Mi'un*,[31] Beth Shammai ruled, [must be declared before] a *Beth Din* of experts;[32] and Beth Hillel ruled: [It may be performed] either before a *Beth Din* or not before a *Beth Din*. Both, however, agree that a quorum of three is required. R. Jose son of R. Judah and R. Eleazar son of R. Jose[33] ruled: [The *Mi'un* is] valid [even if it was declared] before two.[34] And R. Joseph b. Manyumi reported in the name of R Nahman[34] that the *Halachah* is in agreement with this pair![35] — There,[36] only one anonymous [teaching] is available while here[37] two anonymous [teachings][38] are available.

There[36] also two anonymous [teachings] are available! For we learned: If, however, a woman made a declaration of refusal[39] or performed *Halizah* in his presence, he[40] may marry her,[41] since he [was but one of the] *Beth Din*![42] — But, [the fact is that while] there,[43] only two anonymous [teachings] are available; here,[44] three anonymous [teachings] are available.[45]

Consider! The one[43] is an anonymous [teaching], and the other[44] is an anonymous [teaching]; what difference does it make to me whether the anonymous [teachings] are one, two or three? — Rather, said R. Nahman b. Isaac, [the reason[46] is] because the anonymity[47] occurs in a passage recording a dispute.[48] For we learned: 'The laying on of hands by the elders,[49] and the breaking of the heifer's neck[50] is performed by three elders; so R. Jose,[51] while R. Judah stated: By five elders. *Halizah* and declarations of *Mi'un*, [however, are witnessed] by three men';[52] and

since R. Judah does not express disagreement,[53] it may be inferred that R. Judah changed his opinion.[54] This proves it.

Raba stated: The judges must appoint a place;[55] for it is written, Then his brother's wife shall go up to the gate[56] unto the elders.[57]

R. Papa and R. Huna son of R. Joshua arranged a Halizah'[58] in the presence of five. In accordance with whose view?[59] Was it in accordance with that of R. Judah? He, surely, had changed his opinion![60] [Their object[61] was] to give the matter due publicity.[62]

R. Ashi once happened to be at R. Kahana's, when the latter said to him, 'The Master has come up to us [at an opportune moment] to complete a quorum of five'.[63]

R. Kahana stated: I was once standing in the presence of Rab Judah, when he said to me, 'Come, get on to this bundle of reeds[64] that you may be included in a quorum of five'.[63] On being asked, 'What need is there for five?' he replied, 'In order that the matter be given due publicity'.[62]

R. Samuel b. Judah once stood before Rab Judah when the latter said to him, 'Come, get on to this bundle of reeds[64] to be included in a quorum of five,[63] in order that the matter be thereby given due publicity'.[62] 'We learned', the first remarked, 'In Israel [implies that *Halizah* must be performed] at a *Beth Din* of Israelites but not at a *Beth Din* of proselytes[65] while I am, in fact, a proselyte'. 'On the word[66] [of a man] like R. Samuel b. Judah', Rab Judah said, 'I would withdraw money [from its possessor]'.[67] [You say] 'Withdraw'! Could this be imagined? Surely the All Merciful said, At the mouth of two witnesses![68] — Rather [it is this that he meant]. 'I would on his word[66] impair the validity of a note of indebtedness.[69]

Raba stated:

1. Cant. IV, 7.
2. The first Tanna.
3. Deut. XXV, 9. Cf. *infra* 106b.
4. R. Judah.
5. Deut. XXV, 9, (E.V., In the presence of).
6. Since the text of Deut. XXV, 9 is required for Rab's deduction.
7. As eligible members of the tribunal.
8. Deut. XXV, 7 (Rash). or ibid. 10 (Golds.).
9. The first Tanna.
10. Cf. BaH and *supra* n. 7.
11. Cf. Kid. 14a.
12. Cf. *supra* n. 7.
13. The second expression, In Israel.
14. V. Deut. XXV, 10.
15. Since deduction has been made from the expression of elders, etc.
16. Deut. XXV, 9.
17. The plural representing no less than two.
18. Who deduced from the other texts the number of five judges.
19. Limiting the number of judges, as deduced *supra*, to three.
20. Emphasis on they.
21. The levir.
22. The sister-in-law.
23. Lit., 'what to thee at'.
24. *Supra* 44a.
25. Of our Mishnah.
26. Lit., 'like him', sc. like the first Tanna of the Baraitha cited, *supra* 101a.
27. The *Halachah* is, as a rule, in agreement with the anonymous statements in a Mishnah.
28. A declaration of refusal to live with her husband made by a minor. V. Glos.
29. Anonymously.
30. Sanh. 2a. Cf. *infra* 107b.
31. V. *supra* note 6.
32. Mumhin, plur. of Mumhe. v. Glos.
33. Or 'Simeon' (cf. marg. note in cur. edd. and *infra* 107b).
34. Sanh. 2a. Cf. *infra* 107b.
35. Who require a quorum of two only, contrary to the anonymous teachings *supra* which require a quorum of three!
36. Concerning *Mi'un*.
37. On *Halizah*.
38. One here (our Mishnah) and the other in Sanh. 2a.
39. *Mi'un*, v. Glos.
40. A Sage who, if he had previously pronounced the woman forbidden to her husband owing to a vow she had made, would not have been allowed to marry her in order to avoid any suspicion that his motive in forbidding her to her husband was his intention to marry her himself.
41. In these circumstances.
42. Bek. 31a, *supra* 25b. *Mi'un* and *Halizah*, unlike disallowance and confirmation of vows, must be witnessed by a court, or quorum of three, and three persons would not be suspected of ulterior motives even though one of them subsequently married the woman concerned.

This Mishnah, then, adds a second anonymous statement to the one previously mentioned, both requiring a quorum of three for *Mi'un*.
43. Concerning *Mi'un*.
44. On *Halizah*.
45. The Mishnah cited last, which adds one anonymous teaching to the single one of *Mi'un*, also adds one to the two anonymous teachings concerning *Halizah*.
46. Why the *Halachah* is in agreement with the anonymous teaching in respect of *Halizah* and not with that in respect of *Mi'un*.
47. In respect of *Halizah*.
48. In which R. Judah participated.
49. On the head of a sin-offering of the congregation. V. Lev. IV, 15.
50. V. Deut. XXI, 4.
51. 'Simeon', according to a marg. note and Sanh. 2a.
52. Sanh. *loc. cit*.
53. With the ruling that a quorum of three only is required for *Halizah*, though in a previous discussion (*supra* 102a) he maintained that a quorum of five was required.
54. And agreed with the anonymous teaching. Hence R. Nahman's ruling that as regards the quorum for *Halizah* the *Halachah* agrees with the anonymous teaching. In respect of *Mi'un*, however, the anonymous teaching has not been mentioned in connection with a dispute in which R. Jose and R. Eleazar participated. Hence it must be assumed that they adhered to their first opinions contrary to the anonymous teaching, which consequently does not represent the *Halachah*.
55. For the performance of the rite of *Halizah*.
56. I.e., a specified place.
57. Deut. XXV, 7.
58. Lit., performed an act'.
59. Did they insist on a quorum of five.
60. Agreeing that only three are required for a *Halizah* quorum.
61. In adding to the prescribed quorum.
62. That it should be widely known that the woman was a *Haluzah* and so no priest would marry her; while prospective husbands, on hearing that she had been freed by *Halizah* from her levirate bond, might begin to woo her (cf. Rashi). The question of R. Judah's first opinion did not at all enter into consideration.
63. At a *Halizah* ceremonial.
64. The spot appointed for the performance of the *Halizah* (cf. Raba's ruling *supra*).
65. V. *supra* p. 696.
66. Lit., 'mouth'.
67. Though in such lawsuits the evidence of two witnesses is required.
68. Deut. XIX, 15. The evidence of one witness is not sufficient. Cf. *supra* note 9. The numeral 'two' which in cur. edd. and some MSS. is given in the absolute form, [H], appears in M.T. in the construct, [H]. Cf. ibid. XVII, 6, which, however, refers to evidence in capital cases.
69. Should he declare that the note was already redeemed the debtor would not be ordered to pay the debt, though the creditor also could not be compelled to destroy the note (cf. Rashi, Keth. 85a). According to some of the Tosafists the debt may not be collected unless the creditor takes the prescribed oath, as is the case wherever one witness declares a debt recorded on a note of indebtedness to have been paid, v. Keth. 8a. R. Samuel's superiority over the ordinary witness is limited to the following only: While the latter, if a relative, is not believed, to enforce an oath on the creditor, R. Samuel would always be believed (v. Tosaf. s.v. [H]).

Yebamoth 102a

A proselyte may, according to Pentateuchal law, sit in judgment[1] on a fellow proselyte, for it is said in the Scriptures, Thou shalt in any wise set him king over thee, whom the Lord thy God shall choose; one from among thy brethren shalt thou set king over thee;[2] only when set over thee[2] is he required to be one from among thy brethren;[2] when, however, he is to judge his fellow proselyte he may himself be a proselyte.[3] If his[4] mother was an Israelitish woman he may sit in judgment even on an Israelite.[5] In respect of *Halizah*, however, [no man is eligible as judge] unless both his father and his mother were Israelites for it is said, And his name shall be called in Israel.[6]

Rabbah stated in the name of R. Kahana in the name of Rab: If Elijah should come and declare that *Halizah* may be performed with a foot-covering shoe,[7] he would be obeyed; [were he, however, to declare that] *Halizah* may not be performed with a sandal,[8] he would not be obeyed, for the people have long ago adopted the practice [of performing it] with a sandal.

R. Joseph, however, reported in the name of R. Kahana in the name of Rab: If Elijah should come and declare that *Halizah* may not be performed with a foot-covering shoe,[7] he

would be obeyed; [were he, however, to declare that] *Halizah* may not be performed with a sandal,[8] he would not be obeyed, for the people have long ago adopted the practice [of performing it] with a sandal.

What is the practical difference between them?[9] — The practical difference between them is [the propriety of using] a foot-covering shoe ab initio.[10]

According to him, however, who stated [that it was proper to use[11] it] even ab initio, surely, [it may be objected] we learned: IF A WOMAN PERFORMED THE *HALIZAH* WITH A FOOT-COVERING SHOE, HER *HALIZAH* IS VALID [which[12] implies validity only] after the action had been performed but not ab initio. — The same law[13] is applicable even [where the shoe was used] ab initio. As, however, it was desired to state in the final clause: BUT IF WITH A SOCK IT IS INVALID, [a law] which applies even after the action had been performed, a similar expression[14] was also used in the first clause.

[On the question of] using a foot-covering shoe[15] ab initio Tannaim differ. For it was taught: R. Jose[16] related, 'I once went to Nesibis where I met an old man whom I asked, "Are you perchance acquainted with R. Judah b. Bathyra?" and he replied, "Yes; and he in fact always sits at my table". "Have you ever seen him arranging a *Halizah* ceremony for a sister-in-law?" [I asked]. "I saw him arranging *Halizah* ceremonies many a time", he replied. "With a foot-covering shoe [I asked] or with a sandal?" — "May *Halizah* be performed", he asked me' "with a foot-covering shoe?" I[17] replied: Were that [not] so, what could have caused[18] R. Meir to state that *Halizah* if performed with a foot-covering shoe is valid, while R. Jacob reported in his[19] name that it was quite proper to perform [even] *Halizah* ab initio with a foot-covering shoe!'

With reference to him who ruled that it was not proper ab initio [to perform *Halizah* with a foot-covering shoe] what could be the reason? If it be suggested: Because [the loosing of] the upper[20] [may be described as] from off[21] and [the loosing of the] thong[22] as 'from off of the from off', [a performance which is not in accordance with] the Torah which said, from off[21] but not 'from off of the from off'; [it could well be retorted that] if such were the reason [the *Halizah* should be invalid] even when actually performed. — This[23] is a preventive measure against the possible use of a flabby[24] shoe or even half a shoe.[25]

Said Rab: Had I not seen my uncle[26] arranging a *Halizah* with a sandal that had laces I would have allowed a *Halizah* only with an Arabian sandal which can be more firmly fastened. And in respect of our [kind of sandal] though it has a knot,[27] a strap also should be tied to it,[28] so that the *Halizah* may be properly performed.[29]

(Mnemonic: *You permitted a sister-in-law a sandal.*)[30]

Rab Judah reported in the name of Rab: The permissibility of a sister-in-law to marry a stranger takes effect as soon as the greater part of the heel[31] is released.[32]

An objection was raised: If the straps of a foot-covering shoe or of a sandal were untied[33] or if [the levir] slipped [it off from] the greater part of his foot,[34] the *Halizah* is invalid.[35] The reason then[36] is because it was he that slipped it off; had she, however, slipped it off, her *Halizah* would have been valid; [and, furthermore this applies to] the greater part of the foot only[37] but not to the greater part of the heel![38] — The 'greater part of the foot' has the same meaning as 'the greater part of the heel'; [and the reason] why he calls it 'the greater part of the foot' [is] because all the weight of the foot rests on it.

