

הורו בית דין פרק ראשון

(fol. 45c) **משנה א:** הורו בית דין לעבור על אחת מכל-מצות האמורות בתורה והלך היחיד ועשה שוגג על פיהם בין שעשו ועשה עמהו בין שעשו ועשה אחריהו בין שלא עשו ועשה פטור מפני שתלה בבית דין. הורו בית דין ונדע אחד מהן שטעו או תלמיד שהוא ראוי להוריה והלך ועשה על פיהם בין שעשו ועשה עמהם בין שעשו ועשה אחריהם בין שלא עשו ועשה הרי זה חייב מפני שלא תלה בבית דין. זה הפלל התולה בעצמו חייב והתולה בבית דין פטור:

Mishnah 1: If the Court¹ ruled to violate one of the commandments spelled out in the Torah² and a single person went and acted inadvertently³ following their pronouncement, whether they acted and he acted simultaneously with them, or they acted and he followed their example, or they did not act but he did, he is not liable⁴ since he depended on the Court. If the Court ruled but one of them knew that they erred, or a student worthy of ordination⁵ went and acted following their pronouncement, whether they acted and he acted simultaneously with them, or they acted and he followed their example, or they did not act but he did, he is liable⁴ since he did not depend on the Court. This is the principle: The person depending on himself is liable⁶, but one depending on the Court is not liable.

1 The High Court.

2 A commandment clearly spelled out, like the prohibition of eating blood, where the biblical text does not imply an authorization of the rabbinical authorities to define the parameters of the obligation.

3 When the Court realized its error and changed its ruling, the person acting in good faith on their prior ruling is now faced with the fact that his act violated a biblical commandment, against his intention.

4 For a purification sacrifice (*Lev.*

4:27-35) or, in the absence of a Temple, repentance and an expiatory action.

5 He knows how to answer when asked any question of religious law.

6 This rule, which declares that no instruction of the High Court supersedes one's own certain knowledge, does not contradict the law of the rebellious Elder (*Sanhedrin* Chapter 8) since by definition the rebellious Elder came to ask the High Court; in the matter he came to ask, his knowledge is not independent of the Court.

45c line 59) **הלכה א:** הורי בית דין כול'. וְפֶשַׁשׁ כִּי־תִחַטָּא. אַחַת תִּחַטָּא. בְּעִשׂוּתָהּ תִּחַטָּא. הָרִי אִילּוּ מִיַּעוּטִין. הַתּוֹלָה בְּעֶצְמוֹ חַיִּיב וְהַתּוֹלָה בְּבֵית דִּין פָּטוּר: בְּכָל־אַתֶּר אֶתְּ מֶר. מִיַּעוּט אַחֵר מִיַּעוּט לְרִבּוּת. וְכֹא אֶתְּ מֶר. מִיַּעוּט אַחֵר מִיַּעוּט לְמַעַט. אָמַר רַבִּי מִתְּנֶה. שְׁנִינָא הִיא. דְּכִתִּיב מִיַּעוּט אַחֵר מִיַּעוּט אַחֵר מִיַּעוּט.

1 כי - | 2 והתולה - | את מר | איתמר 3 את מר | איתמר שנייא | שניה 4 אחר | לאחר (2 times)

Halakhah 1: ⁷“If the Court ruled.” etc. *A person who would transgress; one would transgress; acting he would transgress*; these are restrictions⁸: the person depending on himself is liable, but one dependent on the Court is not liable. Everywhere it is said that a restriction after a restriction is an addition, but here it is said, a restriction after a restriction is to reduce? Rabbi Mattaniah said, it is different here since there is written a restriction after a restriction after a restriction⁹.

7 The text is that of the Leiden ms., the readings are those of the Yerushalmi text in the Bomberg Babli of 1520.

8 The quotes are correct in the Yerushalmi text of the Babli *editio princeps*, but the first of the quotes in the Leiden ms. is a misquote, referring to *Lev.* 4:2 instead of 4:27. The basic text is in *Sifra Wayyiqra Paraṣah* 7(1), referred to in Babli 2b, discussed in detail *Šabbat* 93a.

Chapter 4 in *Lev.* treats the purification sacrifices for unintentional sin first by the High Priest (vv. 1-12), then the High Court (13-21), then a chief, identified in Mishnah 3:3 as a king (22-26), and finally by a commoner (27-35). V. 27 reads: *If one person of the populace transgresses inadvertently, by acting on one prohibitions of the Eternal, and feels guilt.* It is noted that the sentence seems to be unnecessarily wordy. Why does it not say simply, “if somebody inadvertently transgresses a prohibition of the Eternal”? The

additional words must have a meaning; they describe restrictions. In Babli *Šabbat* 93a one derives from the insistence that *one* person commit the sin that a violation of a commandment cannot be prosecuted if committed by two persons acting in common, so that no single person commits a punishable act but the combined result is a clear violation.. Such a violation cannot be atoned for by a purification sacrifice. It also is clear that only *acts* are punishable.

In the context here the additional terms are interpreted to mean that only a person acting on his own is required to offer a purification sacrifice; this excludes one who is told by a religious authority that his act is permitted.

9 It is a generally recognized principle that a double restriction is an addition and a double addition a restriction (*Peah* 6:9 Note 154, *Yebamot* 12:1 Note 10, *Sotah* 9:2 Note 63, *Roš Haššanah* 1:1 56a 1.58, *Megillah* 4:4 75b 1.14; Babli *Megillah* 23b, *Yoma* 43a, *Bava qamma* 15b, *Bava*

batra 15a, *Sanhedrin* 15a,44b,66a, *Makkot* 9b, *Ševuot* 7b, *Menahot* 9b,67a, *Hulin* 132a.) The principle is extended here to read that any even number of restrictions (additions) is an addition

(restriction) while any odd number of restrictions (additions) is a restriction (addition); cf. Rashi in *Sanhedrin* 15a s. v. חמשה.

(45c line 63) רבי חגי שאל לחבריה. מניין לאוכל בְּרִשׁוֹת שֶׁהוּא פָּטוּר. מֵה בֵּין סָבוּר שֶׁהוּא חוֹלִין וְנִמְצָאת תְּרוּמָה שֶׁהוּא חַיִּיב. מֵה בֵּין הַמַּחֲזִיק בְּעֶצְמוֹ שֶׁהוּא כֹהֵן וְנִמְצָא יִשְׂרָאֵל שֶׁהוּא פָּטוּר. אָמְרוּ לֵיהּ. מִן הוֹרִיּוֹת בֵּית דִּין. אָמַר לוֹ. אוֹף אֶנָּה צָרִיכָה לִי. מֵה בֵּין סָבוּר שֶׁהוּא חוֹל וְנִמְצָאת שֶׁבֶת שֶׁהוּא חַיִּיב. מֵה בֵּין סָבוּר שֶׁהוּא פָּסֵחַ וְנִמְצָא שְׁלֹמִים שֶׁהוּא פָּטוּר. אָמְרוּ לֵיהּ. מִן הַשּׁוֹחֲט בְּרִשׁוֹת. אָמַר לוֹ. אוֹף אֶנָּה צָרִיכָה לִי. מֵה בֵּין סָבוּר שֶׁהוּא מוֹתֵר וְנִמְצָא אֲסוּר שֶׁהוּא חַיִּיב. מֵה בֵּין סָבוּר שֶׁהוּא חָלֵב וְנִמְצָא שׁוֹמֵן שֶׁהוּא פָּטוּר. לֹא אָמְרוּ לֵיהּ כָּלִים. אָמַר לוֹ. נִימָא לְכוּן מֵינָן. אֹה הוֹדַע אֱלֹיו חֲטָאתוֹ וְהִבִּיא. אַעַל רַבִּי יוֹסִי. אָמְרוּ לֵיהּ. קָשִׁי לוֹן הֵדָא מִיִּלְתָּא. אָמַר לוֹ. וְלָמָּה לֹא אֲגִיבְתוּנִיה מִן הֵדָא אֹה הוֹדַע אֱלֹיו חֲטָאתוֹ וְהִבִּיא. אָמְרוּ לֵיהּ. חַגִּי קִשְׁיָתָה חַגִּי קִיִּמְתָּה.

1 חגי | חגי לחבריה | לחבריה מניין | מנין 3 אמרו | אמרו חוריות | חורית אוף | אף 4 אמרו | אמרו 6 אמרו | אמרו 7 נימא לכוון מנין | נמר לכוון אנו | אעל | על דעתיה ר' | דר' אמרו | אמרו 8 הדא | הא אגיבתוניה | אגבתני 9 קיימתה | קיימה

¹⁰Rebbi Haggai asked the colleagues: From where that he who eats with permission be not liable¹¹? What is the difference between him¹² who thought that it was profane but it turned out to be heave, who is liable, and him who thought that he was a Cohen but it turned out that he was an Israel, who is not liable¹³? They said to him, by the instruction of the court. He said to them, still I am having a problem. What is the difference between him who thought that it was weekday but it turned out that it was Sabbath¹⁴, who is liable, and him who thought that it was a Passover sacrifice but it turned out to be a well-being offering, who is not liable¹⁵. They said to him, because he slaughtered with permission. He said to them, still I am having a problem. What is the difference between him who thought that it was permitted but it turned out to be forbidden¹⁵, who is liable, and him who thought that it was forbidden fat¹⁶ and it turned out to be permitted fat, who is not liable. They did not answer at all. He told them, let me tell you from myself¹⁷: *Or his transgression in which he sinned was made known to him; he has to bring*¹⁸. Rebbi Yossi came to visit them; they told him, that problem is hard for us. He asked them, why did you not answer him, *or his transgression in which he*

sinned was made known to him; he has to bring? They told him, Haggai asked the question, Haggai gave the answer.

10 This paragraph has a parallel in *Terumot* 8:1, Notes 14-22. As explained there, the background of the paragraph in *Terumot* is different from the one presumed here; therefore at a place where the readings there and here seem to be opposite to one another, both are correct in their settings.

11 Referring to Mishnah *Terumot* 8:1; a childless woman of non-priestly birth, married to a Cohen, was eating heave in purity, as is her right and duty, when she was informed of her husband's death. By this death she returns to her non-priestly status and heave is forbidden to her. Nevertheless, she is not liable for a reparation sacrifice nor to pay for the heave eaten in error. This is the topic of *Terumot* 8:1, it is not followed up here.

12 An Israel to whom heave is forbidden, Mishnah *Terumot* 6:1.

13 He had been told from childhood that he was a Cohen; he was stripped of his priesthood by a court on the testimony of two witnesses that one of his female ancestors had been forbidden to her Cohen husband. His case is not different from that of the woman in Note 12.

14 This is a paradigm of an inadvertent sin as mentioned in *Lev.* 4:27.

15 Cf. *Terumot* 8:1, Note 18. The Passover sacrifice must be slaughtered in the afternoon of the 14th of Nisan, whether Sabbath or weekday. A festival well-being offering may not be slaughtered on the Sabbath. If the 14th was a Sabbath and somebody slaughtered a sheep in the Temple courtyard thinking that it was a designated Passover sacrifice when in fact it had been designated as a well-being offering, R. Joshua, an overriding authority, declares him not liable (Mishnah *Pesahim* 6:4).

16 Fat of animals which would be burned on the altar if these animals were sacrifices, and the fat into which ischiatic tendons are embedded, is forbidden for human consumption. All other fat is permitted. If a person intended to commit a sin but, unknown to him at the time, failed to commit the sin, he is not liable for a purification sacrifice.

17 Translated using the Bomberg Babli text.

18 *Lev.* 4:28. Since he was informed that he failed to commit the sin, he cannot bring a purification sacrifice. His repentance for his sinful intent will be a private matter between him and God.

(45c line 75) על דעתיה דרבי ישמעאל דלא מפנה אהן קרייה במחוייבי חטאות ואשמות ונדאין שער עליהן יום הכיפורים נחתא. על דעתיה דרבי עקיבה דמפנה אהן קרייה במחוייבי חטאות ואשמות ונדאין שער עליהן יום הכיפורים. דתני. מניין למחוייבי חטאות ואשמות ונדאין שער עליהן יום הכיפורים שהן חייבין להביא לאחר יום הכיפורים וחייבי אשמות

תְּלוּיִן פְּטוּרִין. תִּלְמוּד לומר אִזְ הוֹדַע אֵלָיו חֲטָאתוֹ וְהִבִּיא. אַף לְאַחַר יוֹם הַכִּיפּוּרִים. מִן הַדָּא. נִפְשׁ כִּי־תִחַטָּא. אַחַת תִּחַטָּא. בְּעִשׂוֹתָהּ. הָרִי אֵילֹו מִיעוּטִין. הַתּוֹלָה בְּעֶצְמוֹ חֵיב. הַתּוֹלָה בְּבֵית דִּין פְּטוּר:

1 קרייה | קריה במחוייבי | חטאות ואשמות וודאין | אשמות וחטאות ודיין 2 דמפנה | דו מפנה
אהן | קרייה במחוייבי חטאות ואשמות וודאין | קריה במחוייבי אשמות וחטאות ודיין 3 למחוייבי חטאות
ואשמות וודאין | למחוייבי אשמות וחטאות ודיין 5 תלוין | תלוין 6 כי | - אחת תחטא | - אילו מיעוטין
אלו מעוטין

In the opinion of Rabbi Ismael, who does not refer this verse to those obligated for purification sacrifices and certain reparation sacrifices for whom the Day of Atonement had passed, it is understandable¹⁹. But what is the opinion of Rabbi Aqiba, who refers this verse to those obligated for purification sacrifices and certain reparation sacrifices for whom the Day of Atonement had passed, as we have stated²⁰: From where that those obligated for purification sacrifices and certain reparation sacrifices for whom the Day of Atonement had passed, are obligated to bring them after the Day of Atonement, but those obligated for suspended reparation offerings are no longer liable? The verse says¹⁸, *or his transgression in which he sinned was made known to him; he has to bring*, even after the Day of Atonement.²¹ From the following: *A person who would transgress; one would transgress; acting he would transgress*; these are restrictions⁸: the person depending on himself is liable, {but one dependent}⁹ on the Court is not liable.

