

דיני ממונות פרק ראשון

משנה א: דיני ממונות בשלשה גזלות וחבלות בשלשה נזק וחצי נזק תשלומי כפל ותשלומי ארבעה וחמשה. האונס והמפתה והמוציא שם רע בשלשה דברי רבי מאיר וחכמים אומרים המוציא שם רע בעשרים ושלשה שיש בו דיני נפשות.

Mishnah 1: Money matters¹ are judged by three [judges]; robberies² and injuries³ by three [judges], damages⁴, half damages⁵, double restitution⁶ quadruple and quintuple restitution. The rapist⁷, the seducer⁸, and the calumniator⁹ are judged by three [judges], the words of Rebbi Meïr; but the Sages say that the calumniator is judged by 23 because it might be a capital case¹⁰.

1 Not only litigation involving loans, inheritances, gifts, or real estate, but also distribution of public funds (cf. Mishnah *Peah* 8:7).

2 Including fraud.

3 Inflicted on humans.

4 Caused on living or inanimate property.

5 Caused by somebody's animals (cf. Mishnaïot *Bava qamma* 1:4-5).

6 To be paid by the thief of inanimate objects, Mishnah *Bava qamma* 7:1. The thief of livestock pays quadruple or quintuple restitution.

7 Who has to pay under four different categories (Mishnah *Ketubot* 4:1).

8 Who has to pay under three different categories.

9 Who accuses his wife not to have been a virgin (*Deut.* 22:13-19).

10 Since the woman is stoned if the husband's accusation is proved correct

(*Deut.* 22:20-21) and the biblical text implies that the court which might sentence the husband to a fine is the one which might pass a death sentence, the case has to be tried in a tribunal empowered to try capital cases.

According to rabbinic principles, *Deut.* 22:13-21 cannot refer to a husband accusing his wife of not being a virgin since 1° by marriage, the husband became his wife's relative and relatives are barred from appearing as witnesses; his case could not be heard. 2° there is no verse threatening a woman with death if she married when not a virgin. Therefore, the rabbinic interpretation of the paragraph is that the husband presents witnesses to the fact that his wife committed adultery while preliminarily married to him. A preliminarily married woman is married in respect

to criminal but not civil law (cf. Introduction to Tractate *Qiddušin*).

Another aspect of criminal law in this case is the law of perjury, *Deut.* 19:18-19. Since the husband's witnesses intended to

have the woman stoned, if they are shown to be perjured they themselves are stoned.

Therefore, the case may be heard only in a court competent to impose death sentences.

(18a line 21) **הלכה א:** דיני ממונות בשלשה כול. מנן תיתי ליה. והיו אלה לכם לחקת משפט. הייתי אומר. אחד דיני ממונות ואחד דיני נפשות בדרלשה ובחקירה. ומניין לדיני ממונות שהן בשלשה. ונקרב בעל הבית אל האלהים ריבה בה דיין אחד. עד האלהים הרי שנים. אשר ירשיעון אלהים הרי כאן שלשה. דברי רבי יאשיה. רבי יונתן אמר. הראשון תחלה נאמר ואין דורשין תחילות. אלא עד האלהים הרי אחד. אשר ירשיעון אלהים הרי שנים. אין בית דין שקול מוסיפין עליהן עוד אחד. הרי שלשה. רבי אומר. בשנים הכתוב מדבר. אתה אומר בשנים או אינו אלא באחד. כשהוא אומר אשר ירשיעון אלהים אין כתוב כאן אלא אשר ירשיעון אלהים. אין בית דין שקול מוסיפין עליהן עוד אחד. הרי שלשה.

Halakhah 1: “Money matters are judged by three [judges],” etc. From where comes this? *These shall be the laws of procedure to you*,¹¹ I would say that both civil cases and criminal cases are subject to the rules of verification and examination¹².

¹³From where that civil cases are heard by three [judges]? *The owner shall go to the judge*,¹⁴ he added here one judge. *Before the judge*,¹⁵ these are two. *Whom the judges will find guilty*, these are three¹⁶, the words of Rabbi Joshua. Rabbi Jonathan said, the first mention introduces the subject; one does not infer anything from introductions¹⁷. But *before the judge*, there is one. *Whom the judges will find guilty*, there are two. No court may be even-numbered,¹⁸ so one adds another one; this makes three.

Rebbi said, the verse speaks about two. You say about two, or maybe it is only about one? What He said, it is not written “whom the judge will find guilty” but *whom the judges will find guilty*.¹⁹ No court may be even-numbered, so one adds another one; this makes three.