This[39] provides support for R. Jannai. For R. Jannai stated: Whether [the levir] untied [the straps] and she slipped off [the sandal] or whether she untied the straps and he slipped off the sandal, her *Halizah* remains invalid,

unless she unties the straps and she slips off the sandal.

R. Jannai enquired: What is the law if she tore it?[40] What if she burnt it?[40] Is the exposure of the foot necessary,[41] and this has here been effected,[42] or is 'taking off' necessary, which has not taken place here?[43] — This remains undecided.[44]

R. Nehemiah enquired of Rabbah: What is the law in the case of two shoes one above the other? — How is this enquiry to be understood? If it be suggested: That she[45] drew off the upper one and the lower one remained, surely, the All Merciful said: From off[46] but not 'from off of the from off'! — Such enquiry is necessary only where she tore the upper one and removed the lower one while the upper one remained [on the levir's foot], the question being whether[47] the requirement is the 'taking off' which has been done,[42] or whether the exposure of the foot is necessary which was not effected here?[48]

1. Even in capital cases. In civil matters a proselyte judge has equal rights with an Israelite.
2. Deut. XVII, 15. The term 'king' is taken to embrace that of judge'. Cf. Prov. XXIX. 4.
3. Lit., 'but a proselyte judges his fellow a proselyte'.
4. The proselyte's.
5. Cf. *supra* n. 1.
6. Deut. XXV, 10, emphasis on the last word.
7. V. *supra* p. 694, n. 2.
8. V. *supra* p. 694. no. 3 and 5.
9. Rabbah and R. Joseph. According to either of their reports the practice of using a sandal is not to be altered.
10. According to Rabbah it is improper to use a foot-covering shoe. Its use would be permitted only if Elijah came and declared it to be permissible. According to R. Joseph, however, its use is and remains permitted unless Elijah should come and declare it to be inadmissible.
11. A foot-covering shoe.
12. Since the Perfect in a conditional clause was used.
13. That the *Halizah* is valid.
14. Lit., 'which has been done'.
15. For *Halizah*.
16. Or 'Simeon'. V. Tosef. Yeb. XII.
17. Cut. edd. insert in parenthesis: 'And the Torah said his shoe [H] but not his foot-covering shoe [H] [This is deleted by Rashi since the term [H] is post-Biblical, occurring nowhere in the Bible in the sense of shoe. v. Rashi].
18. Lit., 'he saw'.
19. R. Meir's.
20. Of the shoe.
21. Cf. Deut. XXV, 9. And loose his shoe from off his foot.
22. Which binds the upper to the foot and rests above it.
23. The impropriety of using a foot-covering shoe ab initio.
24. Cf. Jast.; or 'burst' (cf. Rashi).
25. Such are not permitted at all for *Halizah* purposes. Were any foot-covering shoe permitted for use in *Halizah* one might erroneously use such a shoe even when it was burst or when it was flabby or even when half of it was torn away. Hence its entire prohibition. No such measure was necessary in the case of the sandal which, when burst or broken in halves cannot be worn at all.
26. R. Hiyya.
27. Which prevents the sandal from falling off the foot.
28. Round the sandal and the foot, prior to the *Halizah*.
29. By untying the strap first and then releasing the foot from the shoe, the woman carries out completely the prescribed requirements of the *Halizah*. The rt. [H] may signify both (a) loosing or untying sc. of the shoe strap, and (b) releasing sc. of the foot from the shoe.
30. A prominent verb and two prominent nouns in the following three rulings reported by Rab Judah in the name of Rab.
31. Of the levir.
32. From the sandal.
33. By the levir or by themselves, but not by the woman.
34. And the woman completed the removal.
35. Tosef. Yeb. XII.
36. Why the *Halizah* is invalid.
37. Lit., 'yes'.
38. How then could Rab state that permissibility to marry a stranger comes into effect as soon as the greater part of the heel had been released.
39. The Baraitha cited.
40. The sandal while on the levir's foot.
41. For a valid *Halizah*.
42. Lit., 'there is'.
43. Lit., 'and there is not'. Since she did not take off the sandal.
44. *Teku*, v. Glos.
45. The sister-in-law.
46. V. *supra* p. 702, n. 2.
47. Lit., 'what'.
48. Where the upper sandal still remains on the levir's foot.

Yebamoth 102b

Does this, however, ever happen? — Yes; for the Rabbis once saw Rab Judah going out into the street in five pairs of felt socks.

Rab Judah reported in the name of Rab: A sister-in-law who was brought up together with the brothers[1] is permitted to marry any one of the brothers and there is no need to consider the possibility that she[2] might have taken off the sandal [from the foot] of one of them.[3] The reason, then[4] is because we did not actually observe it,[5] had we, however, observed it[5] the possibility [that her *Halizah* was valid] would have had to be taken into consideration.[6] But, surely, it was taught: Whether he[7] had the intention[8] [of performing the commandment of *Halizah*] and she had no such intention, or whether she had such intention and he did not, *Halizah* is invalid, it being necessary[9] that both shall at the same time have such intention![10] It is this that was meant: Although we observed it[5] there is no need to consider the possibility that they might have intended [to give their action the character of a valid *Halizah*].

Others read: The reason[4] is because we did not see it,[5] had we, however, seen it, the possibility [of a valid *Halizah*] would have had to be considered,[6] the statement that[11] intention[12] is necessary[13] applying only to the permissibility [of the woman] to strangers,[14] but to the brothers she does become forbidden.[15]

Rab Judah stated in the name of Rab: No *Halizah* may be performed with a sandal that was sewn with flax,[16] for it is said in Scripture, And I shod thee with tahash.[17] Might it be suggested that [the skill of] a tahash[18] is admissible[19] but not any other material? — The mention of 'shoe' twice[20] indicates the inclusion [of all kinds of leather]. If the repeated mention of 'shoe' indicates the inclusion [of all kinds of leather] all other materials should also be included! — If that were so,[21] for what purpose was the term Tahash used?

R. Eleazar enquired of Rab: [What is the law where] the sandal was made of leather and its straps of [animal] hair? — The other replied: Could we not apply to it, And I shod thee with tahash![22] If so, a shoe all made of hair[23] should also be admissible! — Such is called a slipper.[24]

Said R. Kahana to Samuel: Whence is it derived that the verb in[25] we-halezah[26] his shoe from off his foot[27] signifies taking off? — Because it is written, That they shall take out[28] the stones in which the plague is.[29] But I might suggest that the meaning[30] is that of arming;[31] for it is written in Scripture, Arm[32] ye men from among you for the war![33] — There also,[33] [the underlying meaning is] the slipping out from the house to go to war. But, surely, it is also written in Scripture, He girds[34] the afflicted in his affliction![35] — [The meaning is that] as a reward for his affliction He will deliver[36] him from the judgment of Gehenna. What, however, is the explanation of the Scriptural text,[37] The angel of the Lord encampeth round about them that fear him, and He girds them?[38] — [The meaning is that] as a reward for those who fear him He will deliver them from the judgment of Gehenna.

What explanation is there, however, for the Scriptural text,[39] And He will make strong[40] thy bones,[41] of which R. Eleazar said that this was the best of the blessings,[42] and Raba explained that the meaning[43] was the strengthening of the bones![44] — Yes, it may bear the one meaning and it may also bear the other; but were the meaning here[45] intended to be that of 'tying on',[46] the All Merciful should have written: 'We-halezah his shoe upon his foot'.[47] But [it might be still objected], had the All Merciful written, 'upon his foot' it might have been suggested: Only upon his foot, but not upon his leg;[48] hence the All Merciful wrote From off[49] his foot, [to indicate] that [*Halizah* may be performed] even on the [levir's] leg! — If so, the All Merciful should have written: 'Upon [what is] above his foot'. Why [then did He use the expression] From off his foot? Consequently it

must be inferred that the meaning[50] is 'to take off'.

A certain Min[51] once said to R. Gamaliel:[52] You are a people with whom its God has performed *Halizah*,[53] for it is said in Scripture, with their flocks and with their herds they shall go to seek the Lord, but they shall not find him; He hath drawn off[54] [the shoe] from them.[55] The other replied: Fool, is it written: 'He hath drawn off [the shoe] for them'? It is written, 'He hath drawn off [the shoe] from them'; now in the case of a sister-in-law from whom the brother drew off [the shoe] could there be any validity in the act?[56]

BUT IF WITH A SOCK IT IS INVALID, etc. This then teaches that a sock is not regarded as a shoe; and so it was also taught: The man who removes [the monies] from the Temple treasury[57] must not enter with a bordered tunic or with a sock,[58] and there is no need to state [that he must not enter] with a shoe or with a sandal, since no one[59] may enter the Temple court with a shoe or a sandal;[60] but elsewhere the contrary was taught: One must not walk[61] with a shoe, a sandal or a sock either from one house to another or even from one bed to another bed![62] — Abaye replied: [This refers to a sock] which is furnished with pads, [the prohibition] being due to the pleasure [its wearing affords].[63] Said Raba to him: Is [all footwear] forbidden on the Day of Atonement because of the pleasure it affords, even though it cannot be regarded as a shoe? Surely, Rabbah son of R. Huna used to wrap a scarf round his foot and so went out![61] — But [in fact], said Raba,[64] there is no difficulty: The one Baraitha[65] refers to a leather sock; the other[66] to a felt sock. This explanation is indeed reasonable. For were you not to say so, a contradiction [would arise between one statement dealing with] the Day of Atonement and [another statement which also deals with] the Day of Atonement. For it was taught: No man may walk about in slippers in his house,[61] but he may walk about in his house in socks.[67] Consequently[68] it must be inferred that one statement refers to a leather sock and the other to a felt sock. This proves It.

It was taught in agreement with Raba:[69] [If a sister-in-law] performed *Halizah* with a torn shoe which covered the greater part of the [levir's] foot, with a broken sandal which contained the greater part of his foot, with a sandal of cork[70] or of bast, with an artificial foot,[71] with a felt sock, with a support of the feet,[72] or with a leather sock, and also where she performed *Halizah* with an adult

1. Of her deceased husband.
2. In the course of the years they were together.
3. As a friendly service. It is now assumed that had such an act been performed the removal of the sandal would have been regarded as a valid *Halizah* which would cause the sister-in-law to become forbidden to marry the brothers.
4. Why *Halizah* is not apprehended.
5. That she drew off the sandal from the foot of any brother.
6. And the sister-in-law would be forbidden to marry any of the brothers.
7. The levir.
8. Where *Halizah* was performed.
9. Lit., 'until'.
10. Tosef. Yeb. XII, *infra* 106a. Why then should the removal of a sandal as a mere friendly act ever be regarded as a valid *Halizah*?
11. Lit., 'and what he taught'.
12. To perform the commandment of *Halizah*.
13. On the part of the levir and the sister-in-law.
14. Lit., 'to the world'. Only for this purpose is intention a sine qua non.
15. Even where there was no intention but mere action.
16. I.e., provided with a flax lining or, according to another interpretation, stitched with a flaxen thread (cf. Rashi).
17. Ezek. XVI, 10, E.V. sealskin. The Tahash, the skin of which was used for one of the coverings of the roof of the Tabernacle made by Moses in the wilderness, formed a class of its own, and the Sages could not determine whether it belonged to the class of wild or of domestic animals (cf. Shab. 28b). The mention in the context of shoeing of Tahash, the use of the skin of which only was recorded in the Scriptures, is taken to imply that the shoe spoken of in the Scriptures was invariably made of a material similar to that of the skin of Tahash, viz., leather. Hence the inadmissibility in *Halizah* of any shoe that was not wholly made of leather.
18. Since this animal only was mentioned.
19. Lit., 'yes'.