19 This paragraph has no direct connection with the theme of the Mishnah, but is added here to elucidate Lev. 4:27. Since our halakhic Midrashim are all from the school of R. Aqiba, we have to accept the occasional indications of the Yerushalmi on the interpretations of the school of R. Ismael. For him, the verses 4:27-28 detail the conditions on which a private person is permitted and obligated to bring a purification offering.

20 Mishnah Keritot 6:4; *Sifra Wayyiqra* 2 Paršetaḥ 3(1), 6(1), *Ahare Mot Parašah* 4(8).

Reparation sacrifices are required (1)

for sins against a fellow man after restitution (Lev. 5:20-26; Num. 5:5-10), (2) misappropriation of *sancta* (Lev. 5:14-16), (3) to regain sanctified status after skin disease (Lev. 14). A *suspended* reparation sacrifice is due if a person suspects that he may have committed an inadvertent sin, without having proof either way. Since the sin is forgiven on the Day of Atonement (with due repentance), such a sacrifice cannot be offered after that day since the scapegoat carries away *all* iniquities (Lev. 16:21).

21 This copy from the first paragraph has no discernible meaning here.

אין חייבין אלא על דבר שהיה גלוי להן ונכסה מהן. ומה טעם. ונעלם דבר. דבר שהיה גלוי להן ונכסה מהן. על דעתיה דרבי ישמעאל דו אמר. ונעלם ממנו. מכלל שהיה יודע. והוא ידע. הרי שתי ידיעות. על דעתיה דרבי עקיבה דו אמר. ונעלם ממנו ונעלם ממנו שני פעמים. מכלל שבאת לו ידיעה בתחילה וידיעה בסוף והעלם בינתיים. תלמוד לומר ונעלם ממנו. דבר שהיה גלוי להן ונכסה מהן.

1 ונכסה | ומכוסה ומה טעם. ונעלם דבר. דבר שהיה גלוי להן ונכסה מהן | - 4 שבאת לו | שהיתה מהן | מהם

²²They only are liable²³ for something²⁴ that was clear to them and then covered from them²⁵. What is the reason? *something was hidden*²⁶, something that was clear to them and then hidden from them. ²⁷In the opinion of Rabbi Ismael who said, *it became hidden from him*, therefore he had known, *and he knew*²⁸, these are two knowledges²⁹. In the opinion of Rabbi Aqiba who said, *it became hidden, it became hidden*, two times³⁰, therefore he had knowledge at the beginning and knowledge at the end and oblivion in between, ³¹something that was clear to them and then hidden from them.

22 Here one returns to a discussion of the theme of the Tractate, viz., the obligation of the High Court, as representatives of the people, to offer a purification sacrifice for a wrong ruling as described in Lev. 4:13-21.

It is sinful to bring an animal into the Temple precinct which is not dedicated as a sacrifice. For voluntary offerings this presents no problem; one simply has to dedicate them when bringing. But for obligatory offerings it implies that a sacrifice may be presented only if all conditions which make it obligatory are actually fulfilled.

23 To bring the sacrifice.

24 An official ruling by the Court.

25 They forgot either a precedent or their own ruling.

26 Lev. 4:13. An erring High Priest (Lev. 4:1-12) or ruler (22-26) have to offer a sacrifice if they err inadvertently; the

condition that a ruling must have been forgotten is introduced only for the Court.

27 There is no problem with the explanation just given. One tries to connect the statement with a discussion about similar rules regarding sacrifices due for violations of either Temple purity or oaths (Lev. 5:1-13), where the same condition is mentioned in Lev. 5:2,3,4. R. Ismael and R. Aqiba differ in *Sevuot* 1:2 about the interpretation of the verses, but not about the actual rules.

28 Lev. 5:4: . . . *an oath which a man would utter without thinking, it became hidden from him, and he knew and realized his guilt* . . .

29 One when he uttered the oath and one when he remembered it, separated by a period of oblivion.

30 R. Aqiba and R. Ismael actually are not differing in their interpretations; only R. Aqiba argues about violations of

Temple purity (*Lev. 5:2-3*) where in both verses oblivion is mentioned but not remembering. However, in Babylonian sources [*Ševuot* 14b, *Keritut* 19a, *Sifra Wayyiqra* 2, *Pereq* 12(7)], R. Ismael is

reported to read one about oblivion the impurity and the second oblivion about being in the Temple.

31 Returning to our topic, Note 22.

45d line 19) אין חייבין עד שיעורו לביטל מקצת ולקיים מקצת. שמואל אומר. והן שהורו מותר. אבל אם הורו פטור לא בדא. אין חייבין עד שתהא הורגה מלשפת הגזית. אומר רבי יוחנן. טעמיה דהך תניינא מן המקום ההוא אשר יבחר יי. אומר רבי מנא בר תנחום. נכנסו מאה. עד שיעורו כולן. תמן אומר רבי זעירא. והוא שיהא כולן מורין מצד אחד. וכא מה.

1 שהורו | שהן 2 שתהא הורייה | שתבוא הוריה 3 דהך תניינא | דהרן תניינא מנא | מונא 4 שיהא | שהיו וכא מה | והכא אומר כן

They are not liable unless they void part and confirm part³². Samuel said, only if they ruled that it was permitted; but not if they ruled that it was not prosecutable³³. They are not liable unless instruction was given from the ashlar hall³⁴. Rabbi Johanan said, the reason of this Tanna: *From that place which the Eternal will choose*³⁵. Rabbi Mana bar Tanhum said, if a hundred came together, only if they ruled unanimously³⁶. There³⁷, Rabbi Ze'ira said, only if they all rule for the same reason. And here, what³⁸?

32 If they declared a biblical prohibition as void, nobody would follow them since even schoolchildren would know that this is wrong. But if they were to abolish traditional restrictions, they would be followed. This is explicit in Mishnah 3; cf. Babli 4a, Tosephta 1:7, *Sifra Wayyiqra* 2, *Parašah* 4(7).

33 This is a commentary on the preceding sentence. Abolishing a biblical commandment entirely means declaring the prohibition as void; declaring it valid but unenforceable means partly confirming it.

34 The seat of the High Court; *Sanhedrin* Chapter 1, Note 345.

35 *Deut.* 17:10.

36 The ruling triggers the obligation of a

purification sacrifice only if it was unanimous, including the opinions of the law students sitting before the 72 members of the Court. Mishnah 4 requires in addition that the president of the court be present and voting [*Babli* 4b, *Sifra Wayyiqra* 2, *Parašah* 4(4).]

37 *Sanhedrin* 1:2, Note 166. He holds that a ruling of the High Court to intercalate a month based on the testimony of laymen is valid only if it not only is unanimous in fact but also in reason. Concurrent opinions, reaching the same conclusion for different reasons, invalidate the judgment. Why is this not mentioned here? The text confirms the reading of the ms. in *Roš Haššanah* (2:6 58b l.25) against the one in *Sanhedrin*.

38 B has the usual formula, “and here he says so?”

(45d line 19) הַלֵּךְ הַיָּחִיד וְעָשָׂה שׁוּגֵג עַל פִּיָּהּ. וְכִי יֵשׁ זָדוֹן שְׁגָגָה לְיָחִיד אֶצֶל הוֹרִיט בֵּית דִּין. רַבִּי אִמִּי בָּשָׂם רַבִּי שְׁמַעוֹן בֶּן לָקִישׁ. מִתְּנִיתָא כְּגוֹן שְׁמַעוֹן בֶּן עֲזַאי יוֹשֵׁב לְפָנֶיהָ. מָה אָנּוּ קוֹיָמִין. אִם בִּיּוֹדַע כָּל-הַתּוֹרָה וְאִינוּ יוֹדַע אוֹתוֹ דָּבָר אֵין זֶה שְׁמַעוֹן בֶּן עֲזַאי. וְאִם בִּיּוֹדַע אוֹתוֹ דָּבָר וְאִינוּ יוֹדַע כָּל-הַתּוֹרָה שְׁמַעוֹן בֶּן עֲזַאי הוּא אֶצֶל אוֹתוֹ דָּבָר. אֶלָּא כִּי נֶן קוֹיָמִין בִּיּוֹדַע כָּל-הַתּוֹרָה וְבִיּוֹדַע אוֹתוֹ דָּבָר. אֶלָּא שְׁהוּא כְּטוּעָה לומֵר. הַתּוֹרָה אֶמְרָה אַחֲרֵיהֶם אַחֲרֵיהֶם. וְאִם בְּטוּעָה לומר הַתּוֹרָה אֶמְרָה אַחֲרֵיהֶם אַחֲרֵיהֶם. אֵין זֶה שְׁמַעוֹן בֶּן עֲזַאי. כִּהְדָּא דַּתְנִי. יָכוֹל אִם יֵאמְרוּ לָךְ עַל יָמִין שְׁהִיא שְׁמַאל וְעַל שְׁמַאל שְׁהִיא יָמִין תִּשְׁמַע לָהֶם. תִּלְמִיד לומר לְלֶכֶת יָמִין וְשְׁמַאל. שְׁיֵאמְרוּ לָךְ עַל יָמִין שְׁהוּא יָמִין וְעַל שְׁמַאל שְׁהִיא שְׁמַאל. מָאי כְּדוֹן. רַבִּי יוֹסִי בָּשָׂם רַבִּי הִילָא. לְפִי שְׁבָכְל-מְקוֹם שׁוּגֵג פְּטוֹר וּמִזִּיד חַיִּיב. וְכָא אֶפִּילוּ מִזִּיד פְּטוֹר. מִפְּנֵי שְׁתַּלָּה בְּבֵית דִּין.

1 הורית | הורית 2 אימי | אמי מתני | מתניא 3 התורה | התורה כולה 4 אלא | ואלא 5 וביודע | וידע כטועה | טועה 6-5 אחריהם | אחריהן (X 4) 7 תשמע | שתשמע 8 שיאמרו | עד שיאמרו שהוא | שהיא 9 הילא | לא

“And a single person went and acted inadvertently³ following their pronouncement.” Is there an intentional inadvertent action concerning an instruction by the Court³⁹? Rabbi Immi in the name of Rabbi Simeon ben Laqish: Our Mishnah, for example, if Simeon ben Azzai⁴⁰ was sitting before them. Where do we hold? If he knows the entire Torah but does not know this detail, he is not Simeon ben Azzai. If he knows this particular subject but not the entire Torah, he is Simeon ben Azzai for this particular subject. But we must hold that he knows the entire Torah and knows the particular subject, but he errs to believe that the Torah said, after them, after them⁴¹. If he errs to believe that the Torah said, after them, after them, he is not Simeon ben Azzai. As we have stated, I could think that if they tell you about right that it is left, and about left that it is right, you should listen to them? The verse says, “to go to the right or to the left;⁴²” that they should tell you about the right that it is right, and about the left that it is left⁴³. What about it⁴⁴? Rabbi Yose in the name of Rabbi Hila: Because everywhere for an inadvertent sin one is not liable but for an intentional one is liable, and here even intentionally he is not liable⁴⁵.

39 The formulation of the Mishnah does not make any sense. The person who

follows the instructions of the Court does

this intentionally; how can he be inadvertent?

40 The paradigm of the know-all; he was ready to answer any question about religious law on the spot. The Babli knows of a number of famous rabbis who tried to imitate him but quickly were confronted with a question they could not answer. He never was ordained; therefore he could not have been part of the Court, but as an outsider he could have pointed out the Court's error.

41 This is the expression which R. Jehudah ben Bathyra used to convince Hanania ben Hanania, the foremost authority in Babylonia, to accept the overriding authority of the patriarch's court in Palestine (*Nazir* 6:13, Note 128; *Sanhedrin* 1:2, p. 36).

42 A misquote of *Deut.* 17:11.

43 This is the opposite of the teachings of *Sifry Deut.* 154, *Cant. rabba* 1(18), which require one to follow the instructions of the rabbis even if they tell him to believe that left is right. Sound methodology would require one to follow the Talmud in preference to Midrashim. The *Sifry* text seems to be formulated as a polemic against the Yerushalmi.

44 Since the first explanation of the Mishnah was found to be untenable, what would be a reasonable explanation?

45 Any action following the wrong teachings of the High Court has the status of unintended action even if it was intended. "Liable" and "not liable" here refer to criminal responsibility, not to obligations to offer sacrifices.

45d line 31) חֲבֵרִיָּא בְּשֵׁם שְׁמוּאֵל. יָחִיד מְשָׁלִים לְרֹב הַצִּיּוֹר הִיא מִתְּנִיתָא. אֲבָל כָּל-יָחִיד
וְיָחִיד שֶׁעָשָׂה בְּכַף עֲצָמוֹ פָּטוּר. אָמַר רַבִּי יוֹחָנָן אֶפְּלוּ כָל-יָחִיד וְיָחִיד שֶׁעָשָׂה בְּכַף עֲצָמוֹ מְבִיא
כְּשֶׁבָה וְשֶׁעִירָהּ. וְקָשָׁא עַל דְּעִתִּיהָ דְּשְׁמוּאֵל לֹא נִמְצָא כָל-יָחִיד וְיָחִיד מִתְּכַפֵּר לוֹ בְּשֵׁנִי חֲטָאוֹת.
רַבִּי זְעִירָא בְּשֵׁם שְׁמוּאֵל. הַיָּחִיד תָּלוּי. אֲכָלוּ רֹב. בֵּית דִּין מְבִיאֵין. אֲכָלוּ מִיעוּט. הַיָּחִיד מְבִיא.
כָּל-הַהוֹרִיָּה שֶׁבֵּית דִּין פָּר אֵין הַיָּחִיד מְבִיא כְּשֶׁבָה וְשֶׁעִירָהּ.