11 *Num.* 35:29. The chapter covers the rules of levitic cities, laws of property, and of the homicide, criminal law.

12 Mishnah 4:1. *Examination* refers to cross-examination relating to questions which answer to “who”, “when”, and “where”. *Interrogation* refers to answers to

“how”. The distinction between the two is in regard to rules about discrepancies in testimony between different witnesses, Mishnah 5:1. The verse makes it clear that the rules also apply to lawsuits about subjects not covered by the detailed list in the Mishnah.

13 Babli 3b.

14 Ex. 22:7.

15 Ex. 22:8.

16 Since the paragraph mentions *judge* three times.

17 This is a generally accepted principle (Babli *loc. cit.*). The expression which

introduces a subject always is necessary and cannot be considered additional or extraneous to the subject at hand.

18 The duty of the court is to decide matters based on incomplete information. The possibility of a deadlock would defeat the purpose for which the court was convened. Therefore, no court may be even-numbered. If any of the judges did abstain from voting, the case would have to be tried anew with another judge substituting for the abstaining judge.

19 The plural in this sentence alone implies that at least two judges are involved.

18a line 31) רַבִּי אֲבָהוּ בִּעֵי. וְכַרְבֵּי דִינֵי מְמוֹנוֹת בְּחִמְשָׁה וְשִׁנְיָמָר בְּכ"ג. אֲשַׁכַּח תַּנִּי רַבִּי חִזְקִיָּה. הוֹאִיל וְאִמְרָה תוֹרָה. הָרוּג עַל פִּי מַטִּים הָרוּג עַל פִּי עֲדִים. מֵה עֲדִים שְׁנַיִם אִם מַטִּים שְׁנַיִם. אִין בֵּית דִּין שְׁקוּל מוֹסִיפִין עֲלֵיהֶן אַחֵר. הָרִי חֲמִשָּׁה.

Rebbi Abbahu asked. According to Rebbi²⁰, should not civil suits be heard by five; should sentence not be passed by 23²¹? It was found stated by (Rebbi)²² Hizqiah: Since the Torah said, kill by a vote of the majority²³, kill by the testimony of witnesses. Since witnesses must be two²⁴, a majority also must be two²⁵. No court can be even-numbered; one adds another one. This makes five.

20 Who in Tosephta 1:1 requires five judges to hear civil cases.

21 Rebbi probably also will agree that common practice was to hear cases by a panel of three judges. If one already deviates from traditional practice, should not Num. 35:29 be interpreted as requiring identical procedural law for both civil and criminal cases?

22 Probably one should read דְּבִי instead of רַ' (רַבִּי) and translate “the House of Hizqiah,” referring to one of the twin sons

of the Elder Rebbi Hiyya, known as the last person who formulated *baraitot*. The fourth generation *Rebbi* Hizqiah would be much too late. The *baraita* is found in both *Mekhilot* (dR. Ismael, ed. Horovitz-Rabin p. 323, dR. Simeon ben Iohai ed. Epstein-Melamed p. 214.)

23 Majority rule for judicial sentences is introduced in Ex. 23:2: “to bend after the many.” The same verse forbids a guilty verdict by a simple majority: “Do not follow the majority in bad things.” Since the plural used for “many” implies at least two, it

follows that a guilty verdict by a majority of one is an acquittal, while by a majority of two it is a guilty verdict.

24 Since unanimity is not required, the court would have to be composed of at least

4, hence 5, members. The majority accepts this interpretation of *Ex. 23:2* for criminal cases only.

(18a line 35) לֹא הָיוּ גְזִילוֹת הָיוּ חֲבֵלוֹת. אֲשֶׁכַח תִּנִּי רַבִּי שְׁמַעוֹן בֶּן יוֹחִי. וְאַלְהֵם הַמִּשְׁפָּטִים אֲשֶׁר תִּשְׁטִים לִפְנֵיהֶם. אֵתָא מִימָר לָךְ כְּפִשּׁוּטָה דְקָרִיָא. וְתִיָא כְרַבִּי יוֹסִי בַר חֲלַפְתָּא.

רַבִּי יוֹסִי בַר חֲלַפְתָּא אָתָּו תִּרְיוּ בַר נֶשׁ מִיּוֹדִין קוֹמוּ. אָמַרִי לֵיהּ. עַל מִנָּת שֶׁתִּדְיִנְנוּ דִּין תוֹרָה. אָמַר לוֹן. אֲנִי אֵינִי יוֹדֵעַ דִּין תוֹרָה אֶלָּא הִידֵעַ מִחֻשְׁבוֹת יִפְרַע מֵאוֹתָן הָאֲנָשִׁים. מְקַבְּלִין עֲלֵיכוֹן מִה דְנָא אָמַר לָכוֹן.