20. Lit., 'shoe' (bis). V. Deut. XXV, 9 and 10.
21. That all materials are admissible.
22. Ezek. XVI, 10.
23. The Tahash also had hair on its skin.
24. And is not included in the term of 'shoe'.
25. Lit., 'that that'.
26. [H] (rt. [H]), E.V. and loose.
27. Deut. XXV, 9.
28. [H] (rt. [H]), v. *supra* n. 9.
29. Lev. XIV, 40.
30. Of [H] in Deut. XXV, 9.
31. I.e., the tying on and not the taking off of the shoe.
32. [H] (rt. [H]) v. *supra* note 9.
33. Num. XXXI, 3.
34. [H] (rt. [H]). V. *supra* note 9.
35. Job XXXVI, 15, which shows that the rt. [H] also signifies 'putting on', 'tying on'.
36. [H] cf. E.V. *He delivereth the afflicted by His affliction.*
37. Lit., 'but that which it is written'.
38. Ps. XXXIV, 8. [H] (rt [H]), v. *supra* p. 705, nn. 9 and 18.
39. Lit., 'but that which it is written'.
40. [H] (rt. [H]).
41. Isa. LVIII, 11.
42. That were enumerated in the context. Cf. ibid. 8-14.
43. Of [H].
44. Which shows that the rt. [H] signifies also 'strengthening', 'equipping', 'arming', and thus also 'tying on'.
45. Deut. XXV, 9.
46. Lit., 'strengthening', 'arming'.
47. Instead of 'from off'.
48. And in case his foot was amputated, no *Halizah* would be possible.
49. [H] lit., 'from above', i.e., even from that part which is above his foot.
50. Of [H] in Deut. XXV, 9.
51. V. Glos.
52. [Probably R. Gamaliel of Jabneh, after the destruction of the Temple in 70 C.E. V. Herford, Christianity in the Talmud p. 355].
53. I.e., severed his connection with them.
54. [H].
55. E.V. 'He hath withdrawn Himself from them'. Hos. V, 6.
56. Certainly not. It is the sister-in-law that performs the *Halizah* while the brother-in-law only submits to it. God, in the image of the text quoted, standing towards Israel in the relationship of a levir to his sister-in-law, cannot perform the *Halizah*, and his action is, so to speak, invalid, the bond between him and His people remaining in force.
57. Cur. edd. 'we learned'. Cf. marg. note a.l. and Shek. III, 2.
58. In order that he may be free from the suspicion that he concealed some money in his socks or in the border of his tunic.
59. Even when suspicion is out of the question.
60. Out of respect for the place. Now, since a sock is permitted in the Temple court where a shoe is for. bidden it is obvious that a sock is not included in the category of shoe.
61. On the Day of Atonement, when as a part of the affliction (cf. Lev. XVI, 29) the wearing of shoes is forbidden.
62. Which shows that a sock is also regarded as a shoe.
63. Cf. *supra* n. 6.
64. In reply to the contradiction that was pointed out.
65. Which forbids the wearing of a sock on the Day of Atonement.
66. That dealing with entry into the Temple court.
67. Which is contradictory to the Baraitha previously cited there the wearing of socks was forbidden even where one only walked from one bed to another.
68. Lit., 'but not'?
69. That a difference is drawn between a sock of felt or cloth and one of leather. While the former is not regarded as a shoe the latter is.
70. Or, according to others, 'bamboo'.
71. Of the levir. Lit., 'the hollowed stump of the cripple'.
72. One of the cushions which a cripple ties to his feet.

Yebamoth 103a

whether he was standing, sitting or reclining, and also if her *Halizah* was performed with a blind man, her *Halizah* is valid. [If her *Halizah*] however, [was performed] with a torn shoe that did not cover the greater part of the [levir's] foot, with a broken sandal which does not hold the greater part of his foot, with a support of the hands,[1] or with a cloth sock, and also where her *Halizah* was performed with a minor, her *Halizah* is invalid.[2]

Whose [view is represented in the first statement mentioning] the artificial foot?[3] — [Obviously that of] R. Meir, for we learned: A cripple may go out [on the Sabbath][4] with his artificial foot;[5] so R. Meir, and R. Jose forbids it;[6] [but the latter statement]: 'With a cloth-sock'[7] can only represent the view of the Rabbis![8] — Abaye replied: Since the latter

statement [represents the opinion of] the Rabbis, the first also [must represent the opinion of] the Rabbis, the first [dealing with an artificial foot that was] covered with leather.[9]

Said Raba to him:[10] What, however, [is the law if it[11] was] not covered with leather? Is it then unfit![12] If so, instead of teaching in the latter statement, 'With a cloth sock',[13] a distinction should have been drawn in [respect of the artificial foot] itself: This[14] applies only where it was covered with leather, but if it was not covered with leather it is unfit![12] Rather, said Raba, since the first statement represents the view of R. Meir, the latter also represents the view of R. Meir, the one[11] affording protection[15] while the other[16] affords no protection.[17]

Amemar stated: When a levir submits to *Halizah* he must press down his foot [to the ground]. Said R. Ashi to Amemar: Was it not taught [that the *Halizah* was valid] 'whether he[18] was standing, sitting or reclining'? — Read: And in all these cases, only if he pressed his foot [to the ground].

Amemar further stated: A man who walks on the upper side of his foot[19] must not submit to *Halizah*. Said R. Ashi to Amemar: But, surely, it was taught: 'Supports of the feet';[20] does not [this signify] that such [a cripple][21] may submit to *Halizah* with a support! No; [the meaning is] that he may give it to another person[22] who is allowed to submit to *Halizah* [with it].

Said R. Ashi: According to Amemar's ruling neither Bar Oba nor Bar Kipof[23] could submit to *Halizah*.

[IF THE SHOE WAS WORN] BELOW THE KNEE, etc. A contradiction was pointed out: Regalim,[24] excludes[25] stump-legged cripples![26] — Here[27] it is different since it was written in Scripture, From off his foot.[28] If so, [*Halizah* should be permissible] above the knee also! — From off but not 'from off the from off'.[29]

Said R. Papa: From this[30] it may be inferred that the istewira[31] reaches down to the ground;[32] for were it to be imagined that it is disconnected,[33] it [would be situated] above [the foot], while the leg [would be] above that which is above [the foot].[34] R. Ashi, however, said: It may even be said that it is disconnected, but any part adjacent to the foot is legally regarded as the foot itself.[35]

ABOVE THE KNEE. R. Kahana raised an objection: And against her afterbirth that cometh out from between her feet![36] — Abaye replied: When a woman kneels down to give birth she presses her heels against her thighs and thus gives birth. Come and hear: He had neither dressed his feet nor trimmed his beard![37] — This is a euphemistic expression. Come and hear: And Saul went in to cover his feet![38] — This is a euphemistic expression. Come and hear: Surely he is covering his feet in the cabinet of the cool chamber![39] — This is a euphemistic expression. Between her feet, etc.![40] — This is a euphemistic expression.
R. Johanan Said: That profligate[41] had seven sexual connections on that day;[42] for it is said, *Between her feet he sunk, he fell, he lay; at her feet he sunk, he fell; where he sunk there he fell down dead.*[43] But, surely she[44] derived gratification from the transgression! R. Johanan replied in the name of R. Simeon b. Yohai: *All the favors of the wicked*[45]

1. Cf. *supra* n. 6, one of the cushions tied to a cripple's hands.
2. Thus it has been shown that in respect of *Halizah* a legal distinction is made between the two kinds of sock. Cf. *supra* n. 3.
3. Regarding it as a proper shoe. Cf. *supra* n. 5.
4. When carrying from one domain into another is forbidden.
5. Because it is regarded as a shoe which one may wear on the Sabbath.
6. Shab. 65b, Yoma 78b.
7. That *Halizah* with it is invalid.
8. Who differ from R. Meir in regarding neither the artificial foot nor the cloth sock as a shoe. According to R. Meir a cloth sock, like an artificial foot, is regarded as a shoe. Does then the Baraitha represent the contradictory views of R. Meir and the Rabbis!
9. Hence its admissibility as a shoe for *Halizah*.
10. Abaye.
11. The artificial foot.
12. For *Halizah*.
13. That *Halizah* with it is invalid.

14. The admissibility of the artificial foot for *Halizah*.
15. For the leg. Hence it is regarded as a shoe that is admissible for *Halizah*.
16. A cloth sock.
17. Hence its unfitness for *Halizah*. It is not the material of which it is made but its unsuitability as a covering of the foot that causes its unfitness.
18. The levir.
19. Owing to a deformity in his foot (cf. Rashi). [H], the 'fibula', 'splint-bone's 'his feet being turned outward so as to form an obtuse angle' (Jast.).
20. Are among the objects that may be used as shoes for the purpose of *Halizah*.
21. In the conditions just described.
22. Whose foot is not deformed.
23. These were men with deformed feet. Cf. M.K. 25b.
24. [H] Ex. XXIII, 14 (E.V., times) referring to the Festival pilgrimages to Jerusalem.
25. Since [H] may also be taken as the plural of [H] foot.
26. Hag. 3a. [H] v. Glos. s.v. *Kab*. As these cripples are deprived of their feet they (v. *supra* n. 2) are exempt from the duty of the pilgrimages (v. *supra* n. 1). Thus it follows that the leg is not regarded as a 'foot', which is contrary to our Mishnah!
27. The case of *Halizah*.
28. Deut. XXV, 9, [H], lit., 'from above his foot', i.e., any part of the leg.
29. V. *supra* n. 5. The part of the leg between the knee and the foot is 'above the foot'; and the part above the knee is 'above the above'.
30. Our Mishnah which permits *Halizah* on any part of the leg below the knee.
31. [The ankle-bone (talus) v. Katzenelsohn, Talmud und Medizin, p. 384.]
32. There is legally no division between the foot and this bone.
33. From the foot.
34. And *Halizah* on that part would be invalid.
35. Hence any part between it and the knee may be legally regarded as directly above the foot.
36. Deut. XXVIII, 57; which shows that the region of the thighs is also included in the term of feet.
37. II Sam. XIX, 25. Cf. *supra* n. 13.
38. I Sam. XXIV, 4, expression for urination.
39. Judges III, 24. Cf. *supra* n. 15.
40. Ibid. V, 27. Cf. *supra* nn. 13 and 15.
41. Sisera.
42. When he fled from Barak and Deborah.
43. Judges V, 27. Each of the expression he sunk [H] and he fell [H] occurs three times, and he lay [H] occurs once.
44. Jael.
45. Which they do for the righteous.

Yebamoth 103b

are evil for the righteous;[1] For it is said, *Take heed to thyself that thou speak not to Jacob either good or evil.*[2] Now, as regards *evil*, one can perfectly well understand [the meaning][3] but why not *good*? From here then it may be inferred that the favor of the wicked is evil for the righteous.

There,[4] one can well see the reason,[5] since he[6] might possibly mention to him the name of his idol;[7] what evil, however, could be involved here?[8] — That of infusing her with sensual lust. For R. Johanan stated: When the serpent copulated with Eve,[9] he infused her[10] with lust. The lust of the Israelites who stood at Mount Sinai,[11] came to an end, the lust of the idolaters who did not stand at Mount Sinai did not come to an end.

IF THE WOMAN PERFORMED THE *HALIZAH* WITH A SANDAL THAT DID NOT BELONG TO HIM, etc. Our Rabbis taught: [From the expression] *His shoe*[12] I would only know that his own[13] shoe [is suitable];[14] whence, however, is it deduced that anybody's shoe is suitable?[15] Hence was the term *'shoe'* repeated,[16] thus indicating the suitability of anyone's shoe.[17] If so, why was the expression, '*His shoe*', at all used? — '*His shoe*' implies one which he can wear, excluding a large one in which he cannot walk, excluding a small one which does not cover the greater part of his foot, and excluding also a sandal which consists of a sole but has no heel.

Abaye once stood in the presence of R. Joseph when a sister-in-law came to perform *Halizah*. 'Give him',[18] he[19] said to him,[20] your sandal', and [Abaye] gave him' his left sandal. 'It might be suggested', he[19] said to him,[20] 'that the Rabbis spoke[21] only of a fait accompli; did they, however, speak also of what is permissible ab initio?' The other[20] replied: If so, in respect of a sandal that is not the levir's own, it might also be suggested that the Rabbis spoke[22] only of a fait accompli; did they, however, speak also of what is permissible ab initio! 'I', the first[19] answered

him, 'meant to tell you this: Give it to him and transfer possession to him'.[23]

A WOODEN SANDAL. Who is the Tanna [whose view is expressed in this ruling]?[24] — Samuel replied: The view is that of R. Meir. For we learned: A cripple may go out [on the Sabbath][25] with his wooden stump; so R. Meir,[26] while R. Jose forbids it.[27] Samuel's father explained:[28] With one that is covered with leather, [the ruling representing] the general opinion.[29]

R. Papi stated in the name of Raba: No *Halizah* may be performed with a sandal that is under observation;[30] a *Halizah*, however, that has been performed [with it] is valid. No *Halizah* may be performed with a sandal, the leprous condition of which has been confirmed;[31] and even a *Halizah* that had already been performed [with it] is invalid.[32] R. Papa, however, stated in the name of Raba: No *Halizah* may be performed either with a sandal under observation[30] or with one the leprous condition of which had been confirmed;[31] a *Halizah*, however, that had been performed [with either] is valid.