1 חֲבֵרִיָּא | חֲבֵרִיא | יָחִיד | יָחִיד 2 וְיָחִיד - | 3 בְּשֵׁנִי | בְּשֵׁנִי 5 הַהוֹרִיָּה | הוֹרִיָּה פֶר | מְבִיאֵין פֶר
וְשֶׁעִירָהּ וְכָל הוֹרִיָּה שֶׁבֵּית דִּין מְבִיאֵין פֶר הַיָּחִיד מְבִיא כְּשֶׁבָה אוֹ שֶׁעִירָהּ שְׁמוּאֵל פֶתֶר מִתְּנִיתָא בְרוּב וּמִיעוּט
אֲכָלוּ רֹב הוֹאִיל וְאֵין בֵּית דִּין מְבִיאֵין פֶר הַיָּחִיד מְבִיא כְּשֶׁבָה אוֹ שֶׁעִירָהּ

The colleagues in the name of Samuel. The Mishnah deals with an individual who complements the multitude⁴⁶. But any individual who acted on his own is not liable⁴⁷. Rabbi Johanan said, even any single individual who acted on his own brings a female sheep or goat⁴⁸. It is difficult. In Samuel's opinion, would any single individual be atoned by two sacrifices⁴⁹? Rabbi Ze'ira in the name of Samuel: The individual is suspended⁵⁰. If a majority ate, the court brings. If a minority ate, each individual brings. For any ruling for which the court [bring] a bull, the individual does not bring a female sheep or goat⁵¹.

⁵²For any ruling for which the court bring a bull, the individual does not bring a female sheep; for any ruling for which the court does not bring a bull, the individual brings a female sheep or goat. Samuel explains the Mishnah by majority and minority. If a majority ate⁵³, since the court does not bring a bull, an individual brings a female sheep or goat.

46 As explained at the end of the paragraph (Babli 2b in the name of R. Jehudah). His problem with the prior explanation is that it does not fit the setting of the Mishnah. Since we are referring to sacrifices, the inadvertent sinner, while he is immune to prosecution, is obligated to bring a purification sacrifice; the intentional sinner, who can be punished, is barred from bringing a sacrifice. Therefore, if one compares the intentional to the unintentional sinner, the opposite of the argument of R. Hila should be formulated. (In contrast to the Babli, the Yerushalmi does not care for chronological consistency; Samuel of the first generation opposes R. Hila of the third.)

47 Tosephta 1:2. If somebody acted in parallel with the ruling of the court but following his own interpretation of the biblical law, he is not liable for a purification sacrifice since in fact he is barred from offering one, and since he happened to act in parallel with the Court's ruling neither is he prosecutable. Both interpretations of פטור are possible here. There is no reason to change the

text which is confirmed by the two Yerushalmi texts and the Tosephta.

48 Since acting on a faulty interpretation is qualified as acting in error, which for an individual requires the offering of a female sheep or goat (Note 51).

49 Since, as is explained next, Samuel makes the Court's offering dependent on whether a majority of the people acted on their instructions or not, it could be that after a number of individuals brought their own sacrifices it turns out that in the end a majority forces the Court to bring its own. But there cannot be more than one sacrifice for one infraction. Since the purification offering is eaten by the priests, it cannot be retroactively nullified.

50 The problem raised in the previous Note cannot occur. The individuals are prevented from bringing their own sacrifices until the situation is cleared.

51 Lev. 27:35.

52 Translation of the text of B, expanding the last sentence of the Leiden ms.

53 Referring to the standard example, that the Court allowed some forbidden fat (Note 14) to be eaten.

(45d line 42) רַבִּי יוֹחָנָן פָּתַר מִתְּנִיתָא בְּהוֹרִיית בֵּית דִּין. הוֹרִי בֵּית דִּין לְעֻקּוֹר אֶת כָּל-הַגּוֹי. הוֹאִיל וּבֵית דִּין מְבִיאִין פֶּר אֵין הַחֲדִיד מְבִיא כְּשֶׁבָה וּשְׁעִירָה. הוֹרִי לְבָטֹל מִקְצֵת וּלְקַיֵּים מִקְצֵת. הוֹאִיל וְאֵין בֵּית דִּין מְבִיאִין פֶּר הַחֲדִיד מְבִיא כְּשֶׁבָה וּשְׁעִירָה.

שמואל אָמַר מִתְּנִיתָא. אַדִּין אָנִי אֹמֵר. מִיעוּט הִקְהֵל שְׁעָשׂו חִיבִין שְׂאִין בֵּית דִּין מְבִיאִין עֲלֵיהֶן פֶּר. תִּלְמוּד לֹמַר עִם הָאָרֶץ. אֶפִּילוּ כֹּלֹ. אֶפִּילוּ רֹבּוּ. רַבִּי יוֹחָנָן פֶּתַר מִתְּנִיתָא. אַדִּין אָנִי אֹמֵר. מִיעוּט הִקְהֵל שְׁעָשׂו בְּלֹא הוֹרִיָּה חִיבִין. שְׂכָן בְּהוֹרִיָּה אִין בֵּית דִּין מְבִיאִין פֶּר. שְׂמוּאֵל אָמַר. אֲבָל הֵן מְבִיאִין כְּשֶׁבָה וְשַׁעִירָה. רַבִּי יוֹחָנָן אָמַר. לֹא הֵן מְבִיאִין כְּשֶׁבָה וְשַׁעִירָה. עַל דְּעִתִּיה דְּשְׂמוּאֵל דּוּ יִלְף לָהּ חִיב מַחֲיִב נִחָא. עַל דְּעִתִּיה דְּרַבִּי יוֹחָנָן דּוּ יִלְף לָהּ חִיב מִפְּטוֹר. מִתְּנִיתָא אֲמַרָה פְּלִיגָא עַל שְׂמוּאֵל. אִין הוֹדַע אֱלִין חֲטָאתוֹ אֲשֶׁר חָטָא וְהִבִּיא. נִצָּא הַמְּשׁוּמֵר. מִתְּנִיתָא פְּלִיגָא עַל שְׂמוּאֵל. נָפֵשׁ כִּי־תִחַטָּא. אַחֲתָא תִּחַטָּא. בְּעִשׂוּתָהּ. הִרִי אִילוּ מִיעוּטִין. הַתּוֹלָה בְּעִצְמוֹ חִיב. הַתּוֹלָה בְּבֵית דִּין פְּטוֹר: הִדָּא פְּלִיגָא עַל שְׂמוּאֵל וְלִית לָהּ קִיּוּם.

1 בהורית | בהורית 2 ושעירה | או שעירה 3 ושעירה | או שעירה 4 אמ' | פתר אדין | אדין מיעוט
| משם מיעוט 5 עליהן פר | פר עליהן כולו | מקצתו אפי' | ואפילו אדין | אדין 6 הוריה | הוריה
בית דין | - 7 הן | היו ושעירה | - 8 חייב מחייב | חייב מחייב על | אלא על 9 אמרה | - 10
משומר | משומד כי -

Rebbi Johanan explains the Mishnah by instruction from the Court. If the Court ruled to eliminate the entire body, since the Court has to bring a bull a private person does not have to bring a female sheep or goat. If they ruled to confirm part and to eliminate part, since the Court does not bring a bull a private person has to bring a female sheep or goat⁵⁴.

Samuel spoke about the Mishnah: "I still am saying, if a minority acted they are liable because the Court will not bring a bull for them. The verse says⁵⁵, [from] the people of the Land. Even [all of them] (part of them)⁵⁶, even most of them." Rebbi Johanan explains the Mishnah: I still am saying, if a minority acted without ruling they are liable because with instruction the Court will not bring a bull⁵⁷. Samuel said, but they bring a female sheep or goat. Rebbi Johanan said, they do not bring a female sheep or goat⁵⁸. According to Samuel, who infers liability from liability, it is understandable. According to Rebbi Johanan, who infers liability from exemption⁵⁹? The statement of a *baraita*⁶⁰ disagrees with Samuel. *Or his transgression in which he sinned was made known to him*¹⁸; this excludes the apostate. A *baraita* disagrees with Samuel, "A person who would transgress; one would transgress; acting he would transgress; these are restrictions⁸: the person depending on himself is liable, but one dependent on the Court is not liable." This disagrees with Samuel and cannot be confirmed⁶¹.

54 Even though the text is confirmed by B, it cannot be accepted since Mishnah 3 explicitly states the opposite (Note 32), and R. Johanan does not disagree with an anonymous Mishnah. Therefore, one has to switch the place of the statements “bring” and “do not bring”. He disagrees with Samuel in that he does not require that a majority of the people act upon the instructions of the Court. If a single person consciously commits a sin by acting upon their instruction, the individual is barred from bringing a sheep and the Court is required to bring a bull.

55 *Lev.* 4:27.

56 The text is a *baraita* in *Sifra Wayyiqra* 2, *Parašah* 7(5), quoted in the Babli, 2b. Usually, a prefix ׀ “from” is interpreted to mean “not all”. This is behind the reading of B. The reading of the ms., in brackets, is that of *Sifra* and the Babli; it means that without instruction from the Court, any number of the people, maybe all except the members of the Court, may be required to bring private purification offerings simultaneously. This would not be a case that *all of the congregation of Israel err* (*Lev.* 4:13); this expression is reserved for pronouncements of the Court.

57 A person acting on the instructions of the Court can never bring a purification offering since his action is not inadvertent. If the conditions for such an

offering by the Court are not satisfied, no sacrifice at all is due or possible for the action.

58 This is a repetition of their prior positions. For Samuel, a private offering is due if and only if there is no Court offering. For R. Johanan, no offering is possible for action on the instruction of the Court, independent of what the Court has or does not have to do.

59 Samuel is understandable; either the rules of the Court sacrifice or those of the private one do apply; never both together nor none of them. But might R. Johanan, who accepts a situation where both the individual and the Court are exempted from bringing an offering, have a situation where both apply simultaneously? The question is not answered.

60 *Sifra Sifra Wayyiqra* 2, *Parašah* 7(7), quoted in the Babli, 2a. The apostate wants to forget; even if he really forgot it was desired by him; he never qualifies for a purification offering, even if his transgression happens to be in a situation for which the Court would have to bring an offering if its conditions were fulfilled.

61 If the Court permitted certain intrinsically forbidden things and an individual acted on his own but did what they had allowed, then both the Court and the individual have to bring sacrifices for the same kind of action.

(fol. 45c) **משנה ב:** הורו בית דין וידעו שטעו וחזרו בהן בין שהביאו כפרתן ובין שלא הביאו כפרתן והלך ועשה על פיהן רבי שמעון פוטר ורבי לעזר אומר ספק. איזהו ספק ישוב לו בתוך ביתו חייב. הלך לו למדינת הים פטור. אמר רבי עקיבא מודה אני בזה שהוא קרוב לפטור מן החובה. אמר לו בן עזאי מה שנה זה מן היושב בביתו שהיושב בביתו איפשר הנה לו שישמע וזה לא הנה איפשר לו שישמע:

Mishnah 2: If the Court gave an instruction; then they realized that they erred and reversed themselves⁶²; whether they brought their atonement or they did not bring their atonement⁶³, another person went and acted on their instructions⁶⁴, Rabbi Simeon declares him not liable, but Rabbi Eliezer⁶⁵ says, it is in doubt. What is the doubt? If he remained at home, he is liable; if he went overseas he is not liable. Rabbi Aqiba said, I agree in this case that he is closer to not being liable than being liable. Ben Azzai asked him, what is the difference between him and the one staying at home? For one who stays at home might be informed⁶⁶ but the other one could not be informed.

62 Publicly.

63 The sacrifice prescribed in *Lev.* 4:13-21.

64 He followed the original instructions after the Court had reversed itself. R. Simeon holds that the responsibility remains the Court's as long as not all of Israel were duly informed of the new ruling.

65 One should read with the Babli and many independent Mishnah mss. "R. Eleazar" (ben Shamua'), since the third

generation R. Simeon cannot be quoted preceding the first generation R. Eliezer.

66 It would be his duty to stay informed. The one who is far away is still depending on the earlier ruling of the Court; he is not liable for a sacrifice according to everybody. The difference between R. Aqiba and ben Azzai is that the latter requires a sacrifice from anyone who could have known of the reversal whereas the former requires it only from one who should have known.

(45c line 51) **הלכה ב:** הורו בית דין וידעו שטעו כול'. רבי אימי בשם רבי שמעון בן לקיש. מתניתא גגון שמעון בן עזאי יושב לפניו. מה נן קיימין. אם בשסילקו תבטלו הוריות. אם בשסילקו אותו תבטל הוריות. אלא כי נן קיימין בשעה עומד בתשובתו וזה עומד בתשובתו. הוריותו אצלו אינה הוראה. שלא סילקו אותו. אצל אחרים הוריה. שלא סילקו. לית הדין פליגא על רבי מנא בר תנחום. דרבי מנא בר תנחום אמר. נכנסו מאה. עד שיעורו כולן. פתר לה בשלא נכנס. אם בשלא נכנס. מעכב. פתר לה קרבי. דרבי אמר. אין לך מעכב אלא מופלא שלבית דין (בלוד). והא רבי מנא בר תנחום אמר. נכנסו מאה. עד שיעורו כולן. אף בחזרה נן או רוב. כת פשיטא לך רוב. מה רוב. רוב ההוריה רוב המשתתף. הדין עבדא.

72 Read יִּדּ “if it is” for יָד “group” in the text. The reading of B, צִיִּיתֵי “they obey” might be acceptable; since

everywhere a majority opinion of religious authorities is to be followed, it is obvious that a retraction by a majority has to be followed. The original instruction

also would have had to be followed if rendered by a majority of the Court; it is only the obligation of a sacrifice which is triggered by a unanimous vote.

(45d line 64) הפריש חטאתו. נתחרש או נשטה או נשתמד או שהזרו בית דין מותר לאכול חלב. רבי יוחנן אמר. נדחית חטאתו. רבי שמעון בן לקיש אמר. לא נדחית חטאתו. רבי יוסי בירבי בון אמר. רבי אחא מחלף שמועתא דלא אתי מילתיה דרבי יוחנן פליגא על מילתיה. דמר רבי שמעון בר בא בשם רבי יוחנן. כוס זורקין עליו מדם חטאתו ומדם אשמו. רבנין דקיסרין אמרין. רבי חייה אמי מחלף. וחד אמר באן תנייה.