רַבִּי עֲקִיבָה כִּד הָוָה בַּר נֶשׁ אֶזֶל בְּעֵי מִיּוֹדִין קוֹמִיָה הָוָה אָמַר לֵיהּ. הָוִי יוֹדֵעִין לִפְנֵי מִי אָתָּם עוֹמְדִין. לִפְנֵי מִי שְׁאָמַר וְהָיָה הָעוֹלָם. שְׁנַאֲמַר וְעָמְדוּ שְׁנֵי־הָאֲנָשִׁים אֲשֶׁר־לָהֶם הָרִיב לִפְנֵי יי. וְלֹא לִפְנֵי עֲקִיבָה בֶּן יוֹסִף.

תִּנִּי. קוֹדֵם לְאַרְבָּעִים שָׁנָה עַד שֶׁלֹּא חָרַב הַבַּיִת נִיטְלוּ דִּינֵי נַפְשוֹת וּבִימֵי שְׁמַעוֹן בֶּן שִׁטְחַ נִיטְלוּ דִּינֵי מְמוֹנוֹת. אָמַר רַבִּי שְׁמַעוֹן בֶּן יוֹחִי. בְּרִיד רַחֲמָנָא דְלֵי נָא חֲכִים מִיּוֹדִין.

Do not robberies and injuries fall under the same rules²⁶? It was found that Rabbi Simeon ben Iohai stated: *These are the procedures which you shall put before them.* It serves to explain to you the plain sense of the verse²⁷. This follows Rabbi Yose bar Halaphta.

Rebbi Yose bar Halaphta, when two people came before him for judgment and told him, “on condition that you judge us by the law of the Torah,” told them, “the law of the Torah I do not know²⁸, but He Who knows thoughts should collect from those people²⁹. You have to accept what I shall tell you.”

When a person came to Rabbi Aqiba to have a suit decided before him, he told him: “You should know before Whom you are standing, before Him Who commanded and the world came into existence, as it is said: *The two people who are quarrelling shall stand before the Eternal*,³⁰ not before Aqiba ben Joseph.”

It was stated³¹: Forty years before the Temple was destroyed, criminal jurisdiction was removed from Israel³², and in the days of Simeon ben (Šetah)³³ civil jurisdiction was removed. Rabbi Simeon ben Iohai said, praised be the Merciful³⁴, for I am not intelligent enough to judge³⁵.

26 The same question is asked in the Babli, 2b. In contrast to the Babli, here it is understood that torts do not necessarily follow the same rules as disputes over money, and it is not obvious that a panel of three judges would be sufficient for these.

27 Ex. 21:1. As in Ex. 21-23, pure money matters are treated first, then torts. The order of the Mishnah follows the order of topics in these chapters.

28 He knew the theoretical law of the Torah but not necessarily the application to the case before him, since that would have presumed perfect and complete information. But the judge, by biblical decree, is dependent on what is told him in court. The information given to him by necessity is incomplete.

29 Who either lie in court or withhold information.

30 Deut. 19:17. The verse continues: "before the priests and the judges."

31 The correct version of this *baraita* is in 7:2; the first part is also quoted in the Babli, *Šabbat* 15a. The second part never applied in Babylonia.

32 When Judea came under direct Roman rule.

33 One has to read with 7:2: Simeon ben Iohai, as confirmed by the next sentence. The removal of civil cases to Roman courts cannot be dated to the reign of Alexander Yannai, Simeon ben Shetah's brother-in-law, but to Hadrian, in the aftermath of the war of bar Kokhba.

34 For preventing me to have to act as a judge.

35 From his time on, rabbinic jurisdiction in Palestine was limited to courts of arbitration which are not representatives of God and therefore under less pressure to render absolutely correct judgment.