An objection was raised: A house locked up[33] imparts uncleanness from within,[34] [and a house] confirmed in its leprous condition [imparts uncleanness][34] both within and without. The one as well as the other imparts uncleanness to anyone entering.[35] Now, if it is to be assumed [that an object doomed to destruction is regarded] as already crushed to dust,[36] surely [it may be objected] the requirement [there][37] is that He goeth into the house;[38] but [such a house] is not in existence![39] — There[37] it is different, because Scripture said, And he shall break down the house,[40] even at the time of breaking down it is still called 'house'.

Come and hear: A [leprous] strip of cloth[41] measuring three [finger-breadths] by three,[42] even if [in volume] it does not amount to the size of an olive,[43] causes, as soon as the greater part of it has entered a clean house, the defilement of that house.[44] Does not [this refer to a strip of cloth the uncleanness of which] had been confirmed![45] No; [it refers to] one under observation.[46] But if so, read the final clause: If in volume[47] it constituted the size of many olives,[48] as soon as a portion of it of the size of an olive[49] enters a clean house, it causes the uncleanness of that house.[50] Now, if you grant [that the reference is to a strip] of confirmed leprosy one can well understand why it was compared[51] to a corpse;[52] if, however, you maintain [that the reference is to a strip] under observation[53] why [it may be objected] was it compared to a corpse! — There[54] it is different,[55] for Scripture said, And he shall burn the garment,[56] even at the time of burning it is still called 'garment.'[57] Then let [*Halizah*] be deduced from it![58] — A prohibition cannot be deduced from [the laws of] uncleanness.[59]

Raba stated: The law is that [a sister-in-law] may not perform *Halizah* either with a sandal under observation,[60] or with a sandal of confirmed leprosy, or with a sandal belonging to an idol;[61] if, however, she has performed *Halizah* [with either of these], her *Halizah* is valid.[62] [With a sandal] that was offered to an idol[63]

1. Cf. Hor. 10b, Naz. 23b.
2. Gen. XXXI, 24.
3. [H] adv. or interr. (lit., 'for life'), 'very well'.
4. In the warning to Laban.
5. Why even good should not be spoken.
6. Laban.
7. Cf. Gen. XXXI, 30.
8. In the incident with Jael.
9. In the Garden of Eden, according to a tradition.
10. I.e., the human species.
11. And experienced the purifying influence of divine Revelation.
12. Deut. XXV, 9.
13. The levir's.
14. For his own *Halizah*.
15. For the *Halizah* of any other person.
16. Lit., 'it was stated shoe (bis)'.
17. Lit., 'from any place'.
18. The levir.
19. R. Joseph.
20. Abaye.
21. In ruling that *Halizah* with a left-foot sandal is valid. V. our Mishnah.
22. Cf. *supra* n. 4, mutatis mutandis.
23. As a gift, so that the shoe might become the levir's property.

24. Permitting *Halizah* with a wooden sandal.
25. When carrying from one domain into another is forbidden.
26. Who regards the cripple's wooden stump as a proper shoe.
27. Shab. 25b. As in respect of the Sabbath R. Meir regards the stump as a shoe, so also in respect of *Halizah* does he regard it as a shoe.
28. Our Mishnah. Cf. *supra* n. 7.
29. All agree that a wooden stump that is furnished with a leather covering is admissible for *Halizah*.
30. [H], lit., 'locked up', a sandal that, in accordance with Lev. XIII, 50, is shut up for a certain period so that it may be ascertained whether the plague-spot that appeared on it is of the clean or unclean type. Cf. ibid. 47ff.
31. [H], rt. [H], 'to tie up' (Jast.).
32. Such a sandal, being doomed to destruction by burning (Lev. XIII, 55), is legally regarded as non-existent.
33. For the purpose of observation. Cf. p. 712, n. 13 and Lev. XIV, 34ff.
34. By contact.
35. Neg. XIII, 4 though no contact took place.
36. And, consequently, as legally non-existent. Cf. *supra* note 15.
37. In the case of a leprous house.
38. Lev. XIV, 46, emphasis on house. Only then is the person unclean.
39. Since it is condemned to be broken down. V. *supra* n. 4. How, then, could uncleanness be imparted by that which does not exist?
40. Lev. XIV, 45.
41. Cf. ibid. XIII, 47.
42. These are the minimum measurements required for a piece of cloth to be termed garment.
43. Which in the case of a corpse is the minimum that may impart uncleanness.
44. Tosef. Neg. VII. A leprous garment, like a leper, imparts uncleanness to all objects in a house as soon as it is brought into that house, though none of the objects have come in actual contact with it.
45. In consequence of which it is doomed to destruction by burning. Now, if what is doomed to destruction is legally regarded as non-existent, how could such a strip impart uncleanness?
46. Cf. *supra* p. 712, n. 13.
47. That of a strip of cloth of the size mentioned.
48. If the material, for instance, was very thick.
49. Though its measurements were less than the greater part of three finger-breadths by three.
50. Neg. XIII, 4.
51. In the fixing of its minimum, in respect of imparting uncleanness, to be that of the size of an olive.
52. Which also imparts uncleanness if a small part of it of the size of an olive only remained. Confirmed leprosy may well be compared to a corpse. Cf. Num. XII, 22: Let her not … be as one dead. The reference is to Miriam who was at the time leprous (v. ibid. 10) and Aaron requested Moses that she may not be confirmed in her leprosy and thus become like a corpse.
53. V. *supra* p. 712, n. 13 mutatis mutandis.
54. The law of uncleanness in respect of the strip of leprous cloth.
55. From the law of *Halizah* where an object doomed to destruction is regarded as non-existent.
56. Lev. XIII, 52, emphasis on burn and garment.
57. Hence it may impart uncleanness even where it is doomed to destruction.
58. And a sandal of confirmed leprosy should also be admissible for *Halizah*.
59. Which form a peculiar class of their own.
60. Cf. *supra* p. 712, n. 13.
61. Which is put on the idol when it is moved from place to place (Rashi).
62. Because the sandal under observation is not doomed to destruction; the sandal of confirmed leprosy is regarded as a garment despite its doom, (as deduced *supra* from Lev. XIII, 52); while the sandal of the idol, being only an accessory to it, is not doomed to burning. Though no benefit may be derived therefrom it is admissible for *Halizah*, because the fulfillment of a precept is not regarded as a 'benefit'.
63. As part of its worship, and which must consequently be destroyed.

Yebamoth 104a

or [with one] that belonged to a condemned city[1] or [with one] that was made[2] in honor of a [dead] elder,[3] no *Halizah* may be performed; and even a *Halizah* that has been performed with it is invalid.

Said Rabina to R. Ashi: In what respect is [the sandal] that was made in honor of a [dead] elder different [from an ordinary sandal]? Is it because it was not made for walking? That of the *Beth Din* also[4] was not made for walking! — The other replied: Should the attendant of the *Beth Din* use it for walking, would the *Beth Din* object![5]

***MISHNAH*. IF [A SISTER-IN-LAW] PERFORMED THE *HALIZAH* AT NIGHT, HER**

HALIZAH IS VALID. R. ELEAZAR, HOWEVER, REGARDS IT AS INVALID. [IF SHE PERFORMED IT] WITH [THE LEVIR'S] LEFT SHOE, HER *HALIZAH* IS INVALID, BUT R. ELEAZAR DECLARES IT TO BE VALID.

GEMARA. May it be suggested that they[6] differ on the following principle: The one Master[7] holds the opinion that lawsuits are to be compared to plagues,[8] while the other Master[9] holds the opinion that lawsuits cannot be compared to plagues?[10] — No; all agree that lawsuits cannot be compared to plagues; for should they be compared, even the close of a legal process could not have been allowed at night.[11] Here, however, they[12] differ on the following principle: Ones Master[9] holds that *Halizah* is like the commencement of legal proceedings[13] and the other Master[14] holds that *Halizah* is like the close of the proceedings.[15]

Rabbah[16] b. Hiyya of Ktesifon[17] carried out a *Halizah* with a felt sock, with no other men present, at night. Said Samuel: How great is his authority[18] in acting on the view of one individual![19] What [however, could be his] objection?[20] If [against the use of the] felt sock, an anonymous Baraitha[21] [permits it]![22] If [against his acting at] night, our anonymous Mishnah[23] [permits this]![24] — His objection, however, is [that Rabbah acted] alone. How [he objected] could he act alone when it was only one individual who expressed approval of such a procedure![25] For we learned: If [a sister-in-law] performed *Halizah* in the presence of two or three men, and one of them. was discovered to be a relative or in any other way unfit [to act as judge], her *Halizah* is invalid; but R. Simeon and R. Johanan ha-Sandelar declare it valid. Furthermore, it once happened that a man submitted to *Halizah* with none present but himself and herself in a prison, and when the case came before R. Akiba he declared the *Halizah* valid.[26]

And[27] if you prefer I might say: All these [rulings] also are the views of[28] an individual. For it was taught: R. Ishmael son of R. Jose stated, 'I saw R. Ishmael b. Elisha carry out a *Halizah* with a felt sock, with no other men present, and [this occurred] at night'.

WITH [THE LEVIR'S] LEFT SHOE HER *HALIZAH*, etc. What is the Rabbis' reason? 'Ulla replied: [The meaning of] 'foot' [here][29] is deduced from that of foot[30] in the context of the leper. As there[31] it is the right[32] so here[33] also it must be the right. Does not R. Eleazar, then, deduce [the meaning of] foot [here][33] from that of foot[34] in the context of the leper? Surely, it was taught: R. Eleazar stated, Whence is it deduced that the boring [of the ear of a Hebrew slave][35] must be performed on his right ear? — For the term ear was used here[36] and the term 'ear' was also used elsewhere;[37] as there[37] it is the right ear[38] so here also it is the right ear![39] — R. Isaac b. Joseph replied in the name of R. Johanan: The statement is to be reversed.[40]

Raba said: There is, in fact, no need to reverse [the statement,[36] the reply to the objection[41] being that] the terms 'ear'[42] [are both] free [for the deduction];[43] the terms of 'foot,'[44] however, are not free for deduction.[45] But even if [one of the texts] is not free for deduction, what objection can be raised [against the deduction]?[46] — It may be objected: The case of the leper is different,[47] since he is also required [to bring] cedar-wood and hyssop and scarlet.[48]

MISHNAH. [IF A SISTER-IN-LAW] DREW OFF [THE LEVIR'S SHOE] AND SPAT,[49] BUT DID NOT RECITE [THE FORMULAE],[50] HER *HALIZAH* IS VALID.[51] IF SHE RECITED [THE FORMULAE] AND SPAT, BUT DID NOT DRAW OFF THE SHOE, HER *HALIZAH* IS INVALID.[52] IF SHE DREW OFF THE SHOE AND RECITED [THE FORMULAE] BUT DID NOT SPIT, HER *HALIZAH*, R. ELIEZER[53] STATED, IS INVALID; AND R. AKIBA STATED: HER *HALIZAH* IS VALID.

1. All the spoil of which was to be burned. Cf. Deut. XIII, 13ff.
2. As a part of his shroud.
3. Not being used for walking it cannot be regarded as a shoe.
4. The approved sandal kept by a *Beth Din* for the special purpose of *Halizah* ceremonials.