1 נשטה | נשתטה 2 נדחית | נדחת (2) יוסי | יוסה 3 ביר' | בר' אתי | תהא מילתיה | מילתא 4 דמר | דאמר כוס | הגוסס 5 אמי | ור' אמי חד כאן | כהן

⁷³If somebody had selected his purification sacrifice when he became a deaf-mute, or insane, or an apostate, or the Court rules that fat may be eaten, Rabbi Johanan said, his sacrifice of purification is pushed aside⁷⁴, Rabbi Simeon ben Laqish said, his sacrifice of purification is not pushed aside. Rabbi Yose ben Rabbi Abun said, Rabbi Aha switches traditions, to avoid that a word of Rabbi Johanan contradict his own word. For Rabbi Simeon bar Abba said in the name of Rabbi Johanan: One sprinkles the blood of a purification sacrifice or a reparation sacrifice for a person [terminally ill]⁷⁵. The Rabbi of Caesarea said, Rabbi Hiyya and [Rebbi] Immi, [one] switches and one says like [this] Tanna.

⁷³ This paragraph also is in *Gittin* 7:1, explained there in Notes 10-21. In the translation, the words in brackets follow the text of B. The ms. text here has quite a number of scribal errors. A parallel is in

the Babli, *Zebahim* 12b.

⁷⁴ This version is confirmed in the Babli, 11a.

⁷⁵ In the ms: "a cup".

(45d line 70) מאן דמחלף לית ליה באילין קישואייה. כמאן דמר. לא נדחית חטאתו. מי מקבלה הימניו. ימתין עד שיעזרו בהן בית דין. אלא כשהיה כהן עבד והקריב וכיפר. היה שמעון בן עזאי. מי מקבלה הימניו. ימתין עד שיעזרו בהן בית דין. כמאן דמר. לא נדחית חטאתו.

1 מאן | מן קישואייה | קשואייה כמאן | כמן 2 הימניו | ממנו וכיפר | וכפר 3 כמאן | כמן

He who switches has none of these difficulties⁷⁶. For him who says, his sacrifice of purification is not pushed aside⁷⁷, who would accept it from him?

He has to wait until the Court retracts, or if he was a Cohen who served, sacrificed, and atoned⁷⁸. If he was Simeon ben Azzai⁷⁹, who would accept it from him? He has to wait until the Court retracts, for him who says, his sacrifice of purification is not pushed aside.

76 The one difficulty pointed out in the previous paragraph that R. Johanan accepts the sacrifice on behalf of a dying person even though the sacrifice of a dead person is impossible. The second difficulty is that R. Johanan permits the writing and delivery of a divorce document to a wife whose husband became insane after he had ordered the document to be written.

77 If the sacrifice becomes invalid, there is no problem. But since a purification sacrifice cannot be offered voluntarily, even according to him who said that the sacrifice remains valid, are the officiating priests not required to refuse the sacrifice

after the Court ruled that the action for which it is offered was not forbidden?

78 A layman can do nothing but wait whether the Court change its mind. But a Cohen can bring his own sacrifice and eat its meat for atonement if at the moment of the action it would have been sinful for anybody. Since he does not have to explain his reasons to a priest, he is not dependent on the Court.

79 A layman who knows that the Court erred is not freed from an obligation to bring a sacrifice by the Court's ruling; nevertheless he cannot find a priest who would accept it before the Court changes its mind.

(45d line 74) תולדות הוריה כהוריה. הוריה בהוריה מה הן שיעטרפו. היד עבדא. אכלו ציבור חלבים והפרישו קרבנותיהן. אין תימר. תולדות הוריה כהוריה. בית דין חייבין. אין תימר. אין תולדות הוריה כהוריה. בית דין פטורין. כתי פשיטא לך. תולדות הוריה כהוריה. הוריה בהוריה מה הן שיעטרפו. היד עבדא. הורו בית דין. חלב כוליא שולמין מותר ושלשמאל ולו מכסה אסור. חזרו והחליפו. אכלו רוב בראשונה ורוב בשנייה. אין תימר. מצטרפין. חייבין אחת. ואין תימר. אין מצטרפין. חייבין שתיים. שתי הוריות בעבודה אחת מה הן שיעטרפו. היד עבדא. אכלו רוב ושהטו רוב. על דעתיה דרבי מאיר חייבין אחת. על דעתיה דרבי שמעון חייבין שתיים. אכלו מיעוט בראשונה ומיעוט בשנייה. על דעתיה דרבי מאיר חייבין. ועל דעתיה דרבי שמעון פטורין.

1 הוריה | הוריה (all occasions) מה הן | מהו (all occasions) 2 קרבנותיהן | קרבנותיהם אין | אי (all occasions) 3 פטורין | פטורין כתי | כני 4 חלב - | 5 ולו | ושל | וכל | וכל 7 בעבודה | בעבירה

Are consequences of a ruling like the ruling? Do ruling within ruling combine⁸⁰? How is that? If the public ate forbidden fat and designated their sacrifices. If you say that consequences of a ruling are like the ruling, the

Court is liable⁸¹. If you say that consequences of a ruling are not like the ruling, the Court is not liable. The following should be obvious to you: the consequences of a ruling are like the ruling⁸². Do ruling within ruling combine with each other? How is that? If the Court ruled that the fat in the right side kidney was permitted but that of the left side and its cover⁸³ was forbidden; then they reversed themselves and said the opposite. Most ate the first time, and most the second time. If you say that they combine, they are liable for one. But if you say that they do not combine, they are liable for two⁸⁴. Do two instructions about one kind of work⁸⁵ combine? How is that? If a majority ate and a majority slaughtered⁸⁶. In Rabbi Meir's opinion they are once liable; in Rabbi Simeon's opinion they are twice liable⁸⁷. If a minority ate the first time and a minority the second time. In Rabbi Meir's opinion they are liable; in Rabbi Simeon's opinion they are not liable⁸⁸.

80 The meaning of these expressions will be explained by examples in the text.

81 Most of the people ate forbidden fat (which makes the sinner subject to extirpation and therefore requires a sacrifice if inadvertent, Mishnah 3:7) without a ruling of the Court, and they already had dedicated their sacrifices when the Court ruled that eating fat is permitted. When it rescinded its ruling, it turned out that in the meantime nobody had acted on their instruction. According to the opinion that the ruling of the Court pushed aside the dedicated sacrifices, the Court certainly has to bring their own sacrifice since they invalidated the private sacrifices. But if one holds that the private sacrifices were re-installed upon rescission, then if the rule is that consequences of instructions are like instructions, the Court still is liable for a sacrifice for preventing the purification offerings to be brought in the meantime,

even though this was not included or intended in the original ruling. Otherwise, the private offerings will now be brought and the Court's ruling is eliminated without further consequences.

82 This should not be so obvious since it implies that a purification sacrifice which for outside reasons could not be offered is reinstated when the outside reason disappears.

83 The fat in lumps outside the kidney which is forbidden together with the fat embedded in the kidney lobes.

84 If the Court followed one wrong decision with another wrong one on the same subject, it is an unresolved question whether they have to offer one or two sacrifices when they finally see their errors.

85 In B: "Two instructions about one kind of *sin*." While the text as it stands is difficult, the text of B is impossible since, as explained in *Makkot* 3:11, while

committing one sin one may commit any number of others at the same time.

The following example makes it clear that instead of “two instructions about one kind of work” one has to read “one instruction about two kinds of work.”

86 It seems that one contemplates the case that the Court decided that one does not have to keep the Day of Atonement. This one instruction implicitly allows both work (slaughter) and eating on that day; both are sins punishable by extirpation.

87 The difference between R. Meïr, the presumed author of the anonymous statement in Mishnah 3:3, and R. Simeon

is that R. Meïr holds that the sin determines the sacrifice whereas R. Simeon holds that the status of the sinner at the moment he becomes aware of his sin is determining. Since the Court issued one statement, they have to bring one sacrifice. Since the people became aware of two kinds of sins, two sacrifices are due. This shows that R. Simeon does not hold that the consequences of an instruction have the status of the instruction.

88 If the two majorities together form a majority, the conditions for the Court to be liable are satisfied; for R. Simeon the two minorities cannot be combined.

(46a line 10) אָמַר רַבִּי זְעִירָא וְשָׁהוּת בִּינְיָהוּן. רַבִּי מֵאִיר אָמַר. נוֹתְנִין לוֹ שָׁהוּת עַד שְׁשִׁשְׁמַע. רַבִּי שִׁמְעוֹן אוֹמֵר. עַד שְׁשִׁשְׁפַּע. וְתֵינִי כֵן. הוֹרִי בֵּית דִּין בְּשׁוּק הָעֶלְיוֹן וְיָחִיד בְּשׁוּק הַתַּחְתּוֹן. בֵּית דִּין בְּבֵית וְיָחִיד בְּעֶלְיָהּ. פְּטוֹר עַד שְׁשִׁשְׁמַע מִכֹּחַ.

1 ביניהון | ביניהן מאיר | - אמ' | אומר 2 שישפע | שישמע ממש

Rebbi Ze'ira said, the time span is between them⁸⁹. Rebbi Meïr said, one gives him time until he may hear. Rebbi Simeon said, until he must have heard, and we have stated so: If the Court instructed in the upper market and a single person was in the lower market, or the Court on the ground floor and a single person on the upper floor, he is not liable until he actually heard.

89 This refers back to the Mishnah, about a person who acted on the Court's instruction after the Court reversed itself. It is stated in *Sifra Wayyiqra* 2, *Paršetaḥ* 7(3) that R. Simeon does not hold him liable (for a sacrifice) but R. Meïr does. It is explained that neither does R. Simeon free him forever nor R. Meïr hold him

liable immediately, but R. Meïr holds him liable if he could have heard, and R. Simeon only if he had ample time to be informed. The reading of the ms., עד שְׁשִׁשְׁפַּע, i. e., “until he had ample (time to be informed)” is preferable over that of B, “until he actually was informed.”

(46a line 13) עַל דַּעְתִּיהָ דְּרַבִּי עֲקִיבָה אֲדִינָן הוּא סָפֵק. אָמַר רַבִּי בּוֹן בֶּר רִחִיָּה. בְּעוֹמֵד בֵּין שְׁנֵי תַּחֲנוּמִין. בֵּין שְׁנֵי תַּחֲנוּמֵי אֶרֶץ יִשְׂרָאֵל לְתַחֲנוּמֵי אֶרֶץ יִשְׂרָאֵל.

רבי אמי בשם רבי שמעון בן לקיש. להוריקה הילכו אחר ושיבת ארץ ישראל. לטומאה הילכו אחר רוב נכנסין לעזרה. מה. כל-פית וכת משערין אלא כת הראשונה בלבד. אמר רבי יוסי בירבי בון. עד שהן מבחוץ הן משערין עצמן. רבי יהושע בן לוי. ליראייה הילכו מלבוא חמת עד נחל מצרים. רבי תנחומא בשם רבי חנא. טעמא דרבי יהושע בן לוי ויגעש שלמה בעת ההיא | את-ה' וכל-ישראל עמו וגו'.

1 עקיבה | עקיבא | אדין | אדין | חייא | חייא שני | - 2 ארץ ישראל (2nd) | חוצה לארץ 3 - | אמר להוריקה | להוריקה הילכו | הלכו 4 לעזרה | בעזרה | אלא | או אין משערין אלא 5 יוסי ביר' | יוסה בר הן | היו לוי | לוי אמר | לראיה | לראיה הילכו | הלכו מלבוא | מלבא 6 וכל ישראל עמו וגו' | בחדש

In Rabbi Aqiba's opinion it remains a doubt⁹⁰. Rabbi Abun bar Hiyya said, if he stands between two domains, between two domains of the Land of Israel and domains of the Land of Israel⁹¹.

⁹²Rebbi Immi in the name of Rabbi Simeon ben Laqish. For instructions they considered the settlement of the Land of Israel⁹³. For impurity they considered the majority of those coming to the Temple precinct⁹⁴. How? Do they estimate every group or only the first group? Rabbi Yose ben Rabbi Abun said, when they are still outside they estimate themselves⁹⁵. Rabbi Joshua ben Levi: For appearance⁹⁶ they consider from Levo-Hamat to the brook of Egypt. Rabbi Tanhuma in the name of Rabbi Huna: The reason of Rabbi Joshua ben Levi is, *at that time Solomon celebrated the holiday, and all of Israel*, ⁹⁷etc.

90 This refers to R. Aqiba's statement in the Mishnah. Even though the position of one who could have known but did not inform himself looks as if he should not be liable, a doubt remains and in fact he has to bring a suspended reparation offering (cf. Note 19).

91 The reading in B is: Between domains of the Land of Israel and domains outside the Land. In this version, "overseas" mentioned in the Mishnah is interpreted to mean, "outside the Land." The text of the ms. is to be read to mean that a person living outside of urban centers in the Land of Israel has the same status as a city dweller on an

overseas trip, since he is far from sources of information.

92 This paragraph is also in *Pesahim* 7:6 (34c line 66), following the wording of B.

93 The definition of "majority" which would trigger the liability of the Court for a sacrifice for issuing false instruction counts only the Jewish population of the Land of Israel. Since the verse from *1 Kings* is not quoted here (in contrast to the Babli, 3a), the definition of the Land of Israel is that given in *Sevi'it* 6:1, Notes 31-51.

94 *Babli Pesahim* 94b. A private sacrifice may be presented in the Temple only by a person ritually pure. But the

Passover lamb has the status of a public sacrifice; if most of the public are impure (of a kind which cannot be remedied by simple immersion in water), the sacrifice is slaughtered and eaten in impurity (cf. *Nazir* 9:2 Note 66.)

95 Since the Temple courtyard was rather small, the Passover lambs were slaughtered in three groups. Making the count depending on the composition of the groups would lead to the paradoxical situation that a first group might be permitted to slaughter and eat the lamb in impurity while from a second group only

the pure members are admitted and have to follow the rules of purity. Also, it is impossible to make the decision depending on “those in the Temple court” since only pure persons could enter the Temple precinct in the absence of a *prior* finding that most of Israel were impure.

96 The assembly of all of Israel in a Sabbatical year (*Deut.* 31:10-13) could proceed in impurity if most of Israel in the domain of Solomon’s empire were impure.

97 *IK*. 8:65 (misquoted in B.)