שְׁנַיִם שֹׁדְנֵי דִינֵיהֶן דִּין אֵלָּא שְׁנִקְרָאוּ בֵּית דִּין חֲצוּף. רַבִּי יוֹחָנָן וְרִישׁ
לְקִישׁ תְּרִיהוּן מְרִין. אֶפְלוּ שְׁנַיִם שֹׁדְנֵי אֵין דִּינֵיהֶן דִּין. תַּמָּן תַּנִּינָן. הִיָּה דוֹן אֶת הַדִּין. זִכָּה אֶת
הַחַיִּיב חַיִּיב לְצַאֵי. טַמָּא לְטָהוֹר טִיהַר לְטָמָא. מָה שַׁעֲשֹׂה עָשׂוּי וְיִשְׁלַם מִבֵּיתוֹ. רַבִּי בָּא בְּשֵׁם
רַבִּי אֲבָהוּ. בְּשִׁאֲמָרוּ לוֹ. הֲרִי אֶת מְקוּבֵּל עֲלֵינוּ כְּשָׁנִים. מָה אֲנִן קִיַּמִּין. אִם בְּשִׁטָּעָה וְדָנָן
מְשִׁיקוֹל הַדַּעַת. בְּדָא מָה שַׁעֲשֹׂה עָשׂוּי. אִם בְּשִׁטָּעָה וְדָנָן דִּין תוֹרָה. בְּדָא וְשִׁלַּם מִבֵּיתוֹ. רַבִּי
בָּא בְּשֵׁם רַבִּי אֲבָהוּ. בְּשִׁאֲמָרוּ לוֹ. הֲרִי אֶת מְקוּבֵּל עֲלֵינוּ כְּשִׁלְשָׁה עַל מִנְתּוֹ שְׁתַּדִּינֵנוּ דִּין תוֹרָה.
וְטָעָה וְדָנָן מְשִׁיקוֹל הַדַּעַת. מָה שַׁעֲשֹׂה עָשׂוּי. מִפְּנֵי שִׁטָּעָה וְדָנָן מְשִׁיקוֹל הַדַּעַת. וְשִׁלַּם מִבֵּיתוֹ.
שְׁהִיָּגִים דַּעְתוֹ לְדוֹן יְחִידִי דִין תוֹרָה. דְּתַנִּינָן. אֵל תְּהִי דוֹן יְחִידִי. שְׂאִין דוֹן יְחִיד אֵלָּא אֶחָד.

Samuel said, if two men acted as judges, their judgment stands, but they are called an insolent court³⁶. Rabbi Johanan and Rabbi Simeon ben Laqish both are instructing: Even³⁷ if two men acted as judges, their judgment is no judgment³⁸. There, we have stated³⁹: "If he rendered judgment, acquitted the guilty and condemned the innocent, declared the pure impure or the impure pure, what he did is done but he has to pay from his own pocket." Rabbi

Abba in the name of Rabbi Abbahu: if they told him, we accept you as if you were two⁴⁰. What are we dealing with? If his error was that he judged them on his discretion⁴¹, then what he did is done. If his error was that he judged them by Torah law⁴², why should he pay from his own pocket? Rabbi Abba in the name of Rabbi Abbahu: if they told him, we accept you as if you were three on condition that you judge us by Torah law. He erred and judged them on his discretion. What he did is done, but since he erred and judged them on his discretion, he has to pay from his own pocket⁴³ because he was presumptuous to judge alone by Torah law, as we have stated⁴⁴: “Do not judge sitting alone, for only One judges sitting alone.”

36 Babli 3a,5b,30a,87b; *Ketubot* 22a. Cf. *Berakhot* 7:1, Note 18.

37 Even if the parties accepted them as judges.

38 In the Babli, this opinion is represented by Rava (5b) and R. Abbahu (87b), the student of R. Johanan and R. Simeon ben Laqish.

39 Mishnah *Bekhorot* 4:4. The Mishnah refers to a person who did not pass the required examinations and was not formally qualified as a judge.

40 Since R. Abbahu follows his teachers and holds that any judgment passed by a court of two judges is void, as well as from the following quote, it is clear that one has to read “three” in place of “two”.

41 If there exists no clear precedent for the case; different schools promulgate different rules and he followed a minority opinion because it seemed to him to be the correct one, his judgment is valid but there is no reason why he should have to pay. The Babli, 33a, declares a judgment against a clear majority of opinions as an error in law.

42 If his judgment contradicted a Mishnah or a clear precedent, in Israel a judgment of the Patriarch’s court or in Babylonia a concurrent judgment of both Yeshivot, his judgment is void (cf. *Ketubot* 9:2, Note 100). If any money changed hands as a consequence of the erroneous judgment, it has to be returned.