5. Presumably not. Hence it may well be regarded as a shoe made for the purpose of walking.
6. The first Tanna and R. Eleazar in our Mishnah.
7. The first Tanna.
8. Both having been mentioned in the same Scriptural verse (Deut. XXI, 5). As plagues may be examined by the priest in the daytime only (based on Lev. XIII, 24: 'On the day when raw flesh is seen in him') so may lawsuits also be dealt with by the court in the daytime only. *Halizah* involving as it does the question of the widow's *Kethubah* is regarded as coming under the category of lawsuits.
9. R. Eleazar.
10. Cf. Sanh. 34b, Nid. 500
11. But, as a matter of fact, this was explicitly allowed. Cf. Sanh. 32a.
12. The first Tanna and R. Eleazar in our Mishnah.
13. Which must take place in the daytime only. Cf. Sanh. 34b.
14. The first Tanna.
15. Which is allowed even in the night-time. Cf. p. 715, n. 8.
16. Others, 'Raba'. Cf. Alfasi and [H].
17. On the eastern bank of the Tigris in the south of Assyria.
18. Ironical exclamation.
19. The ruling of the majority being against this opinion.
20. Against Rabbah's action.
21. Lit., 'it was taught'.
22. *Supra* 102b. And the *Halachah*, as a rule, is in agreement with the anonymous ruling.
23. Cf. Rashi, s.v. [H] a.l. Cur. edd., it was taught'.
24. Cf. *supra* n. 9.
25. Lit., 'taught it'.
26. Thus it is proved that it is an individual opinion, that of R. Akiba, that permits *Halizah* in the absence of witnesses.
27. Cf. BaH. Cur. edd. insert: 'And R. Joseph b. Manyumi stated in the name of R. Nahman that the *Halachah* is not in agreement with that pair.' This occurs *infra* 105b, but is irrelevant here.
28. Lit., 'taught them'.
29. Deut. XXV, 9, dealing with *Halizah*.
30. Lev. XIV, 14.
31. In the case of the leper.
32. Since the text explicitly mentions it.
33. In *Halizah*.
34. Lev. XIV, 14.
35. Who refuses to go out free. V. Ex. XXI, 5f.
36. V. previous note.
37. With the leper. Lev. XIV, 14.
38. Since the text explicitly mentions it.
39. Kid. 15a, which shows that R. Eleazar does make deduction from the terms used in the context of the leper.
40. In our Mishnah. It is R. Eleazar, and not the first Tanna, who ruled that *Halizah* with the left shoe is invalid.
41. As to why R. Eleazar draws an analogy between the terms of ear and not between those of foot.
42. Lit., 'ear, ear'.
43. Both in the case of leper (Lev. XIV, 14 and 17) and in that of the slave (Ex. XXI, 6 and Deut. XV, 17) one of the terms is superfluous and, therefore, free for the deduction that the boring must be performed on the right ear.
44. Lit., 'foot, foot'.
45. Though in the context of the leper the term foot occurs twice (Lev. XIV. 14 and 17), in that of *Halizah* it appears only once (Deut. XXV, 9). As in the latter text it is required for the context itself no deduction can be made from such an analogy unless it is one that is free from all possible objection.
46. Cf. *supra* n. 14 final clause. Since no refutation can be advanced, the deduction, though based on texts of which one only is free for the purpose, should hold!
47. From that of *Halizah*.
48. On the day of his cleansing. (Cf. Lev. XIV, 4). The laws of the leper, being in this respect more rigid than those of *Halizah*, may also be more rigid in respect of the requirement of the right shoe. Hence R. Eleazar's opinion that no deduction is to be made from the analogous words, and that *Halizah* with the left shoe is, therefore, valid.
49. Cf. Deut. XXV, 9.
50. Prior to the *Halizah* she declares (a) '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' (ibid. 7). After the *Halizah* she exclaims, (b) 'So shall it be done unto the man that doth not build up his brother's house' (ibid. 9).
51. The omission of an act, but not that of a formula, renders a *Halizah* invalid. V. *infra*.
52. Cf. *supra* n. 3.
53. Cf. marg. note. Cur. edd., 'Eleazar'.

Yebamoth 104b

SAID R. ELIEZER TO HIM: [SCRIPTURE STATED], SO SHALL BE DONE,[1] ANYTHING WHICH IS A DEED[2] IS A SINE QUA NON.[3] R. AKIBA, HOWEVER, SAID TO HIM, FROM THIS VERY TEXT[4] PROOF [MAY BE ADDUCED FOR MY VIEW]: SO SHALL BE

DONE UNTO THE MAN,[5] ONLY THAT WHICH IS TO BE DONE UNTO THE MAN.[6]

IF A DEAF[7] LEVIR SUBMITTED TO HALIZAH, OR IF A DEAF[7] SISTER-IN-LAW PERFORMED HALIZAH, OR IF A HALIZAH WAS PERFORMED ON A MINOR, THE HALIZAH IS INVALID.

[A SISTER-IN-LAW] WHO PERFORMED HALIZAH WHILE SHE WAS A MINOR MUST AGAIN PERFORM *HALIZAH* WHEN SHE BECOMES OF AGE; AND IF SHE DOES NOT AGAIN PERFORM IT, THE *HALIZAH* IS INVALID.

IF [A SISTER-IN-LAW] PERFORMED HALIZAH IN THE PRESENCE OF TWO OR THREE MEN AND ONE OF THEM WAS DISCOVERED TO BE A RELATIVE OR ONE IN ANY OTHER WAY UNFIT [TO ACT AS JUDGE], HER HALIZAH IS INVALID; BUT R. SIMEON AND R. JOHANAN HA-SANDELAR DECLARE IT VALID. FURTHERMORE,[8] IT ONCE HAPPENED THAT A MAN SUBMITTED TO HALIZAH PRIVATELY BETWEEN HIMSELF AND HERSELF IN A PRISON, AND WHEN THE CASE CAME BEFORE R. AKIBA HE DECLARED THE HALIZAH VALID.

GEMARA. Raba said: Now that you have stated[9] that the recital [of the formulae][10] is not a sine qua non, the *Halizah* of a dumb man and a dumb woman is valid.

We learned: IF A DEAF LEVIR SUBMITTED TO HALIZAH, OR IF A DEAF SISTER-IN-LAW PERFORMED HALIZAH, OR IF A HALIZAH WAS PERFORMED ON A MINOR, THE HALIZAH IS INVALID. Now, what is the reason?[11] is it not because these are unable to recite [the formulae]![12] — No; because they are not in complete possession of their mental faculties.[13] If so, [the same applies] also to a dumb man and to a dumb woman![14] — Raba replied: A dumb man and a dumb woman are in full possession of their mental faculties, and it is only their mouth that troubles[15] them. But, surely, at the school of R. Jannai it was explained [that the reason why a deaf-mute is unfit for *Halizah* is] because [the Scriptural instruction], He shall say[16] or She shall say[17] is inapplicable to such a case![18] — [Say] rather, if Raba's statement was ever made it was made in connection with the final clause: IF A DEAF LEVIR SUBMITTED TO HALIZAH, OR IF A DEAF SISTER-IN-LAW PERFORMED HALIZAH, OR IF A HALIZAH WAS PERFORMED ON A MINOR, THE HALIZAH IS INVALID. [It is in connection with this that] Raba said: Now that you have stated that the recital of [the formulae][19] is a sine qua non, the *Halizah* of a dumb man or a dumb woman is invalid. And our Mishnah[20] [is based on the same principle] as [that propounded by] R. Zera; for R. Zera stated: Wherever proper mingling[21] is possible actual mingling is not essential,[22] but where proper mingling is not possible[23] the actual mingling is a sine qua non.[24]

[The following ruling] was sent to Samuel's father: A sister-in-law who spat[25] must perform the *Halizah*.[26] This implies that she is rendered unfit for the brothers;[27] but whose view is this?[28] If it be suggested [that it is that of] R. Akiba, it may be objected:[29] If R. Akiba said that it[30] was not indispensable[31] even where the actual commandment [of *Halizah* is being performed, in which case] it could be argued that it could be given the same force as [the burning] of the altar portions of the sacrifices, which is not an essential [rite] when [the portions] are not available,[32] and yet is a *sine qua non* when they are available,[33] [would he regard it[30] as a reason for the woman] to become thereby unfit for the brothers! [Should it be suggested], however, [that the view[34] is that] of R. Eliezer,[35] surely [it may be retorted] are two acts[36] which jointly effect permissibility,[37] and any two acts that jointly effect permissibility are ineffective one without the other![38] — Rather, the view[39] is in agreement with that of Rabbi. For it was taught: The Pentecostal lambs[40] cause the consecration of the bread[41] only by their slaughter.[42] In what manner?[43] If they were slaughtered for the purpose of the festival sacrifices[44] and their blood also was

sprinkled with such intention,[44] the bread becomes consecrated. If they were not slaughtered for the purpose of the festival sacrifices,[45] though their blood was sprinkled for the proper purpose,[44] the bread does not become consecrated. If they were slaughtered for the purpose of the festival sacrifices[44] and their blood was sprinkled for another purpose,[46] [the bread] is partly consecrated and partly unconsecrated;[47] so Rabbi. R. Eleazar son of R. Simeon, however, stated: [The bread] is never consecrated unless the slaughtering [of the lambs] and the sprinkling of their blood were both intended for the proper purpose of the festival.[48]

Did R. Akiba, however, hold that the act of spitting does not render the woman unfit?[49] Surely it was taught: If she drew off [the levir's shoe] but did not

1. Deut. XXV, 9, emphasis on done. [H] (rt. [H]). V. *infra* n. 7.
2. [H] (rt. [H]). Cf. *supra* n. 6.
3. The omission of any act, therefore, renders the *Halizah* invalid.
4. Lit., 'from there'.
5. Deut. ibid., emphasis on man.
6. As, e.g., drawing off the shoe which is an act on the body of the levir. Spitting, therefore, is excluded.
7. The 'deaf' spoken of in the Talmud literature is always to be understood as a deaf-mute. Cf. Ter. I, 2.
8. I.e., not only in a case where there were at least two judges but even where no one beside the levir and the sister-in-law 'vas present.
9. In the first clause of our Mishnah.
10. V. *supra* p. 718, n. 2.
11. For the invalidity.
12. Cf. *supra* p. 718, n. 12. How then could it be said that recital of the formulae is not an indispensable condition?
13. The minor because of his immature age, and the deaf and dumb because of his physical defects which adversely affect his mental powers.
14. Why then is their *Halizah* valid?
15. Lit., 'pains
16. Cf. Deut. XXV, 8.
17. Cf. ibid. 7 and 9.
18. How then can *Halizah* of a dumb person be regarded as valid!
19. V. *supra* p. 718, n. 2.
20. Which stated that if she did not recite the formulae the *Halizah* is valid
21. Of the flour and the oil of a meal-offering. With one *log* of oil for sixty 'Esronim (v. Glos.) of flour, and a maximum of sixty 'Esronim in one pan, perfect mingling is possible.
22. Even if no mingling has taken place the meal-offering is acceptable.
23. Where, e.g., the proportions of the mixture were less than a *log* for sixty 'Esronim or where more than sixty 'Esronim were placed in one pan.
24. Men. 18b, 103b. With *Halizah* also, though in the case of persons who are able to recite the prescribed formulae, the omission does not invalidate the *Halizah*, in the case of dumb persons for whom it is physically impossible ever to recite the formulae, the omission of it does render the *Halizah* invalid.
25. In the presence of the *Beth Din*.
26. Though her act was not a part of a formal *Halizah* ceremony, she forfeits thereby her right ever to contract levirate marriage with any of the levirs.
27. V. *supra* n. 7.
28. That an informal act of spitting renders the woman unfit for marriage with the brothers.
29. Lit., 'now'.
30. The act of spitting.
31. Which shows what little significance R. Akiba attaches to this part of the ceremony.
32. If, for instance, they were lost or became unfit for the altar owing to uncleanness. Cf. Pes. 59b.
33. So in the case of *Halizah*, R. Akiba might have been expected to regard the spitting, which is an act that can be performed, as an essential.
34. V. *supra* note 9.
35. Cur. edd., 'Eleazar' (cf. *supra* p 718, n. 5); who stated in our Mishnah that the act of spitting was indispensable.
36. Drawing off the shoe and spitting.
37. Of the sister-in-law to marry a stranger.
38. Cf. Men. 89a.
39. V. *supra* p. 720, n. 9.
40. V. Num. XXVIII, 26-31.
41. The two loaves that were also brought to the Temple on Pentecost. V. Lev. XXIII, 17.
42. The waving of the loaves and the lambs together, which precedes the slaughter of the latter, does not effect the proper consecration of the bread.
43. Is consecration effected even after slaughtering of the lambs.
44. Lit., 'for their name'.
45. Lit., not for their name'; i.e., if they were intended to be merely sacrifices, not specifically those prescribed for the Pentecost festival.
46. Cf. *supra* n. 9.
47. I.e., it is subject to some, but not to all, of the restrictions of properly consecrated bread.

48. Cf. *supra* note 8. Pes. 13b, Men. 47a. Thus it has been shown that according to Rabbi, where two acts such as proper slaughtering and proper sprinkling are required, consecration is partially effected even though the former act alone was properly performed. Similarly, in respect of *Halizah*, one of the prescribed acts is sufficient to render the woman unfit for the levirate marriage.
49. For the levirate marriage.

Yebamoth 105a

spit nor recite,[1] her *Halizah* is valid. If she spat but did not draw off the shoe nor recite,[2] her *Halizah* is invalid[3] if she recited[2] but did not spit nor draw off the shoe, there is here no reason whatsoever for apprehension.[4] Now, whose [view is here represented]? If it be suggested [it is that of] R. Eliezer, [how could it be stated that] 'if she drew off [the levir's shoe] but did not spit nor recite, her *Halizah* is valid' when, surely, R. Eliezer said: SO SHALL BE DONE, ANYTHING WHICH IS A DEED IS A SINE QUA NON? It is consequently obvious [that it is the view of] R. Akiba; and yet it was stated that 'if she spat but did not draw off the shoe nor recite, her *Halizah* is invalid'. To whom, [however, does the invalidity cause her to be forbidden]?[5] If it be suggested, 'To strangers';[6] is not this [it may be retorted] self-evident? Is it a *Halizah* [like this that would enable the sister-in-law] to become free to marry a stranger![7] It must therefore, be admitted[8] [that the validity refers to her state of prohibition] to the brothers.[9] Thus you have our contention proved.