משנה ג: הורי בית דין לעקור את כל הגוף אֶמְרוּ אִין נִידָה בַּתּוֹרָה אִין שֶׁבֶת בַּתּוֹרָה. אִין עֲבוּדָה זָרָה בַּתּוֹרָה הָרִי אֵילוּ פְּטוּרִין. הוֹרִי לְבָטֵל מִקְצֵת וּלְקַיֵּים מִקְצֵת הָרִי אֵילוּ חֵיבִין. כִּי־צִד אֶמְרוּ יֵשׁ נִידָה בַּתּוֹרָה אֲבָל הִבָּא עַל שׁוֹמֶרֶת יוֹם כְּנָגֵד יוֹם פְּטוּר. יֵשׁ שֶׁבֶת בַּתּוֹרָה אֲבָל הַמוֹצֵיא מִרְשׁוֹת הַיָּחִיד לְרִשׁוֹת הָרַבִּים פְּטוּר. יֵשׁ עֲבוּדָה זָרָה בַּתּוֹרָה אֲבָל הַמְשַׁתְּחִינָה פְּטוּר. הָרִי אֵילוּ חֵיבִין שְׁנֵאֲמַר וְנִעְלַם דָּבָר. דָּבָר וְלֹא כָל־הַגּוֹי.

Mishnah 3: If the Court ruled to uproot an entire subject; if they said, the menstruating woman is not mentioned in the Torah, Sabbath is not mentioned in the Torah, idolatry is not mentioned in the Torah, they are not liable⁹⁸. If they ruled to eliminate part and to confirm part, they are liable. How is that? If they said, the menstruating woman is mentioned in the Torah but one who copulates with one who is watching a day to the next day is not liable⁹⁹; Sabbath is mentioned in the Torah but one who brings from a private domain to a public domain is not liable¹⁰⁰; idolatry is mentioned in the Torah but one who prostrates himself is not liable¹⁰¹; these are liable for it is said¹⁰² *something was hidden*, something but not an entire subject.

98 Since anything written in the Torah is public knowledge and nobody would listen to them.

99 In rabbinic medical theory, the minimum time which must elapse between one menstrual period and the

next is the seven days of the *niddah* (Lev. 15:19) followed by another 11 days. If a woman has a discharge on one of these 11 days, she is not classified as *niddah* but as *zavah*, whose rules are spelled out in Lev. 15:25-30. Since the verse speaks of a discharge of *many days*, it is concluded that the full rules of *zavah* only apply after 3 days. For the first and second discharges in that 11 day period, the woman is called “watching one day to the next day”. For a day she is under the rules of *niddah* (Lev. 15:25) and therefore forbidden to her husband. But since the verse uses the expression *all the days of the flow of her impurity shall be like the days of her menstruation*, one could think that she is impure only during the day and not during the following night, or that a discharge during the night does not make her impure. This is clearly a matter of rabbinic interpretation.

100 The pentateuchal root of the prohibition to carry from a private to the public domain is Ex. 16:29, *nobody should go out from his place*, which is explained in Jer. 17:22 by *do not move a load from your houses*. Since as a matter of principle prophetic utterances should not be used as legal texts, the ruling of the Court could not be dismissed out of hand.

101 This is more difficult to understand since Deut. 17:3 clearly defines prostrating oneself in idolatry as a capital crime. Therefore, one has to agree with Maimonides's Commentary that the Court changed the definition of “prostration”, e. g., ruling that kneeling down, bowing the head to the ground, is not punishable as long as one does not lie on the ground with outstretched hands and feet.

102 Lev. 4:13. *Sifra Wayyiqra* 2, *Parašah* 4(7-8).

(46a line 22) **הלכה ג:** הוורו בית דין לעקור את כל הגוף כולו. רבי חזקיה אמר. מדבר. לא כל-דבר. אמר רבי הילא. ממצות. לא כל-מצות. וכתוב כן. כפי דמר רבי אמי בשם רבי יוחנן. גורעין לדרוש מתחילת הפרשה עד סופה. רבי חנניה בשם רבי ירמיה. ואפילו באמצע תיבה. ויצקת עליה שמן מנחה היא: לרבות כל-המנחות ליציקה.

1 את כל הגוף | - ר' חזקיה אמר. מדבר. לא כל דבר | - 2 ר' | - לא | ולא כן. כפי דמר | ה' אמר 3 מתחילת | מתחלת ר' חנניה בשם ר' ירמיה. ואפי' | ר' יוסה בו חנינה אמר אפי' 4 מנחה היא | ויצקת שמן מנחה

Halakhah 3: “If the Court ruled to uproot an entire subject,” etc. Rabbi Hizqiah said, “of a subject,” not the entire subject. Rabbi Hila said, “of the commandments”, not entire commandments¹⁰³. ¹⁰⁴Is that written? As Rabbi Immi said in the name of Rabbi Johanan: For interpretation, one removes from the beginning of the paragraph to its end. Rabbi Hananiah in the name of Rabbi Jeremiah: Even a middle word. *You have to pour oil on it, it is a flour offering*, to include all flour offerings for pouring¹⁰⁵.

103 In *Lev.* 4:13, R. Hizqiah reads וְנָעַלְם as מְדַבֵּר, presupposing a script which does not differentiate between regular and final *mem*. R. Hila's comment is really unnecessary since מְדַבֵּר-מִצְוֹת already means "of any commandments" but not entire commandments. In all situations, prefix *mem* is read as partitive, some but not all; cf. *Nazir* 5:4 Note 105.

104 The following text also is found in *Sotah* 5:1, explained in Notes 8-10, *Nazir* 5:1 Note 56.

105 *Sifra Wayyiqra* 1 *Pereq* 12 on *Lev.*

2:6. The ms. text follows the argument of *Sifra* while B reproduces the text of *Sotah* and *Nazir*. The argument of *Sifra* has no connection with the theories of RR. Johanan and Jeremiah; it is a straightforward reading of the verse. Since it is stated that one has to pour oil on the bread crumbs *because it is a flour-offering*, it follows that a flour-offering requires pouring oil over it unless it be explicitly excluded as in the purification offering of v. 5:11.

(46a line 27) וְלֹא נִמְצְאָתָּ עוֹקֵר כָּל-שֵׁם שׁוֹמֵרֶת יוֹם כְּנֶגֶד יוֹם. בְּשִׁאֲמָרוֹ. הַלִּילָה מוֹתֵר וְהַיּוֹם אֲסוּר. וְלֹא נִמְצְאָתָּ עוֹקֵר כָּל-שְׁחִיחָה. שְׁמוּאֵל בַּר אֲבָא אָמַר. בְּשִׁאֲמָרוֹ. אִמָּה מוֹתֵרֶת וְשִׁתִּי אֲמוֹת אֲסוּרוֹת. וְלֹא נִמְצְאָתָּ עוֹקֵר כָּל-שֵׁם הַשְּׁתַּחֲוִיָּה. בְּשִׁאֲמָרוֹ. מוֹתֵר לְהַשְׁתַּחֲוֹת וְאֲסוּר לְשׁוֹחֵ. וְלֹא נִמְצְאָתָּ עוֹקֵר כָּל-שֵׁם הוֹצָאָה. אָמַר רַבִּי שְׁמוּאֵל בַּר רַב יִצְחָק. בְּשִׁאֲמָרוֹ. גְּרוּגֶרֶת מוֹתֵרֶת וְשִׁתִּי גְּרוּגֶרֶת אֲסוּרוֹת. וְאֵתִיָּא כְּמָאן דְּמַר. הַכְּנָסָה וְהוֹצָאָה אַחַת הִיא. בְּרַם כְּמָאן דְּמַר. הַכְּנָסָה וְהוֹצָאָה שְׁתֵּי הֵן. וְלֹא נִמְצְאָתָּ עוֹקֵר כָּל-שֵׁם הַכְּנָסָה. אָמַר רַבִּי יוֹסִי. לֹא שְׁהוּרִי מוֹתֵר לְאֶכּוֹל חֶלֶב. יוֹדְעִין הֵי שְׁאֲסוּר לֹכֵל חֶלֶב. וְהַתּוֹרָה נִתְּנָה רְשׁוּת לְבֵית דִּין לְהוֹרוֹת. רַבִּי בּוֹן בַּר חִיָּה בְּעֵי. כְּזֵית הַיּוֹם וְכִשְׁנֵי אֵיתִים לְמַחֵר. הֵיךְ עֲבִידָא נְבִיא וּמַדִּיחִי. יְכוֹל אִם יֵאמְרוּ לָךְ. אֵל תִּתֵּן תְּפִילִין הַיּוֹם תֵּן לְמַחֵר. תִּשְׁמַע לָהֶם. תִּלְמוּד לומר לְלַכֵּת בָּהֶם. בְּכֵילֶן וְלֹא בְּמַקְצָתָן. הָרִי עֲקֹרְתָּ שֵׁם כָּל-אוֹתוֹ הַיּוֹם. וְתִי מַר אֵין כָּאן עֲקִירֶת גּוֹף. וְכֹא אֵין כָּאן עֲקִירֶת גּוֹף. שְׁמַע לָהּ מִן דְּבִתְרָה. שְׁמוּאֵל בַּר בָּא אָמַר. בְּשִׁאֲמָרוֹ. אִמָּה מוֹתֵרֶת וְשִׁתִּי אֲמוֹת אֲסוּרוֹת. הָרִי עֲקֹרְתָּ שֵׁם כָּל-אוֹתָהּ הָאִמָּה. וְתִי מַר אֵין כָּאן עֲקִירֶת גּוֹף. וְכֹא אֵין כָּאן עֲקִירֶת גּוֹף.

1 בשאמרו | כשאמרו (all occurrences) 2 כל | כל שם אבא | בא 3 השתחוויה | השתחווה 4 גרוגרת | כגרוגרת 5 אסורות | אסורה ואתייה כמאן | ותייה כמן כמאן | כמן 6 יוסי | יוסי 8 חייה | חייה וכשני | ושתי יאמרו | יאמר 9 למחר | תפילין 10 עקרת | עקרתה ות מר | ותימר גוף | הגוף 11 עקרת | עקרתה 12 גוף | הגוף (twice)

But would you not have eliminated the entire notion of one who watches a day for the next day¹⁰⁶? If they said, the night is permitted but the day is forbidden. Would you not have eliminated the entire notion of bending? Samuel bar Abba said, if they said, one cubit is permitted but two are forbidden¹⁰⁷. Would you not have eliminated the entire notion of prostrating? If they said, it is permitted to prostrate oneself but forbidden to sink down¹⁰⁸.

Would you not have eliminated the entire notion of taking out? Rabbi Samuel ben Rav Isaac said, if they said, one dried fig is permitted but two dried figs are forbidden¹⁰⁹. This follows him who said that bringing in and taking out are the same¹¹⁰. But for him who said that bringing in and taking out are two notions, would you not have eliminated the entire notion of bringing in? Rabbi Yose said, not that they said that it was permitted to eat fat; they knew that it is forbidden to eat fat, but the Torah gave permission to the Court to instruct¹¹¹. Rabbi Abun bar Hiyya asked, the [amount of] an olive today and of two olives tomorrow¹¹²? What about a prophet and seducer¹¹³? I could think that if they said to you, do not put on phylacteries today, put them on tomorrow¹¹⁴, that you should listen to them. The verse says¹¹⁵, *to walk in them*, in all of them, not only in part of them; you would have eliminated the notion of that entire day. You can say that this is not elimination of the entire subject. And here it is not elimination of the entire subject¹¹⁶. Rabbi Mana understood it from the following¹⁰⁷; Samuel bar Abba said, if they said, one cubit is permitted but two are forbidden. You can say that this is not elimination of the entire subject. And here it is not elimination of the entire subject.

106 The literal text of the Mishnah could be read as a hypothetical ruling that there be no restriction on relations between a man and a temporary *zavah*. But since the verse declares the one who watches a day for the next day as being under the rules of *niddah* for whom such relations are forbidden (*Lev.* 18:19), such a ruling would in effect eliminate all rules for the one who watches a day for the next day. Cf. Note 99. Babli 4a.

107 It is not at all clear to what the *hapax* שחיה refers. Since in the Mishnah the Sabbath is mentioned in second place, a reasonable reference would be to Mishnah *Šabbat* 1:1 which describes forbidden transactions on the Sabbath as, e. g., a

person standing behind a window handing a parcel to another who is standing outside. While the distance by which the parcel is moved is irrelevant in practice since only the fact counts that it is transported across the border line between public and private domains, a ruling that a minimum distance be required for the transfer to be a violation of Sabbath law is thinkable.

108 While prostrating oneself before an idol is certainly subject to a biblical prohibition, there is no biblical definition of what constitutes prostrating. Since *IK.* 19:18 shows that going down on one's knees is forbidden worship, it is possible to imagine a ruling that going down on

one's knees is prosecutable but other forms of prostration are not.

109 This refers to the prohibitions of the Sabbath. While the prohibition of moving things from one place to another is only one of the 49 categories of forbidden actions, its rules in effect cover half of Tractate *Šabbat* and all of Tractate *’Eruvin*. Moving minute quantities from domain to domain is not punishable. For example, transporting vegetable seeds in a volume less than that of a dried fig is not punishable (Mishnah *Šabbat* 9:7). The long list of minimal quantities is traditional, not biblical. A wrong ruling in these matters does not abolish the principle that some minimal quantity is defined for everything.

110 Everybody agrees that “transporting” for the rules of the Sabbath comprises taking up, moving, and putting down. There is a discussion at the start of Tractate *Šabbat* (1:1, 2b 1.11 ff.) whether the inclusion of putting down is scriptural or is a matter of indirect inference. If one accepts that “taking up” implies “putting down”, then the formulation of the Mishnah covers rulings both about taking up and putting down; but if the biblical status of “putting down” is different from “taking up”, the latter should have been mentioned. An answer is unnecessary since the consensus is that “taking up” implies “putting down”.

111 While fat is not mentioned in the Mishnah, R. Yose explains how the Court might be liable for a false ruling concerning fat. The only fat (חֵלֶב) forbidden for consumption is (a) fat of domestic animals which for any sacrifice

would be burned on the altar and (b) the fat in which the hip tendons are embedded. All other fat is permitted (שֵׁנִי). The exact definition of each category is a matter of rabbinic tradition and as such within the purview of the Court.

112 He asks whether the entire discussion about abolishing an entire commandment or only a detail makes any sense. If they would permit eating one olive-sized piece of *hēlev* today, two tomorrow, etc., they might come to disestablish the entire commandment by a succession of steps, none of which can be classified as total negation of the commandment.

113 To whom the distinction between abolishing a commandment and modifying it also applies, Babli 4b, *Sanhedrin* 11:8, Note 112 (Tosephta *Sanhedrin* 14:13).

114 This would be a situation in which the accredited prophet could eliminate a commandment in steps, similar to the Court ruling on fat. Since phylacteries are mentioned in connection with the study of Torah (*Deut.* 6:8, 11:18), wearing them is a daily biblical commandment.

115 There is no such verse. The reference is to *Deut.* 13:6 where the reading is לִלְכָּתָּהּ בָּרָה.

116 Since R. Bun bar Hiyya's question could have been asked about any example in the Mishnah, but the Mishnah makes a distinction between eliminating and modifying a commandment. It is true that a modification is only a modification even if its open-ended iteration could result in eliminating the commandment.

משנה ד: (fol. 45c) הורו בית דין ונדע אחד מהן שטעו ואמר להן טועני אתם או שלא היה מופלג של בית דין שם או שהיה אחד מהן גר או ממזר או נתין או זקן שלא ראה לו בנים הרי זו פטור שנתאמר כאן עדה ונתאמר להלן עדה. מה עדה האמורה להלן פולן ראויין להוריה. אף עדה האמורה כאן כולן ראויין להוריה.

Mishnah 4: If the Court ruled but one of them knew that it was in error and he told them, you are erring¹¹⁷, or that the distinguished member of the Court was not there¹¹⁸, or that one of them was a proselyte, or a bastard, or a Gibeonite¹¹⁹, or a childless old man¹²⁰, it is not liable since it is said here “congregation” and it is said there “congregation”¹²¹. Since in the congregation mentioned there, all of them were worthy of ordination, also the congregation here all have to be worthy of ordination.

117 Then the ruling of the Court is not unanimous; no sacrifice is due; Note 36.

118 The ruling is not *ex cathedra*, Note 71.

119 While they can be civil judges, they are not eligible for the High Court as explained in the Halakhah.

120 He should not be member of a

criminal court since he never raised children and as a consequence never learned to have a positive attitude towards misbehaving people.

121 “Here” is *Lev. 4:13*; “there” is *Num. 35:12,24,25* containing the rules of criminal courts.

הלכה ד: (46a line 43) הורו בית דין ונדע אחד מהן שטעו כול. מתניתא דרבי. דרבי אמר. אין לך מערב אלא מופלג שלבית דין (בלוד). כתיב והיה אם מעיני העדה. מי שהוא עשוי עינים לעדה. כתיב והתיצבו שם עמך. מה את לא גר ולא נתין ולא ממזר. אף הן לא גרים ולא נתינים ולא ממזרים ולא עבדים. נחא גר. ממזר. בית דין ממנין ממזירין. רב חונא אמר. בשעברו ומינה. רבי חנניה רבי מנא. חד אמר. בתוך שבועים. וחרנה אמר. חוץ לשבועים. כאן דמר. חוץ לשבועים. נחא. ומאן דמר. בתוך שבועים. הא חוץ לשבועים לא. מפנין שאינו ראוי להוריה נעשה כאבן.

1 דר' | כר' 2 בלוד | בלבד כת' | וכתוב 3 כת' | וכתוב את | אתה הן | הם 4 ממזירין | ממזרים חונא | חונא 5 חנניה | חנינא ר' | ור' וחרנה | וחרנא מאן | מן 6 דמר | דאמר ומאן דמר | ומן דאמר 7 להוריה | להוריה

Halakha 4: “If the Court ruled but one of them knew that it was in error,” etc. The Mishnah is Rabbi’s, since Rabbi said, no one invalidates but the distinguished member of the Court (at Lydda) [only]⁷¹. It is written¹²²: *If from the eyes of the congregation*, from him who is appointed as eyes of the congregation. It is written¹²³, *they shall stand there with you*. Just as you are

neither proselyte, nor Gibeonite, nor a bastard¹²⁴, so they should be neither proselytes, nor Gibeonites, nor slaves, nor bastards. Rav Huna said, when they breached the rules and appointed¹²⁵. Rabbi Hanania, Rabbi Mana. One said, as part of the Seventy; the other said, apart from the Seventy¹²⁶. He who said, apart from the Seventy, is understandable. But he who said, as part of the Seventy, therefore not apart from the Seventy? Since he is not suitable for ordination, he is considered like a stone¹²⁷.

122 *Num.* 15:24, detailing the rules governing the sacrifice of a goat if the Court unintentionally permitted idolatry. This is taken as biblical proof that the Court cannot rule in the absence of its president.

123 *Num.* 11:16, the appointment of the 70 Elders, the paradigm for the High Court. Babli 4b

124 As son of a man and his aunt, Moses would have been a bastard if his parents had married after the promulgation of

Torah laws.

125 The exclusion of proselytes, Gibeonites, and bastards is strongly recommended but a breach does not invalidate the appointment.

126 He holds that the exclusion is prescriptive; an appointment would be invalid.

127 If their vote cannot be counted, then automatically not all who are present are voting; therefore the false ruling will never trigger the obligation of a sacrifice.

משנה ה: הורו בית דין שוגגין ועשו כל הקהל שוגגין מביאין פֶּרֶ. מִזִּידִין וְעָשׂוּ שוגגין מביאין כֶּשֶׁדָּה אוֹ שְׁעִירָה. שוגגין ועשו מִזִּידִין הָרִי אֵילָיו כְּטוֹרִין:

Mishnah 5: If the Court ruled in error and the public acted in error, they have to bring a bull; intentionally but they acted in error, they bring a female sheep or goat; in error but they acted intentionally, they are not liable¹²⁸.

128 All purification sacrifices have a stated prerequisite, viz., that the sin to be expiated was committed unintentionally (*Lev.* 4:2,13,22,27). If both Court and public acted in error, the conditions for a sacrifice by the Court are satisfied. If the Court intentionally gave a false ruling, their sin cannot be atoned by a sacrifice;

the public are forced to bring individual sacrifices. If the Court ruled in error but the public, although realizing the error, intentionally followed the false ruling, the Court cannot bring a sacrifice since the public did not follow their intent, and the public is barred from any sacrifice since they did not act in error.

(46a line 52) **הלכה ה:** הורו בית דין שוֹגְגִין כול'. לית הָדָא פְּלִיגָא על רבי שמעון בן לקיש. דמר רבי אמי בְּשֵׁם רבי שמעון בן לקיש. מְתִיבִיתָא כְּגוֹן שְׁמַעוֹן בֶּן עֲזַאי יוֹשֵׁב לִפְנֵיהֶן. וּמִזִּידִין וְעָשׂוּ שׁוֹגְגִין. וְכִי יֵשׁ זָדוֹן לְשִׁגְגָה לְיַחֲד אֶצֶל הוֹרֵית בֵּית דִּין. הִבְרִיָא בְּשֵׁם רבי שמעון בן לקיש. בְּשֵׁלָא קִיבְלוּ רוֹב הַצִּיבּוֹר עֲלֵיהֶן. רבי זְעִירָא בְּשֵׁם רבי שמעון בן לקיש. בְּשִׁבְעָטוֹ בְּהוֹרִייתָן. מַה מִּפְקָה מִבְּיַיְהוֹן. קִיבְלוּ עֲלֵיהֶן וְחִזְרוּ וּבָעֲטוּ. עַל דְּעִתּוֹן דְּחִבְרִיָא כִּין שְׁבָעָטוֹ פְּטוּרִין. עַל דְּעִתִּיָה דְּרַבִּי זְעִירָא מִכִּין שְׁקִיבְלוּ עֲלֵיהֶן מִשְׁעָה רַאשׁוֹנָה הָרִי אֵילֵי חִיבִין.

2 דמר | דאמר 3 לשגגה | שגגה הורית | הורית חברייא | חבריא 4 קיבלו | קבעו עליהן | עליהם
5 בהוריתן | בהוריתן קיבלו | קבלו דחברייא | דחבריא 6 שקיבלו עליהן | שקבלו עליהם

Halakhah 5: “If the Court ruled in error,” etc. Does this not disagree with Rabbi Simeon ben Laqish? Since Rabbi Immi said in the name of Rabbi Simeon ben Laqish: Our Mishnah, for example, if Simeon ben Azzai⁴⁰ was sitting before them¹²⁹. “Intentionally but they acted in error.” Is there intentional misdeed or error with respect of an instruction by the Court¹³⁰? The colleagues in the name of Rabbi Simeon ben Laqish: If not most of the public accepted it¹³¹. Rabbi Ze’ira in the name of Rabbi Simeon ben Laqish, if they rebelled against their instruction¹³². What is the difference between them? If they first accepted and then rebelled. In the opinions of the colleagues, since they rebelled, they are not liable¹³³. In the opinion of Rabbi Ze’ira, since at the first moment they accepted it, those are liable¹³⁴.

129 He would immediately have pointed out the error; then one would be back at the situation of Mishnah 4; the case of Mishnah 5 never could arise.

130 It already was stated in Mishnah 1 that a person acting upon the instructions of the Court is never liable for a purification offering, irrespective of the quality of the Court’s ruling. Why should the individual be held liable?

131 Then the main condition for a sacrifice of the Court is not fulfilled; auto-

matically there is no valid ruling of the Court, only actions of individuals.

132 A High Court without authority is no High Court; it cannot claim to be the subject of *Lev. 4:13*.

133 Since at the moment a sacrifice would be due the conditions are not met, the Court is no longer liable.

134 Since the authority of the Court is acknowledged, a later rejection does not change the fact of the Court’s false ruling, and the Court is liable.

(fol. 45c) **משנה ו:** הורו בית דין ועשו כל־הקהל או רובן על פיהן מביאין פֶּרֶם. ובעבֹדָה זָרָה מביאין פֶּרֶם וְשֹׁעִיר דָּבָרִי רַבִּי מֵאִיר. רַבִּי יְהוּדָה אֹמֵר שְׁנַיִם עֶשֶׂר שְׂבָעִים מְבִיאִין שְׁנַיִם עֶשֶׂר פָּרִים ובעבֹדָה זָרָה שְׁנַיִם עֶשֶׂר שְׂבָעִים מְבִיאִין שְׁנַיִם עֶשֶׂר פָּרִים וְשֹׁעִירִים. רַבִּי שְׁמַעוֹן אֹמֵר שְׁלֹשָׁה עֶשֶׂר פָּרִים. ובעבֹדָה זָרָה שְׁלֹשָׁה עֶשֶׂר פָּרִים וְשֹׁלֶשָׁה עֶשֶׂר שְׁעִירִים פֶּרֶם וְשֹׁעִיר לְכָל־שְׂבָט פֶּרֶם וְשֹׁעִיר לְבֵית דִּין.

Mishnah 6: If the Court ruled and all the public or a majority acted on their instruction, they bring a bull; or in a matter of idolatry a bull and a goat¹³⁵, the words of Rabbi Meir. Rabbi Jehudah says, the Twelve Tribes bring twelve bulls and in a matter of idolatry the Twelve Tribes bring twelve bulls and twelve goats¹³⁶. Rabbi Simeon says, thirteen oxen, and in a matter of idolatry thirteen bulls and thirteen goats; a bull and a goat for each tribe; a bull and a goat for the Court.

135 Sacrifices for unintended sins committed by the entire community are prescribed both in *Lev.* 4:13-31 (a bull) and *Num.* 15:22-26 (a bull as elevation offering and a goat as purification offering). The verses in *Num.* are interpreted to refer to the sin of idolatry since that is the only sin by which in one action one violates *all* commandments (*Num.* 15:22).

Since the sacrifice for violating all commandments cannot be less than that for violating one commandment, it is logical that the sacrifice for idolatry must be more than the regular sacrifice *Lev.* 4:13-31. (*Sifry Num.* 111)

136 As discussed in the Halakhah, this is a problem of definition of עֵדָה and קֹהֵל.

(46a line 60) **הלכה ו:** הורו בית דין ועשו כל־הקהל כול. קָמָן תַּנָּא רֹב. רַבִּי מֵאִיר. דִּתְנִי. הִיא מַחְצִית כְּל־הַשְּׂבָעִים הִיא מַחְצִית כְּל־שְׂבָט וְשְׂבָט וּבִלְבָד רֹב. רַבִּי יְהוּדָה אֹמֵר. חֲצִי כְּל־שְׂבָט וְשְׂבָט וּבִלְבָד רֹבִי שְׂבָעִים שְׁלִימִים. שְׂבָט אֶחָד גּוֹרֵר כְּל־הַשְּׂבָעִים. רַבִּי מֵאִיר אֹמֵר. כְּל־הַשְּׂבָעִים קְרוּיִין קֹהֵל. רַבִּי יְהוּדָה אֹמֵר. כְּל־שְׂבָט וְשְׂבָט קְרוּי קֹהֵל. וְאִתְּיָא דְרַבִּי שְׁמַעוֹן כְּרַבִּי יְהוּדָה. כְּמָה דְרַבִּי יְהוּדָה אֹמֵר. כְּל־שְׂבָט וְשְׂבָט קְרוּי קֹהֵל. כֵּן רַבִּי שְׁמַעוֹן אֹמֵר. כְּל־שְׂבָט וְשְׂבָט קְרוּי קֹהֵל. מָה בִּינְיָהוּ. גְּרִירָה. רַבִּי יְהוּדָה אֹמֵר. שְׂבָט אֶחָד גּוֹרֵר כְּל־הַשְּׂבָעִים. רַבִּי שְׁמַעוֹן אֹמֵר. אֵין שְׂבָט אֶחָד גּוֹרֵר אֶת כְּל־הַשְּׂבָעִים. מוֹדָה וְהוּא שֶׁתִּהְיֶה הוֹרִיָּה מְלֻשְׁכַּת הַגִּזִּית. אֹמֵר רַבִּי יוֹסִי. טַעְמִיָּה דְהֵין תַּנְיָא מִן־הַמִּקּוֹם הַהוּא אֲשֶׁר יִבְרַח יי. רַבִּי אֲבָוִן בִּשְׁם רַבִּי בִּנְיָמִין בַּר לִי. קֹרִיא מְסִייעַ לְמָאן דְּמַר. כְּל־שְׂבָט וְשְׂבָט קְרוּי קֹהֵל. דְּכִתִּיב גְּוִי וְקִתְּלָה גּוֹיִם יִהְיֶה מִמֶּךָ. וְאִדְיוּן לֹא נוֹלֵד בִּנְיָמִין. אֹמֵר רַבִּי חִיָּה בַר בָּא. כְּשֶׁם שֶׁהוּן חִלּוּקִין כָּאֵן כָּד הוּן חִלּוּקִין בְּטוֹמָאָה. דִּתְנִי. הִנֵּה צִיבוּר חֲצִיִּין טְהוֹרִין וְחֲצִיִּין טְמֵאִין. הַטְּהוֹרִין עוֹשִׂין אֶת הָרָאשׁוֹן וְהַטְּמֵאִין עוֹשִׂין אֶת הַשֵּׁנִי. רַבִּי יְהוּדָה אֹמֵר. הַטְּהוֹרִין עוֹשִׂין לְעֶצְמָן וְהַטְּמֵאִין עוֹשִׂין לְעֶצְמָן.