According to R. Akiba, wherein lies the legal difference between the act of spitting and that of reciting?[10] — Recital[11] that must take place both at the commencement[12] [of the *Halizah* ceremony] and at its conclusion[13] cannot be mistaken;[14] spitting, however, which does not take place at the beginning but only at the end, might be mistaken [for a proper *Halizah*],[15] and thus[16] a proper *Halizah* also would be permitted to marry the brothers.[17]

Others say that the following ruling was sent to him:[18] A sister-in-law who spat[19] may afterwards perform *Halizah* and need not spit a second time.[20] So, in fact, it once happened that a sister-in-law[21] who came before R. Ammi, while R. Abba b. Memel was sitting in his presence, spat prior to her drawing off the shoe. 'Arrange the *Halizah* for her', said R. Ammi to him,[22] 'and dismiss her case'.[23] 'But surely'. said R. Abba to him, 'spitting is a requirement!' — 'She has spat indeed!' 'But let her spit [again]; what could be the objection?' — 'The issue might [morally and religiously] be disastrous; for should you rule that she is to spit again, people might assume that her first spitting was ineffective[24] and thus[25] a proper *Haluzah* also would be permitted to marry the brothers!'[26] 'But is it not necessary. [that the various parts of the *Halizah*] should follow in the prescribed order?' — 'The order of the performances is not essential'. He[22] thought [at the time] that the other[27] was merely shaking him off. When, however, he went out he carefully considered the point and discovered that it was taught: Whether drawing off the shoe preceded the spitting or whether spitting preceded the drawing off, the action performed is valid.[28]

Levi once went out [to visit] the country towns,[29] when he was asked: 'May a woman whose hand was amputated perform *Halizah*?[30] What is the legal position where a sister-in-law spat blood? [It is stated in Scripture]: Howbeit I will declare unto thee that which is inscribed in the Writing of Truth;[31] does this[32] then imply that there exists a [divine] Writing that is not of truth?' He was unable to answer.[33] When he came and asked these questions at the academy. they answered him: Is it written, 'And she shall draw off with her hand'?[34] Is it written, 'And spit spittle'?[34] [As to the question] 'Howbeit I will declare unto thee that which is inscribed in the Writing of Truth,[31] does this then imply that there exists a [divine] Writing that is not of truth'? There is really no difficulty. For the former[35] refers to a [divine] decree that was accompanied by an oath while the latter[36] refers to one that was not accompanied by an oath. [This is] in

accordance with a statement of R. Samuel b. Ammi. For R. Samuel b. Ammi stated in the name of R. Jonathan: Whence is it deduced that a decree which is accompanied by an oath is never annulled?[37] — From the Scriptural text, Therefore I have sworn unto the House of Eli, that the iniquity of Eli's house shall not be expiated with sacrifice nor offering forever.[38] Rabbah said: It will not be expiated 'with sacrifice nor offering', but it will be expiated with the words of the Torah.

Abaye said: It will not be expiated 'with sacrifice nor offering' but it will be expiated with the practice of lovingkindness.

Rabbah and Abaye were both descendants of the house of Eli. Rabbah who engaged in the study of the Torah lived forty years. Abaye, however, who engaged in the study of the Torah and the practice of lovingkindness, lived sixty years.

Our Rabbis taught: There was a certain family in Jerusalem whose members used to die when they were about the age of eighteen. When they came and acquainted R. Johanan b. Zakkai [with the fact,] he said to them: 'perchance you are descendants of the family of Eli concerning whom it is written in Scripture. And all the increase of thy house shall die young men;[39] go and engage in the study of the Torah, and you will live'. They went and engaged in the study of the Torah and lived [longer lives]. They were consequently called 'The family of Johanan', after him.

R. Samuel b. Unia stated in the name of Rab: Whence is it deduced that a [divine] dispensation against a congregation is not sealed? — [You say] 'Is not sealed'! Surely it is written, For though thou wash thee with niter, and take thee much soap, yet thine iniquity is marked before Me![40] — But [this is the question]: Whence is it deduced that even if it has been sealed it is torn up? — From the Scriptural text, What … as the Lord our God is whensoever we call upon him.[41] But, surely, it is written, Seek ye the Lord while He may be found![42] — This is no contradiction. The latter applies to an individual, the former to a congregation. And[43] when may an individual [find him]? R. Nahman replied in the name of Rabbah b. Abbuha: In[44] the ten days between the New Year and the Day of Atonement.[45]

[The following ruling] was sent to Samuel's father: A sister-in-law who spat blood shall perform *Halizah*,[46] because it is impossible that blood should not contain some diluted particles of spittle.

An objection was raised: It might have been assumed that blood that issues from his[47] mouth or membrum virile is unclean,[48] hence it was explicitly stated, His issue is unclean,[49] but the blood which issues from his mouth or from his membrum virile is not unclean, but clean![50] — This is no contradiction: The former[51] is a case[52] where she sucks in;[53] the latter,[54] where [the blood] flows gently.

IF A DEAF LEVIR SUBMITTED TO *HALIZAH*, etc.

1. The prescribed formulae. V. *supra* p. 718. n. 2.
2. V. p. 721, n. 14.
3. But the woman is rendered unfit for the levirate marriage. V. *infra*.
4. I.e., even levirate marriage is permitted.
5. The expression פסוחה, here rendered 'invalid', bears in the original a double meaning: (a) the *Halizah* itself is invalid and (b) the woman becomes invalid, i.e., unfit to contract a marriage. V. *infra* note 8.
6. Lit., 'to the world', i.e., as the *Halizah* is invalid the woman still remains forbidden to all men except the levirs.
7. Obviously not. Mere spitting could not possibly be regarded as a proper *Halizah*.
8. Lit., 'but not'.
9. The second meaning of פסולה (v. *supra* note 4. (b) being that the woman is forbidden to contract the levirate marriage with any of the brothers. Cf. Git. 24b.
10. Since both acts are not indispensable, why does the former act according to R. Akiba cause the sister-in-law to be forbidden to the brothers (as has just been proved), while the latter does not (R. Akiba having stated *supra* that there was 'no reason whatsoever for apprehension')?
11. Of the prescribed formulae.
12. V. *supra* p. 718, n. 2 (a).
13. V. *loc. cit*. n. 2 (b).
14. For a proper *Halizah*. Where the sister-in-law is allowed to marry a levir it is obvious to all

who know of the recital that it was only the first formula that was recited and that no *Halizah* had followed it.
15. Anyone witnessing the spitting would form the opinion that the other parts of the *Halizah* ceremonial had preceded it.
16. Were she subsequently permitted to marry a levir.
17. Hence R. Akiba's prohibition. Cf. *supra* p. 722. n. 9.
18. To Samuel's father. Cf. *supra* 104b.
19. Before *Beth Din*, though her act did not form a part of the formal *Halizah* ceremony.
20. At the proper time when the formal ceremony is carried out.
21. Cf. BaH. a.l. wanting in cur. edd.
22. R. Abba.
23. I.e., there is no need for her to spit again.
24. And the woman would consequently be allowed to marry a levir even after she had spat:
25. By allowing her to contract levirate marriage.
26. Cf. *supra* note 1.
27. R. Ammi.
28. Cf. *infra* 106b, Sanh. 49b.
29. In the course of a lecture tour. According to the Palestinian Talmud and the Midrash Rabbah, Levi was sent by R. Judah the Prince to take up an appointment as teacher and judge in a provincial town. In his excitement and pride he grew so bewildered that he was unable to answer the following three questions.
30. With her teeth.
31. Dan. X, 21, taken to refer to divine dispensation.
32. The adjectival phrase 'of truth'.
33. Lit., 'it was not in his hand'.
34. Certainly not.
35. 'Writing of truth', i.e., 'permanent', 'unalterable'.
36. The 'writing that is not of truth', i.e., which may be altered or recalled.
37. Lit., 'torn up'.
38. I Sam. III, 14, emphasis on 'sworn' and 'forever'.
39. I Sam. II, 33.
40. Jer. II, 22, emphasis on 'marked' 'sealed'. The Hebrew equivalent of the former is [H] which is similar in sound to that of the letters [H].
41. Deut. IV, 7.
42. Isa. LV, 6, emphasis on while he may be found, implying that there are times when he may not be found!
43. Cf. BaH.
44. Lit., 'these are'.
45. Known as the 'ten days of penitence', [H].
46. As in the case of ordinary spitting. she may not subsequently contract levirate marriage.
47. A man who hath an issue, cf. Lev. XV, 2.
48. As his spittle or issue respectively is unclean.
49. Ibid., emphasis on issue.
50. Nid. 56a. Apparently because the blood contains no particle of spittle (cf. *supra* n. 10), which is contradictory to the previous statement that all blood contains some particles of spittle.
51. The ruling sent to Samuel's father.
52. Lit., 'here'.
53. When it is inevitable that some spittle should be mingled with the blood.
54. Lit., 'here'.

Yebamoth 105b

Rab Judah stated in the name of Rab:[1] This[2] is the view of R. Meir;[3] but the Sages maintain that the *Halizah* of a minor has no effect at all.[4]

[A SISTER-IN-LAW] WHO PERFORMED *HALIZAH* WHILE SHE WAS A MINOR, etc. Rab Judah stated in the name of Rab: This[5] is the view of R. Meir who stated, 'In the Pentateuchal section [of *Halizah*] the expression man[6] is used,[7] and the woman is to be compared to the man'.[8] The Sages, however, maintain that in the Pentateuchal section 'man' was written;[7] [and as to] a woman, whether she is of age or a minor [her *Halizah* is valid].

Who [is the Tanna here described as the] Sages? — It is R. Jose. For R. Hiyya and R. Simeon b. Rabbi once sat together, when one of them began as follows:[9] A man who offers up his prayers must direct his eyes towards [the Temple][10] below,[11] for it is said, And Mine eyes and Mine heart shall be there perpetually.[12] And the other said: The eyes of him who offers up prayers shall be directed[13] towards [the heavens] above, for it is said Let us lift up our heart with our hand.[14] In the meanwhile they were joined by R. Ishmael son of R. Jose. 'On what subject are you engaged?' he asked them. 'On the subject of prayer', they replied. 'My father', he said to them, 'ruled thus: A man who offers up his prayers must direct his eyes to the [Sanctuary] below and his heart towards [the heavens] above so that these two Scriptural texts may be complied with.' While this was going on, Rabbi entered the academy.[15] They,

being nimble, got into their places quickly. R. Ishmael son of R. Jose, however, owing to his corpulence[16] could only move to his place with slow steps. 'Who is this man, cried Abdan[17] out to him, 'who strides over the heads[18] of the holy people!' The other replied. 'I am Ishmael son of R. Jose who have come to learn Torah from Rabbi'.[19] 'Are you, forsooth, fit', the first said to him, 'to learn Torah from Rabbi?' — 'Was Moses fit', the other retorted, 'to learn Torah from the lips of the Omnipotent!' 'Are you Moses indeed!' the first exclaimed. — 'Is then your Master a god!' the other retorted. R. Jose remarked: Rabbi got what he merited when the one[20] said to the other[21] 'Your Master' and not 'my Master'.[22] While this was proceeding a sister-in-law came before Rabbi.[23] 'Go out', said Rabbi to Abdan, 'and have her examined'.[24] After the latter went out, R. Ishmael said to him:[25] Thus said my father, 'In the Pentateuchal section man[26] is written;[27] [but as to] a woman, whether she is of age or a minor [her *Halizah* is valid]'. 'Come back', he[15] cried after him,[21] 'you need not [arrange for any examination]; the grand old man[28] has already given his decision [on the subject]'.

Abdan now came back picking his steps,[29] when R. Ishmael son of R. Jose exclaimed, 'He of whom the holy people is in need may well stride over the heads of the holy people; but how dare he of whom the holy people has no need stride over the heads of the holy people!' 'Remain in your place', said Rabbi to Abdan.

It was taught: At that instant Abdan became leprous, his two sons were drowned and his two daughters-in-law made declarations of refusal.[30] 'Blessed be the All Merciful', said R. Nahman b. Isaac, 'who has put Abdan to shame in this world'.[31]

'We may learn from the words of this eminent scholar',[32] said R. Ammi, 'that [a sister-in-law who is] a minor may perform *Halizah* while she is still in her childhood'.[33] Raba said: [She must wait with *Halizah*] until she has reached the age of [valid] vows.[34] The law however, is [that she must not perform *Halizah*] until she has produced two [pubic] hairs.

IF [A SISTER-IN-LAW] PERFORMED *HALIZAH* IN THE PRESENCE OF TWO, etc. R. Joseph b. Manyumi stated in the name of R. Nahman: The *Halachah* is not in agreement with this pair.[35] But, surely. R. Nahman had once stated this; for R. Joseph b. Manyumi stated in the name of R. Nahman: The *Halachah* is that[36] *Halizah* [must be performed] in the presence of three [judges]![37] — [Both are] required: For if the first only had been stated, it might have been assumed [that three judges are required] ab initio only. but that ex post facto even two [judges are enough] hence we were taught that 'the *Halachah* is not in agreement with this pair'.[38] And if we had been taught that 'the *Halachah* is not in agreement with this pair' but in accordance with the ruling of the first Tanna, it might have been assumed [that this applies only] ex post facto,[39] but that ab initio five [judges] are required,[40] [hence the former statement was also] required.[41]

IT ONCE HAPPENED THAT A MAN SUBMITTED TO *HALIZAH*[42], etc. PRIVATELY BETWEEN HIMSELF AND HERSELF! How, then, can we know it? — Rab Judah replied in the name of Samuel: When witnesses observed it from without.

The question was raised:[43] Did it happen that the *HALIZAH* was performed privately BETWEEN HIMSELF AND HERSELF outside, AND THE CASE WAS BROUGHT BEFORE R. AKIBA IN PRISON,[44] or perhaps it happened that the *HALIZAH* was performed BETWEEN HIMSELF AND HERSELF in prison? — Rab Judah replied in the name of Rab: The incident occurred in prison and the case also came up for decision in prison.[45]

1. Others, 'Samuel'. Cf. Tosaf. *supra* 96a, s.v. [H].
2. That the *Halizah* of a minor is invalid and that it consequently prohibits the woman from contracting levirate marriage with any of the older brothers.

3. Who stated (*supra* 96a) that the *Halizah* of a minor has the same force as that of a divorce by a levir who is of age.
4. His act is legally null and void. She is not thereby forbidden even to himself.
5. That a sister-in-law who was a minor may not perform *Halizah*.
6. V. Deut. XXV, 7.
7. Which excludes the male minor.
8. Since both man and sister-in-law (woman) were mentioned in the same verse (ibid.). As the male minor is excluded so is the female minor excluded.
9. Lit., 'and said'.
10. In Jerusalem. Cf. Ber. 28b, 30a.
11. I.e., on this earth, opp. to 'heaven' above.
12. I Kings IX, 3. Hence it must always form the centre of attraction for all engaged in prayer.
13. Cf. BaH. Wanting in cur. edd.
14. Lam. III, 41, emphasis on lift up.
15. When everyone present was expected to take his usual seat.
16. Cf. B.M. 84a.
17. One of Rabbi's disciples. 'Abdan' is a contraction of 'Abba Judan' by which name he is known in the Palestinian Talmud. (Cf. Tosaf. s.v. [H], a.l.).
18. During the discourses of the Master the disciples were seated on the ground in Eastern fashion; and R. Ishmael, in making his way towards his seat in the front rows, was compelled to stride over the heads of the assembly.
19. Lit., 'my master', a designation applied to R. Judah the prince who was in his time the Master par excellence.
20. R. Ishmael.
21. Abdan.
22. A slight upon Rabbi's recognized high position but one he well deserved for allowing Abdan publicly to annoy R. Ishmael.
23. Desiring him to arrange for her a *Halizah* ceremony.
24. To ascertain whether she has developed the marks of puberty and is consequently eligible to perform *Halizah*.
25. Rabbi.
26. Which excludes the male minor.
27. Deut. XXV, 7.
28. R. Jose. Thus it is proved that it is R. Jose's view that was presented *supra* as that of 'the Sages'.
29. Cf. *supra* note 4.
30. V. Glos. s.v. *Mi'un*. The Talmudic text may imply that the two daughters-in-law, as minors, refused to contract levirate marriage with the brothers of their dead husband, so that the names of the deceased were 'blotted out of Israel' (cf. Golds.). Accordingly the rendering of the text should be 'two (of) his (several) sons were drowned'. The text, however, might also be rendered: 'His two sons were drowned (after) his two daughters-in-law had made declarations of refusal (against them)'.
31. As an atonement for his ill-treatment of R. Ishmael; thus enabling him to enter the hereafter free from all sin.
32. R. Jose [H] = [H] lit., 'of the school of my master', or 'of Rabbi', was a title of scholastic distinction given to many eminent scholars who were Rabbi's disciples or contemporaries, and similarly also to predecessors as well as to immediate successors among the early Amoraim. V. *Nazir*, Sonc., ed., p. 64, n. 1.
33. [H] (cf. [H], 'to babble') 'talkers', children of six or seven years of age, who may legally purchase or sell movable property. A child at this age, being regarded as sufficiently developed to understand certain commercial transactions, is also regarded as sufficiently developed to perform a *Halizah*.
34. One year prior to puberty, or the age of eleven years and one day, when her vows and consecrations are valid if on examination she is found to understand their significance and purpose. (Cf. Nid. 45b).
35. R. Simeon and R. Johanan ha-Sandelar, the *Halachah* being in agreement with the first Tanna who maintains that three judges are required for a *Halizah*.
36. V. BaH. Cur. edd. omit.
37. Cf. *supra* 101b.
38. Even ex post facto, which is the case spoken of in our Mishnah, *Halizah* is invalid if no three eligible judges were present.
39. Of which our Mishnah speaks (cf. *supra* n. 3).
40. In agreement with R. Judah (cf. *supra* 101a).
41. To indicate that even in the dispute between the first Tanna and R. Judah the *Halachah* is in agreement with the former.
42. Cf. our Mishnah. Cur. edd. read here 'they performed Halizah'.
43. The ambiguity in our Mishnah is due to a reading which omits the *Waw* in [H] so that it is possible to join 'in prison' either to the previous, or to the following clause (cf. Tosaf. s.v. [H]).
44. During the revolt of Bar Kokeba (132-135 C.E.) R. Akiba was for a time held by the Romans as a prisoner and was subsequently martyred.
45. [Tosaf.: Rab Judah had it on tradition that it was so, even as it is related in T.J.: R. Johanan ha-Sandelar passed outside the prison wherein R. Akiba was incarcerated, calling out, 'Who requires needles?', 'Who requires forks?' … 'How is it where the *Halizah* was performed between himself and herself?' R. Akiba thereupon looked out through the window and

replied: 'Hast thou of needles (Kushin)? Hast thou Kasher?', thus intimating that it is legal. V. Tosef. quoted in [H], for a slightly different version].

Yebamoth 106a

Our Rabbis taught: A *Halizah* under a false assumption[1] is valid.[2] What is meant by 'a *Halizah* under a false assumption'? Resh Lakish explained: Where a levir is told, 'Submit to *Halizah* and you will thereby wed her'. Said R. Johanan to him:[3] I am in the habit of repeating a Baraitha, 'Whether he[4] had the intention[5] [of performing the commandment of *Halizah*] and she had no such intention, or whether she had such intention and he had not, her *Halizah* is invalid, it being necessary[6] that both shall at the same time have such intention',[7] and you say that her *Halizah* is valid![8] But [in fact this is the meaning]:[9] When a levir is told, 'Submit to her *Halizah* on the condition that she gives you two hundred zuz'.[10]

So it was also taught [elsewhere]: A *Halizah* under a false assumption is valid; and what is meant by a *Halizah* under a false assumption? One in which the levir is told 'Submit to her *Halizah* on condition that she gives you two hundred Zuz'. Such an incident, in fact, occurred with a woman who fell to the lot of an unworthy levir who was told, 'Submit to her *Halizah* on condition that she gives you two hundred Zuz'. When this case came before R. Hiyya he ruled that the *Halizah* was valid.

A woman[11] once came before R. Hiyya b. Abba.[12] 'Stand up,[13] my daughter', the Rabbi said to her. 'Her sitting is her standing',[14] replied her mother.[15] 'Do you know this man?'[16] the Rabbi asked. 'Yes', she answered him, 'it is her money that he saw and he would like to it'.[17] 'Do you not like him then?' he asked the woman.[18] 'No', she replied. 'Submit to her Halizah', [the Rabbi] said to [the levir], 'and you will thereby wed her'. After the latter had submitted to *Halizah* at her hands he said to him, 'Now she is ineligible to marry you; submit again to a proper *Halizah* that she may be permitted to marry a stranger'.

A daughter of R. Papa's father-in-law fell to the lot of a levir who was unworthy of her.[19] When [the levir] came before Abaye the latter said to him, 'Submit to her *Halizah* and you will thereby wed her'. Said R. Papa to him, 'Does not the Master accept the [relevant] ruling of R. Johanan?'[20] — 'What then could I tell him?' [the other asked]. 'Tell him', the first replied, '"submit to her *Halizah* on condition that she gives you two hundred *Zuz*."' After [the levir] had submitted to *Halizah* at her hand [Abaye] said to her,[18] 'Go and give him [the stipulated sum]'.[21] 'She', R. Papa replied, 'was merely fooling him';[22] was it not, in fact taught: If a man escaping from prison beheld a ferry boat and said [to the ferryman], 'Take a *Dinar* and lead me across',[23] [the latter] can only claim his ordinary fare.[24] From this then it is evident that the one can say to the other, 'I was merely fooling you'; so here also[25] [the woman may say], 'I was merely fooling you'. 'Where is your father?'[26] [Abaye] asked him. — 'In town', the other replied. 'Where is your mother?'[26] — 'In town', the other again replied. He set his eyes upon them and they died.

Our Rabbis taught:[27] A *Halizah* under a false assumption is valid; a letter of divorce [given] under a false assumption is invalid.[28] A *Halizah* under coercion is invalid; a letter of divorce [given] under compulsion is valid. How is this[29] to be understood? If it is a case where the man [ultimately][30] says, 'I am willing', the *Halizah* also [should be valid]; and if he does not say, 'I am willing', a letter of divorce also should not [be valid]! — It is this that was meant: A *Halizah* under a false assumption is always valid, and a letter of divorce [given] on a false assumption is always invalid; but a *Halizah* under coercion and a letter of divorce [given] under coercion are sometimes valid and sometimes invalid, the former when the man [ultimately][30] declared, 'I am willing', and the latter, when he did not declare, 'I am willing'. For it was

taught: He shall offer it[31] teaches that the man is coerced.[32] It might [be assumed that the sacrifice may be offered up] against his will, it was, therefore, expressly stated, In accordance with his will.[33] How then [are the two texts to be reconciled]? He is subjected to pressure until he says, 'I am willing'. And so you find in the case of letters of divorce for women: The man[34] is subjected to pressure until he says, 'I am willing'.[35]

Raba reported in the name of R. Sehora in the name of R. Huna: *Halizah* may be arranged even though [the parties][36] are unknown[37] A declaration of refusal[38] may be arranged even though the parties[39] are unknown.[37] For this reason[40] no certificate of *Halizah* may be written[41] unless the parties are known,[42] and no certificate of *Mi'un*[43] may be written[41] unless the parties are known,[42] for fear of an erring *Beth Din*.[44]

Raba in his own name, however, stated: *Halizah* must not be arranged unless the parties[45] are known,[46] nor may a declaration of refusal[43] be heard unless the parties[47] are known.[46] For this reason[48] it is permissible[49] to write a certificate of *Halizah*[50] even though the parties are not known,[51] and it is also permissible[49] to write a certificate of *Mi'un*[52] even though the parties are not known,[51] and we are not afraid of an erring *Beth Din*.[53]