אָמרוּ לוֹ. אֵין הַפֶּסַח לַחֲצָאִין אוֹ כּוֹלָן יַעֲשׂוּ בְטוּמְאָה אוֹ כּוֹלָן יַעֲשׂוּ בְטָהֳרָה. מִינּוּ אָמְרוּ לוֹ. כָּרְבֵי יוֹדָה. דִּתְנִי. נִיטְמָאֵת אַחַת מִן הַחֲלוֹת אוֹ אֶחָד מִן שְׂיָרִים רַבֵּי יוֹדָה אוֹמֵר שְׁנִיָּהּ יֵצֵא לְבֵית הַשְּׂרִיפָה. שְׂאִין קָרְבָן צְבוּר חֲלוֹק. וְחֻכְמִים אוֹמְרִים. הֵטְמָא בְטוּמְאָתוֹ וְהִטְהוֹר יֵאָכֵל: רַבֵּי יוֹסִי בְרַבִּי בּוֹן בְּשֵׁם רַבִּי יוֹחָנָן אָמַר. מִינּוּ אָמְרוּ לוֹ. חֻכְמִים שְׁהֵן כְּשִׁישִׁית רַבִּי יְהוּדָה.

1 מאן | מן 2 יודה | יהודה 3 רובי | רוב שלימין | שלמין 4 יודה | יהודה ואתיא | ותיא גר' ר' 5 כר' | ר' יודה | יהודה אמ' | אומר 6 בניהון | בניחם גרירה | גרירא יודה | יהודה ר' | ור' 7 את | - | אע"ג דרבי יהודה אומר שבת אחד גורר כל השבטים שתהא | שתייה הוריה | הוריה 8 יוסי | יוסה דהין | דההין 9 קרייא | קרא מסייע | מסייעא 10 ואדיין | ואדין חייה | חייה חלוקין כאן | כן 11 טהורין | טמאין טמאין | טהורין את | אותו את 12 שני | שני יודה | יהודה 13 לחצאין | בא לחצאין כולן | כולו (2 times) מינו | מנו 14 יודה | יהודה (2 times) נטמאת | נטצית אחד מן ישרים | אחת מן הסדרים שניהן | שניהם 16 יוסי | יוסה בר' | בר אמ' | - | מינו | מנו שהן | שהן עושין

Halakhah 6: “If the Court ruled and all the public acted,” etc.¹³⁷ Who stated “a majority”? Rabbi Meïr, as it was stated: Either half of the tribes or half of each tribe, if only it be a majority¹³⁸. Rabbi Jehudah says, half of each tribe, but only a majority of entire tribes¹³⁹. One tribe drags all tribes¹⁴⁰.

Rabbi Meïr says, all tribes are called “the public”¹⁴¹. Rabbi Jehudah says, each single tribe is called “public”. And Rabbi Simeon follows Rabbi Jehudah. Just as Rabbi Jehudah said, each single tribe is called “public”, so Rabbi Simeon says, each single tribe is called “public”. What is between them? Dragging. Rabbi Jehudah says, one tribe drags all tribes¹⁴⁰. Rabbi Simeon says, one tribe does not drag all tribes¹⁴². [Even though Rabbi Jehudah says, one tribe drags all tribes,]¹⁴³ he agrees that only if the ruling came from the ashlar hall¹⁴⁴. Rabbi Yose said, the reason of that Tanna: *From this place which the Eternal will choose*¹⁴⁵. Rabbi Abun in the name of Rabbi Benjamin ben Levi: The verse supports him who said that each tribe is called “public”, as it is written¹⁴⁶: *A people and a public of peoples will come from you*, and Benjamin was not yet born.

Rabbi Hiyya bar Abba said, just as they differ here, so they differ about impurity¹³⁷, as we have stated: If the public was half pure and half impure; pure [people] celebrate the first [Passover] and impure the second. Rabbi Jehudah said, the pure ones celebrate for themselves, and the impure ones celebrate for themselves¹⁴⁷. They told him, there is no split Passover; either all celebrate in impurity or all celebrate in purity. Who is “they told him”? Following Rabbi Jehudah? As it was stated¹⁴⁸: “If one of the loaves or one of the (leftovers) [orders]¹⁴⁹ became impure, Rabbi Jehudah said, both have to be

brought to be burned¹⁵⁰ for a public offering cannot be split. But the Sages say, the impure in its impurity, and the pure shall be eaten.¹⁵¹” Rabbi Yose ben Rabbi Abun said in the name of Rabbi Johanan, who is “they told him”? The Sages¹⁵² who argue like Rabbi Jehudah.

137 The entire Halakhah is shortened from *Pesahim* 7:6. *Num.* 9:9-14 prescribes that individuals who were impure on Passover have to bring their Passover sacrifice a month later, on the Second Passover celebrated on the 14th of the Second Month. It is concluded that if the entire people are impure, the Second Passover is impossible and everybody celebrates the (First) Passover in impurity in the Temple. The problem then arises which percentage of the people have to be impure so that they represent the entire people; just as here the question is, how many people do have to follow the erroneous ruling of the Court so that “all of Israel were in error” (*Lev.* 4:13).

138 He holds that everywhere 50%+1 represent “all”; Babli 5b.

139 The language is somewhat self-contradictory. He also requires that a majority of Israel follow the erroneous ruling but in addition he demands that in a majority of tribes a majority follow the ruling. Babli 5b.

140 If one tribe has more members than all the others together, the action of one tribe triggers the obligation of all of them. He does not hold that the law about erroneous rulings of the High Court became moot with the exile of the Ten Tribes. Even later, when the tribe of Jehudah represented the overwhelming majority of Israel, a majority of the people

can be considered a majority of all twelve tribes and the majority of Judeans triggers the obligation for all tribes.

141 The purification sacrifice for an erroneous ruling by the Court has to be brought by “the public” (*Lev.* 4:14). The difference of opinions in the Mishnah is traced to different interpretations of this notion. R. Meir holds that only the entire people of Israel qualify as “public”; RR. Jehudah and Simeon consider each tribe as a separate public. (Babli 5b, *Pesahim* 80a, *Menahot* 15a).

142 Therefore he requires a separate sacrifice for the people of Israel in their entirety.

143 Missing in the ms., from B and the *Pesahim* text; required by the context.

144 Even though each tribe has to bring its own sacrifice, the ruling of a tribal High Court cannot trigger an obligation of any other tribe; only the Court sitting at the central sanctuary has this power.

145 *Deut.* 17:10.

146 *Gen.* 35:11, said to Jacob after the birth of 11 sons. Babli 5b.

147 Both offer their sacrifices in the Temple, in separate groups. For this to happen, the number of pure people in Jerusalem on the 14th of Nisan must be *exactly* equal to the number of impure ones.

148 Mishnah *Menahot* 2:2.

149 The text in parentheses is from the

ms.; the text in brackets is from B, the text in *Pesahim*, and all sources of the Mishnah; it is the only one which makes sense.

The Mishnah speaks of the two public cereal offerings which have to be baked, viz., the weekly show-bread and the two leavened loaves presented at Pentecost. The 12 show-breads were presented in two rows, here called "orders" (*Lev.* 24:6).

150 Outside the Temple precinct.

151 By the officiating priests.

152 Since the opinions of R. Jehudah and his opponents in *Pesahim* are the opinions of his opponents and R. Jehudah in *Menahot*, both seem to contradict themselves. One has to conclude that they agree in principle and they only differ about the practical applications of their theory. In this sense, B reads: The Sages acting in the sense of R. Jehudah.

משנה ז: (fol. 45c) הורו בית דין ועשו שבעה שבטים או רובן על פיהן מביאין פר ובעבודה זרה מביאין פר ושעיר דברי רבי מאיר. רבי יהודה אומר שבעה שבטים שחטאו מביאין שבעה פרים. ושאר שבטים שלא חטאו מביאין על ידיהן פר פר שאף אילו שלא חטאו מביאין על ידיהן פר פר על ידי החוטאים. רבי שמעון אומר שמזנה פרים. ובעבודה זרה שמזנה פרים ושמונה שעירים פר ושעיר לכל שבט ופר ושעיר לבית דין.

Mishnah 7: If the Court ruled and seven tribes or a majority¹⁵³ acted on their saying they bring a bull and for idolatry they bring a bull and a goat, the words of Rabbi Meir. Rabbi Jehudah says, the seven tribes who sinned bring seven bulls, and the remaining tribes who did not sin bring because of them a bull each, for also those who did not sin each bring a bull because of the sinners. Rabbi Simeon says eight bulls¹⁵⁴, and for idolatry eight oxen and eight goats, a bull and a goat for each tribe and a bull and a goat for the Court.

153 Either seven tribes who form a majority of the tribes or a majority of the people of Israel irrespective of tribes.

154 As stated in the preceding Halakhah,

he disputes that innocent tribes should be dragged with the sinners into offering sacrifice.

הלכה ז: (46b line 7) הורו בית דין ועשו שבעה שבטים כול. תני. רבי שמעון בן אלעזר אומר משמו. חטאו ששה והן רובו. הא שבעה אף על פי שאין רובו הרי אילו חייבין. אמר רבי לעזר. לא מר אלא ששה והן רובו. הא חמשה אף על פי שהן רובו הרי אילו פטורין. אמר רבי יוסי ברבי בון. מתניתא אמרה כן. מחצית שבטים ובלבד רוב אוכלוסין. ודכותה. מחצית

אוֹכְלוֹסִין וּבִלְבָד רֹב שְׁבֵטִים. רַבִּי יוֹסִי בְּרַבִּי בּוֹן אָמֵר. שְׂאִילְתָּא דְּכֹהֵן הַמְּשִׁיחַ מִן. הַדָּא הוֹרִית בֵּית דִּין הַגָּדוֹל הוֹרִית בֵּית דִּין קָטָן.

2 הא | או אילו | אלו 3 לעזר | אלעזר מר | אמרו אילו | אלו 4 יוסי | יוסה בר' בון | בר רבי דכוחה | ודכוחה 5 יוסי | יוסה 6 הורית | הורית (twice)

Halakhah 7: “If the Court ruled and seven tribes acted,” etc. It was stated: Rabbi Simeon ben Eleazar says in his¹⁵⁵ name, if six sinned and they are a majority. Therefore seven even though they do not form a majority are liable¹⁵⁶. Rabbi Eleazar said, he only said “six and they are a majority”. Therefore for five, even though they are a majority, they are not liable. Rabbi Yose ben Rabbi Abun said, a *baraita* said so: Half of the tribes on condition that they be most of the population. And similarly, half of the population on condition that they be most of the tribes.

¹⁵⁷ Rabbi Yose ben Rabbi Abun said, the question of the Anointed Priest, is it as from the High Court or a lower court?

155 In the name of R. Meïr, Tosephta 1:7; *Sifra Wayyiqra* 2, *Parašah* 4(17); Babli 3a, 5b.

156 In the Babli, *Menahot* 45a, this is the conclusion of R. Johanan. Since in the next sentence R. Eleazar disagrees, one

has to assume that the name originally was stated here also.

157 This does not belong here but at the end of Halakhah 2:1, speaking of rulings by the High Priest.

(fol. 45c) **הלכה ח:** הוֹרִי בֵּית דִּין שֶׁל אֶחָד מִן הַשְּׁבֵטִים וַעֲשֶׂה אוֹתוֹ הַשְּׁבֵט עַל פִּיהֶם אוֹתוֹ הַשְּׁבֵט הוּא חֵיב וְשָׂאֵר כָּל הַשְּׁבֵטִים פְּטוּרִין דְּבָרֵי רַבִּי יְהוֹדָה. וְחֻכְמִים אוֹמְרִין אִין חֵיבִין אֶלָּא עַל הוֹרִית בֵּית דִּין הַגָּדוֹל בִּלְבָד שְׂנֵאמַר וְאִם כָּל־עֵדֶת יִשְׂרָאֵל יִשְׁגּוּ וְנִעְלַם דְּבַר מַעֲיִנִי הָעֵדָה. וְלֹא עֲדַת אוֹתוֹ הַשְּׁבֵט:

Halakhah 8: If the Court of one of the tribes¹⁵⁸ ruled and that tribe acted on their pronouncement, that tribe is liable but any other tribes are not liable, the words of Rabbi Jehudah¹⁵⁹. But the Sages say, they are only liable for a ruling by the High Court, as it is said, *if the entire congregation of Israel be in error, and something was hidden from the eyes of the congregation*¹⁶⁰, not the congregation of that tribe.

[illegible][illegible][illegible]

138 The tribal High Court.
139 Since he holds that the expression
porting R. Jehudah. In most Mishnah
sources, only the first clause of the verse
is copied.
160 *Lev.* 4:13. The verse is misquoted;
the masoretic text reads לְחֵן הָעָם "the public"

1 ציבור | צבור אחד | אחד מהן | שיביאו | מהשבי הגולה הביאו עולות 2 איפשר | אפשר יודה | יהודה 3 חייה | חייא 4 הוריית | הורית הייתה | היתה 4 למד | לא אמר | בוקינים | בוקנים אין | ואין 5 בוקינים | בוקנים יוסי | יוסה חייה | חייא 6 ולא | אלא | יוסי למד | יוסה לא אמר | חי | הוא 7 ואין | וכת' | דכת' 8 אין | ואין 9 לה | ליה

Halakhah 8: “If the Court of one of the tribes ruled,” etc. ¹⁶⁴Rebbi Meïr says, it is the Court’s obligation. Rebbi Jehudah says, it is the public’s obligation. Rebbi Simeon said, it is an obligation of the Court and an obligation of the public. What is Rebbi Meïr’s reason? It is said here *from the eyes*¹⁶⁵, and it is said there *from the eyes*¹⁶⁶. Since *from the eyes* said there refers to the Court, here it also refers to the Court¹⁶⁷. What is Rebbi Jehudah’s reason? It is said here *from the eyes*, and it is said there *from the eyes*. Since *from the eyes* said there refers to the public, here it also refers to the public¹⁶⁸. What is Rebbi Simeon’s reason? It is said here *from the eyes*, and it is said there *from the eyes*. Since *from the eyes* said there refers to the Court, also *from the eyes* here refers to the Court. Since *from the eyes* said there refers to the public, here it also refers to the public¹⁶⁹. For him who says, it is the Court’s obligation, the Court has to bring¹⁷⁰. For him who says, it is the public’s obligation, who brings¹⁷¹? As we have stated¹⁷², “one imposes and collects, the words of Rebbi Meïr; Rebbi Jehudah says, they are brought from the Temple tax”. For him who says, it is the Court’s obligation, the Court has to lay their hands on. For him who says, it is the public’s obligation, who lays their hands on¹⁷³? As we have stated, three from every tribe,¹⁷⁴ led by the president of the Court, lay their hands on the head of the bull. “*Their hands*, the hands of each single one. *Their hands on the head of the bull*; the bull needs laying on of hands but the goats of idolatry do not need laying on of hands, the words of Rebbi Jehudah. Rebbi Simeon said, the bull needs laying on of hands by the Elders but the goats of idolatry do not need laying on of hands by the Elders; for Rebbi Simeon says, every public purification offering whose blood is brought inside¹⁷⁵ needs laying on of hands.¹⁷⁶” One objected to Rebbi Jehudah, is it not written, *they presented the goats of the purification offering*¹⁷⁷? Rebbi Hiyya in the name of Rebbi Johanan, it was a temporary ruling¹⁷⁸.

Rebbi Johanan asked: If one of the public died, can it be brought in his stead¹⁷⁹? They answered, is it not written, *those who came from captivity*¹⁸⁰?

Is a purification offering an elevation offering? But just as an elevation offering is not eaten, this purification offering was not eaten¹⁶¹. Rabbi Jehudah says, they brought it for idolatry; Rabbi Hizqiah, Rabbi Jeremiah, Rabbi Hiyya in the name of Rabbi Johanan, it was a temporary ruling¹⁷⁸. Rabbi Jeremiah (learned) [did not say]¹⁶³ so but the bull needs laying on of hands by the Elders while the goats of idolatry do not need laying on of hands by the Elders. By whom? Rabbi Jeremiah wanted to say, by Aaron and his sons. Rabbi Yose told him, Rabbi Hiyya also stated, *he shall put his hands on, they shall put their hands on*¹⁸², to include the goats of idolatry for laying on hands but not by the Elders. Rabbi Yose (learned) [did not say]¹⁶³ so but the living [goat] needs laying on of hands by Aaron, but the goats of idolatry do not need laying on of hands by Aaron. It is written so, “*Aaron shall lean with both his hands on the living goat’s head*; the living [goat] needs laying on of hands by Aaron, but he goats of idolatry do not need laying on of hands by Aaron.¹⁸³” What does Rabbi Jeremiah do with this? He explains it, for a common priest¹⁸⁴.

161 To delete.

162 This is a quote from *Num.* 8:12, not fitting for the context.

163 The text in the Babli shows that one has to read למר i. e. לאמר.

164 The Halakhah does not refer to Mishnah 8 but to Mishnaïot 6-7, to explain why R. Meïr requires only one bull, R. Jehudah 12, and R. Simeon 13.

165 *Lev.* 4:13.

166 *Num.* 15:24.

167 This argument is difficult to explain. In *Sifra Wayyiqra 2 Parašah* 4(2), the expression עֲדַת יִשְׂרָאֵל used in *Lev.* 4:13 is explained as referring to the High Court, the selected group from Israel, based on v. 15 which makes it clear that the bull has to be presented by the Elders, the members of the High Court. Then R. Meïr’s argument is to infer from *Lev.* 4:13

to *Num.* 15:24: Since the bull is the responsibility of the Court, the goat for idolatry also must be the responsibility of the Court.

168 His argument is straightforward. Since the entire paragraph *Num.* 15:22-26 speaks only about עֲדָה, without any mention of the Elders, it is addressed to the public. Then the use of parallel terms is taken to transfer the setting to *Lev.* 4:13.

169 He accepts arguing both from *Lev.* 4:13 to *Num.* 15:24 and vice versa.

170 They have to pay for the bull from their own money and present it in the Temple.

171 Who has to pay and who has to officiate?

172 One imposes a tax and collects from everybody. In all other sources, Babli 3b, *Menahot* 52a; Tosephta *Šeqalim* 2:6, the

argument is between R. Jehudah and R. Simeon. This is the reasonable reading since for R. Meïr the Court pays from their own means.

173 Since obviously not every single Israelite can be called to lay his hands on the bull.

174 This follows R. Simeon in *Sifra Wayyiqra 2 Pereq 6(2)*; R. Jehudah requires five.

175 The only sacrifices whose blood is brought inside the sanctuary to be sprinkled on the incense altar are the purification offerings of the High Priest and the Community as well as the offerings of the Day of Atonement. The body of any such sacrifice must be burned outside the holy precinct (*Lev. 6:23,16:27*).

176 *Sifra Wayyiqra 2 Pereq 6(3)*; Tosephta *Menahot 10:9*; Babli *Menahot 92a*.

177 *2Chr. 29:23*. As usual, the argument is from the part of the verse which was not quoted: *they presented the goats of the purification offering before the king and the public; they laid their hands on them*. The goats were offered by Josiah to atone for the idolatry of his father Ahas.

178 A temporary deviation from Torah norms acceptable by prophetic instruction as long as it does not violate prohibitions. The absence of a bull and the presence of multiple goats both deviate from Torah prescriptions.

179 This is a question for RR. Jehudah and Simeon. If a person dedicated an animal as a purification offering but died before it was sacrificed, the animal cannot be sacrificed without its owner nor can it

be redeemed or used for any profane or holy purpose whatsoever. If the bull really is the obligation of the public and paid by the public's money, it should become unusable if anybody who gave money for the sacrifice (*Note 172*) died before the ceremony was held. Practically, this would make the ceremony impossible.

180 *Ezra 8:35: Those who came from captivity, from the diaspora, sacrificed elevation offerings to the God of Israel, twelve bulls for all of Israel, 96 goats, 77 sheep, purification goats twelve, all of it an elevation offering for the Eternal*. An elevation offering is completely burned; the meat of a purification offering is eaten by the priests. To call a purification offering an elevation offering is a contradiction in terms.

181 Babli 6a. Since they brought 12 goats, R. Jehudah has Ezra's authority for his position. This interpretation justifies the reading of *Num. 15:24* by the Mishnah. That verse requires the congregation to bring *a bull as elevation offering and a goat as purification offering*. If a purification offering which may not be eaten can be called an elevation offering, it is possible to identify this bull with the one prescribed in *Lev. 4:13*. V. 24 requires the congregation (i. e., its Elders) to proffer the sacrifices but v. 25 requires the Cohen to conduct the entire ceremony. Both the opinions that the Elders do the laying on of their hands as also that the Cohen has to do it have biblical support.

182 *Lev. 16:21* prescribes that Aaron has to lay his hand on the live goat. Since the

entire service of the Day of Atonement is by the unaided High Priest, the mention of the name seems to be superfluous; it could as well have said “he has to lay his hands on.” It is concluded (next Note) that this is the only case in which the High Priest is required to lay his hands on. In parallel, one may read *Lev. 4:15* where the Elders of the congregation are required to lay

their hands on the bull, that they are not required to lay their hands on the goat.

183 *Sifra Ahare Mot Parašah* 4(4).

184 Since neither the High Priest nor the Elders are empowered but *Num. 15:25* requires the participation of a common priest, all biblical requirements are satisfied by having the common priest do the entire ceremony.

46b line 46) רבי זעירא בשם רב המנונא קרבי מאיר. תני תמן. הורי בית דין ועשו קהל. מת אחד מבית דין פטורין. מת אחד מן הציבור חייבין. אמר להן רבי מאיר. אם לאחרים הוא פטור לא כלשפן על עצמו. אמרו לו. ופטור לאחרים שיש להן במה לתלות ואל ופטור לעצמו שאין לו במה לתלות.

1 המנונא כר' מאיר | אדא ברבי מאיר | תני | תניי | מת | ומת | 2 להן | להם | הוא | יהא | 3 להן | להם | לתלות | להתלות | 4 לתלות | להתלות |

רבי זעירא בשם רב חסדאי. תני תמן. הורי בית דין ועשו הן ונדעו מה הורי. טעו מה הורי שגו מה הורי יכול יהו חייבין. תלמוד לומר ונדעה החטאת ולא שיונדעו החוטאין. מה נפשד. חלב קרבי יהושע אתנא היא בשחורי ולא ידעו מה הורי אם עבדה זרה אם שאר כל-המצות. אם עבדה זרה בפר אם שאר כל-המצות בשעיר. ספק פר ושעיר שניני קרבן הוא והוא פטור.

1 חסדאי | חסדי | תני | טעו | וטעו | 2 שגו | ושגגו | שיוודעו | שיוודעו | החוטאין | החוטאים | 3 חלב | חלב | הורי | חייבין | שבת | הורי | חייבין. | אמר | רבי | בון | בר | חייא | ותניא | כר' | אליעזר | ברם | כר' | יהושע | לא | אתנא | אמר | רבי | יסה | ברם | 4 ושעיר | ספק | פר | ושעיר |

Rebbi Ze'ira in the name of Rav Hamnuna: Following Rebbi Meir¹⁸⁵. There, it was stated: If the Court ruled and the public acted¹⁸⁶. If a member of the Court died, they are not liable. If a member of the public died, they are liable¹⁸⁷. Rebbi Meir told them, if he¹⁸⁸ relieves others of their liability, not so much more for himself? They told him, he can relieve others from their liability since they have where to hang on; he cannot relieve himself of liability since he has nothing to hang on.

Rebbi Ze'ira in the name of Rav Hisdai. There, it was stated¹⁸⁹: “If the Court ruled, and they themselves acted, and they realized what they ruled about. If they erred in what they ruled, would they be liable? The verse says, *if the sin became known*¹⁹⁰, not that the sinners became known.” Anyway you take it¹⁹¹, if about fat [¹⁹²they ruled they are liable, if about Sabbath they ruled

they are liable. Rabbi Abun bar Hiyya said, this follows Rabbi Eliezer¹⁹³; it does not follow Rabbi Joshua. Rabbi Yose said, but] it follows Rabbi Joshua if they ruled and they did not know whether about idolatry or about any other commandment¹⁹⁴. If about idolatry by a bull, if about any other commandment a goat¹⁹⁵. Since it is in doubt whether a bull or [a bull and¹⁹⁶] a goat, it is a difference in sacrifice and he¹⁹⁷ is not liable.

185 The following *baraita* can be understood only following R. Meïr who declares the bull to be the exclusive responsibility of the Court.

186 *Sifra Wayyiqra 2 Paršetaḥ* 4(10). The Court is not liable as long as the public did not act on their instructions.

187 If a member of the Court died, the bull becomes a purification sacrifice whose part-owner had died; it cannot be brought nor sacrificed. While the sacrifice is brought for the benefit of the public, the public has no monetary interest in the bull following Rabbi Meïr. For him, all the public does is trigger the obligation.

188 If a member of the Court acted on his own faulty ruling, the bull cannot relieve him of the obligation for a private purification sacrifice since the bull only is intended to shield those who acted on instructions of the Court. He himself does not depend on the Court and still is liable (Mishnah 1; Note 191).

189 Babli 5a, *Sifra Wayyiqra 2 Paršetaḥ* 4(12).

190 *Lev.* 4:14. V. 13 makes it clear that the actions of the people trigger the obligation of the bull, not the actions of the court when it is not followed by the people.

191 This refers to another situation which

is described at the end. The court ruled, they were followed by the people, they realized their error but know they cannot decide which paragraph of the law they misinterpreted. In the Babli 5a, *Ševuot* 18b, *Keritut* 19a, R. Eliezer is quoted to hold that if one is not sure of the exact category of the sin committed it does not matter as long as all of them require a sacrifice. R. Joshua holds that a purification sacrifice is possible only if the legal definition of the transgression is known, as in all cases the verse requires that the sin be known (*Lev.* 4:14 for the court, v. 23 for the prince, v. 28 for a private person; cf. Note 22.) From the text here it seems that the Yerushalmi tradition switches the names.

192 Text of B, missing in the ms. The text must be supposed also for the ms. since otherwise the reference to R. Joshua is unmotivated.

193 Who in the Yerushalmi version prohibits the Court from offering the bull if they cannot define exactly which commandment had been breached.

194 The argument in Note 191 is valid only if the different infractions all carry the same penalty. But if there is a question about which sacrifice to offer, no sacrifice is possible. Purification (and reparation) offerings cannot be brought as

voluntary offerings since in contrast to these all voluntary offerings need gifts of flour and wine. Therefore one could not bring both kinds of sacrifice stipulating that the inappropriate one should be considered as voluntary.

195 Clearly, one has to switch the

positions of “bull” and “goat”.

196 Text of B, more correct since the bull for unspecified sins is a purification offering and that for idolatry an elevation offering.

197 The Court.