1. [H] (rt. [H] *Hof.*) lit., 'misled'.
2. Tosef. Yeb. XII, Keth. 74a.
3. Resh Lakish.
4. The levir.
5. When he submitted to *Halizah*.
6. Lit., 'until'.
7. Tosef. Yeb. XII, *supra* 102b.
8. Even when the levir was misled into thinking that he was performing an act of marriage!
9. Of 'Halizah under a false assumption'.
10. V. Glos. Even if the promised sum was not forthcoming, the *Halizah* is valid. Any condition in connection with an act which, like *Halizah*. cannot be performed through an agent is illegal and void. Cf. Keth. 74a.
11. A sister-in-law who fell to the lot of an undesirable levir. (V. *infra*).
12. To meet the levir.
13. I.e., to contract the levirate marriage.
14. She was lame or suffered from some other chronic disease which disabled her from standing up. Another interpretation: Her 'sitting', i.e., her abstention from the marriage is her 'standing', i.e., salvation.
15. Cf. BaH.
16. I.e., did she know why he insisted on marrying a disabled woman? According to the second interpretation the question was whether she knew anything against his character.
17. After which he would get rid of her. Lit., 'and he desires to eat it from her'.
18. The sister-in-law.
19. But who insisted on contracting with her the levirate marriage.
20. Requiring both the man and the woman to be of the unanimous intention, during the ceremony, of fulfilling the commandment of *Halizah*. V. *supra*.
21. Though the *Halizah* was in any case valid, Abaye held that the condition must be complied with.
22. Lit., '(the trick of) "I fooled with you", she did to him'. Since the *Halizah* is valid, and since it is the levir's duty to perform it, no legal obligation is incurred by promising him an excessive sum for doing that which it was his duty to do.
23. An excessive fee for crossing a river.
24. B.K. 116a.
25. In the case of *Halizah* under discussion.
26. Abaye's query implied that R. Papa seemed to have all his needs provided for by his parents and that this left him leisure enough to indulge in fine dialectics.
27. Others read, 'Raba said' (She'iltoth section Ki Theze).
28. If the condition on which it was given was not fulfilled. A condition in the case of divorce has legal validity, since a divorce may be effected through the agency of witnesses. V. Keth. 74a and cf. *supra* p. 730, n. 10, final clause.
29. The second ruling relating to coercion.
30. After *Beth Din* had brought pressure to bear upon him.
31. Lev. I, 3.
32. To carry out his vow if he undertook to bring an offering.
33. [H] ibid., E.V., 'that he may be accepted'.
34. Who refuses to give a divorce.
35. Cf. Kid. 50a, B.B. 48a, Ar. 21a.
36. The levir and his sister-in-law who apply for a *Halizah* to be arranged for them.
37. To the *Beth Din*.
38. *Mi'un*. V. Glos.
39. The husband and the minor.
40. Since *Halizah* or *Mi'un* may he arranged even for unknown persons whose declarations might be false.
41. For a woman who applied for such a certificate to enable her to marry again. even if the usual

declaration, that the parties were known to the writers, is omitted. V. *infra* n. 4.
42. To the writers who witnessed the ceremony.
43. *Mi'un*. V. Glos.
44. I.e., a second *Beth Din* who might be called upon to deal with the question of the remarriage of the parties and who might be unaware of the law that *Halizah* and *Mi'un* may be arranged even for unknown persons, and who, in their reliance on the written certificate, might permit the woman to marry again; overlooking the fact that the usual declaration that the parties were known to the writers (cf. *supra* note 1) was wanting from the certificate.
45. V. *supra* p. 732, n. 10.
46. To the *Beth Din*.
47. The husband and the minor.
48. Since no *Beth Din* would allow *Halizah* and *Mi'un* unless the parties are known to them.
49. For witnesses who were present during one or other, as the case may be, of such ceremonies.
50. To enable the woman to marry again.
51. To the writers who witnessed the ceremony.
52. Cf. *supra* notes 3 and 10.
53. Cf. *supra* note 4 mutatis mutandis. Since the first *Beth Din* must know the parties the question of mistaken identity does not arise.

Yebamoth 106b

MISHNAH. [THIS IS THE PROCEDURE IN THE PERFORMANCE OF] THE COMMANDMENT OF *HALIZAH*: HE[1] AND HIS DECEASED BROTHER'S WIFE COME UNTO THE *BETH DIN*, AND [THE LATTER] OFFER HIM SUCH ADVICE AS IS SUITABLE TO HIS CONDITION,[2] FOR IT IS SAID IN THE SCRIPTURES, THEN THE ELDERS OF HIS CITY SHALL CALL HIM AND SPEAK UNTO HIM.[3] SHE THEN ANNOUNCES: 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.[4] THEN HE MAKES THE DECLARATION: I LIKE NOT TO TAKE HER.[5] [THESE FORMULAE] WERE ALWAYS SPOKEN IN THE HOLY TONGUE.[6] THEN SHALL HIS BROTHER'S WIFE DRAW NIGH UNTO HIM IN THE PRESENCE OF THE ELDERS AND DRAW[7] HIS SHOE FROM OFF HIS FOOT, AND SPIT BEFORE[8] HIS FACE,[9] SUCH SPITTLE AS THE JUDGES CAN SEE, AND SHE RAISES HER VOICE AND SAYS:[10] SO SHALL IT BE DONE UNTO THE MAN THAT DOTH NOT BUILD UP HIS BROTHER'S HOUSE,[11] THUS FAR[12] USED THEY TO RECITE.[13] WHEN, HOWEVER, R. HYRKANUS, UNDER THE TEREBINTH AT KEFAR ETAM,[14] ONCE DICTATED THE READING AND COMPLETED THE ENTIRE SECTION,[15] THE PRACTICE WAS ESTABLISHED TO COMPLETE THE ENTIRE SECTION.

[THAT] HIS NAME SHALL BE CALLED IN ISRAEL, 'THE HOUSE OF HIM THAT HAD HIS SHOE DRAWN[16] OFF',[17] IS A COMMANDMENT [TO BE PERFORMED] BY THE JUDGES AND NOT BY THE DISCIPLES.[18] R. JUDAH, HOWEVER, RULED: IT IS A DUTY INCUMBENT UPON ALL PRESENT TO CRY '[THE MAN][19] THAT HAD HIS SHOE DRAWN[16] OFF'.[17]

GEMARA. Rab Judah stated: [This is the procedure in the performance of] the commandment of *Halizah*: She recites;[20] he recites;[21] she draws off his shoe, spits and recites.[22] What does he teach us [by this statement]? This is our very Mishnah! — It is this that he teaches us: The prescribed procedure is such, but if the order was reversed, it does not matter. So it was also taught: Whether the drawing off of the shoe preceded the spitting or whether the spitting preceded the drawing off, the act is valid.[23]

Abaye ruled: The man who dictates the *Halizah* formulae[24] shall not read for the woman [the word] not[25] separately and [the clause] he will perform the duty of a husband's brother unto me[26] separately, since this[27] would convey the meaning, 'He desires to perform the duty of a husband's brother to me'; but [should read without a pause]. He will not perform the duty of a husband's brother unto me. Nor shall he read for the levir [the word] not[28] separately and [the clause] I like[28] separately; for this[27] would convey the meaning. 'I like to take her'; but [he should read without a pause], I like not to take her.[29] Raba, however, stated: This[30] is only the conclusion[31] of a sentence, and in a concluding clause [a pause] is of no consequence.[32]

R. Ashi found R. Kahana making a painful effort to read out for a woman,[33] He will not perform the duty of a husband's brother unto me,[34] [without a pause]. 'Does not the Master,' he asked him, 'accept the ruling of Raba?'[35] — 'Raba', the other replied, 'admits in [the case of the formula] He will not perform the duty of a husband's brother unto me[34] [that no pause is permitted].[36]

Abaye stated: The person who writes a certificate of *Halizah* shall word it as follows: 'We read out for her[37] from My husband's brother refuseth[38] to[39] will perform the duty of a husband's brother unto me;[40] and we read out for him[41] from not[42] to[39] to take her;[43] and we read out for her from So[44] to[45] him that had his shoe drawn off.[46]

Mar Zutra ruled [the paper][47] and copied the full text.[48] Mar b. Idi[49] demurred: But, surely, [a section only of the Pentateuch] is not permitted to be written![50] The law, however, is in agreement with the ruling of Mar Zutra.[51]

Abaye stated: If, when she spat. the wind carried the spittle away,[52] her act is invalid.[53] What is the reason? — It is necessary that she shall spit before[54] his face.[44] If, therefore, he was tall and she was short, and the wind carried the spittle away,[55] her act is deemed to have been[56] before his face.[57] If, however, she was tall and he was short, it is necessary that [the spittle] shall drop to the level of his face before[58] it disappears.

Raba stated: If she ate garlic and then spat[59] or if she ate a clod of earth and then spat,[59] her act is invalid.[53] What is the reason? — Because it is necessary that she shall spit[44] of her own free will, which is not the case here.[60]

Raba further stated: The judges must see the spittle issuing from the mouth of the sister-in-law, because it is written in Scripture Before the eyes of the elders … and spit.[61]

[THAT] HIS NAME SHALL BE CALLED IN ISRAEL, 'THE HOUSE OF HIM THAT HAD HIS SHOE DRAWN OFF' IS A COMMANDMENT [TO BE PERFORMED] BY THE JUDGES AND NOT BY THE DISCIPLES. It was taught: R. Judah stated: We were once sitting before R. Tarfon when a sister-in-law came to perform *Halizah*, and he said to us, 'Exclaim all of you: *Haluz Ha-na'al,*[62] *Haluz Ha-na'al, Haluz Ha-na'al*!'

1. The levir.
2. As, for instance, whether the respective ages or characters of the parties are likely to be conducive to a happy union. Cf. *supra* 44a, 101b.
3. Deut. XXV, 8.
4. Deut. XXV, 7.
5. Ibid. 8.
6. The classical Hebrew in which the formulae appear in the Scripture. Cf. Sot. 32a.
7. E.V., loose.
8. E.V., in.
9. Deut. XXV, 9.
10. E.V. 'And she shall answer and say'.
11. Ibid.
12. I.e., to the end of v. 9.
13. Or 'dictate'. The judges dictated and the parties recited.
14. [*Var. lec.*. [H], Cambridge Mishnah M.S. [H]. Krauss MGWF 1907, p. 332 reads [H], Capphare Accho in lower Galilee. Etam is mentioned in Judges XV, 8 and 11, I Chron. IV, 32 and II Chron. XI, 6].
15. To the end of v. 10.
16. E.V., loosed.
17. Deut. XXV, 10.
18. Who happen to be present when the *Halizah* ceremony is being performed.
19. E.V., him.
20. The formula prescribed in Deut. XXV, 7.
21. The formula, ibid. 8.
22. Ibid. 9. Cf. Sanh. 49b.
23. Lit., 'what he did is done'. Sanh. 49b, *supra* 105a.
24. Lit., 'document', 'deed'.
25. [H]. (Deut. XXV, 7) which is the first word of the formula.
26. [H] ibid.
27. The severance of the latter clause from the negative particle.
28. Deut. XXV, 8, cf. *supra* n. 3.
29. Ibid.
30. Each of the clauses mentioned by Abaye.
31. [H]. This is the reading of Alfasi, Asheri and BaH. Cur. edd., [H] 'breaking', 'pausing'.
32. Hence it is permitted to make a break between 'not' and the rest of the formula.
33. A sister-in-law for whom he was arranging a *Halizah*.
34. The prescribed formula in Deut. XXV, 7.
35. *Supra*, that a pause after 'not' is immaterial.
36. It is only in the formula of the levir, in which the negative particle, 'not', forms the first

word and cannot consequently be misunderstood as being connected with any previous word, that a pause does not matter. In the woman's formula, however, where the negative particle occurs in the middle of a clause, a pause after it might imply the connection of the negative with the preceding words, so that the clause following it would assume the meaning of an affirmative statement.

37. **The sister-in-law.**
38. **The prescribed formula in Deut. XXV, 7.**
39. **The middle portion of the formula is omitted, since it is forbidden to write down more than three consecutive words of the Pentateuch on unruled paper (cf. Git. 6b). The words permitted to be written according to Abaye represent in the Hebrew no more than two consecutive words.**
40. **V. *supra* p. 735, n. 4.**
41. **The levir.**
42. **[H], the beginning of the levir's first formula.**
43. **Ibid.**
44. **Deut. XXV, 9.**
45. **V. *supra* note 3.**
46. **Ibid. 10, E.V., loosed.**
47. **For the *Halizah* certificate, cf. Git. 6b.**
48. **Of each formula, not merely, as Abaye taught, its first and last words.**
49. **Others, 'Mar b. R. Ashi'. V. Alfasi and Asheri.**
50. **The Pentateuch in its entirety only may be copied. Cf. Git. 60a.**
51. **The prohibition against copying a section of the Pentateuch being limited to one that is to be used for teaching purposes. One, however, that is to be used as a mere record, as in the case of the *Halizah* certificate, does not come under the prohibition.**
52. **Lit., 'received', 'clutched', 'absorbed'.**
53. **Lit., 'she did not do anything'.**
54. **E.V., in.**
55. **V. *supra* note 16.**
56. **Lit., 'there is'.**
57. **Ibid., since at the moment the spittle left her mouth it was before the levir's face.**
58. **Lit., 'and then'.**
59. **Impulsively owing to the unpleasant taste in her mouth.**
60. **The garlic or the clod of earth having been the cause of her involuntary or instinctive action.**
61. **Deut. XXV, 9.**
62. **'(The man) that had his shoe drawn off'. V. Deut. XXV, 10.**