43 As a fine.

44 Mishnah *Avot* 4:8.

(18a line 56) אָמַר רַבִּי יְהוֹנָתָן בֶּן פִּזִּי. אִם הִקְדוּשׁ בְּרִיךְ הוּא אֵין דָּן יְחִידִי. שְׁנַאֲמַר וְכָל-צָבָא הַשָּׁמַיִם עוֹמְדִים עָלָיו מִימֵינוֹ וּמִשְׁמָאלוֹ. אֵילּוּ מִטְּיִן לְכָף זְכוּת וְאֵילּוּ מִטְּיִן לְכָף חוֹבָה. אִם עַל פִּי שְׂאֵין דָּן יְחִידִי חוֹתֵם יְחִידִי. שְׁנַאֲמַר אַבְל־אֶגִּיד לָךְ אֶת-הַרְשׁוּם בְּכֶתֶב אֱמֻתָּה. אָמַר רַבִּי יוֹחָנָן. לְעוֹלָם אֵין הִקְדוּשׁ בְּרִיךְ הוּא עוֹשֶׂה בְּעוֹלָמוֹ דָּבָר עַד שֶׁנִּמְלָךְ בְּבֵית דִּין שְׁלֵמָעָלָן. מַה טַעַם. וְאֵמֶת הַדָּבָר וְצָבָא גָדוֹל. אֵימָתִי חוֹתֵמוֹ שְׁלֵהִקְדוּשׁ בְּרִיךְ הוּא אֱמֻתָּה. בְּשַׁעֲהָ שֶׁנִּמְלָךְ בְּבֵית דִּין

שְׁלֵמֵעָלָיו. אָמַר רַבִּי לְעֶזֶר. כָּל־מְקוֹם שֶׁנֶּאֱמַר יי אֱלֹהִים הוּא וּבֵית דִּינוֹ. וּבְנִין אֲב שְׁבָכוֹלָם וְיִי דִבֵּר עָלָיו רָעָה.

מָהוּ חוֹתְמוֹ שֶׁלְהַקְדוּשׁ בְּרוּךְ הוּא. רַבִּי בִּיבִי בְּשֵׁם רַבִּי רֵאֲבוּבִן. אָמַרְתָּ. מָהוּ אָמַרְתָּ. אָמַר רַבִּי בִּין. שְׁהוּא אֱלֹהִים חַיִּים וּמְלִךְ עוֹלָם. אָמַר רִישׁ לְקִישׁ. אֶל־יִי רִישִׁיה דְּאֶלְפָּה־בֵּיטָא. מִסְּ בְּאֶמְצָעִיתָא. תִּלְיוּ בְּסוּפָהּ. לֹא־אֲנִי יי רִאשׁוֹן שְׁלֵא קִיבַלְתִּי מֵאַחֵר. וּמִבְּלָעָדִי אֵין אֱלֹהִים שְׁאִין לִי שְׁוִתָּף. וְאֶת־אַחֲרוֹנִים אֲנִי־הוּא. שְׁאִינִי עֲתִיד לְמוֹסְרָהּ לְאַחֵר.

Rebbi Jehudah ben Pazi said, even the Holy One, praise to Him, does not judge alone, as it is said⁴⁵: *all the hosts of Heaven were standing by Him, to His right side and to His left*. These vote to acquit, those to convict. Even though He does not judge alone, He signs alone, as it is said: *really I shall tell you what is noted in true writing*.⁴⁶

Rebbi Johanan said, the Holy One, praise to Him, never does anything in His world unless He took counsel with the Heavenly Court⁴⁷. What is the reason? *True is the statement and a large host*.⁴⁸ When is the seal of the Holy One, praise to Him, true? When He took counsel with the Heavenly Court. Rebbi Eleazar said, any place where it is said “the Eternal, Almighty,”⁴⁹ it is He and His Heavenly Court. The paradigm of all is: *and the Eternal spoke evil about him*.⁵⁰

What is the seal of the Holy One, praise to Him? Rebbi Bevai in the name of Rebbi Reuben, “true.”⁵¹ What means “true”? Rebbi Abun said, that He is a Living Power and the King of this World. Rebbi Simeon ben Laqish said, א is the start of the alphabet, מ the middle,⁵² and ת the end. To say, *I, the Eternal, am First*,⁵³ I did not receive anything from another. *Besides Me there is no supreme power*,⁵⁴ for I have no co-owner. *And with the last, I shall be*,⁵⁵ I shall not in the future turn it over to anybody else.

45 *IK*. 22:19. In MT, “was standing.”

46 *Dan*. 10:21.

47 Babli 38b.

48 *Dan*. 10:1.

49 In *Lev. rabba* 24(2) in the name of R. Eliezer, in *Num. rabba* 3(3) in the name of “the rabbis”: Any place where it is said “and the Eternal.” Since the verse quoted in support refers to this version, the editor of

the Žitomir-Wilna edition changed the text here. It is more likely that the text originally read “the Eternal of hosts” and the proof text was *Jer*. 11:17.

50 *IK*. 22:23.

51 Babli *Šabbat* 55a, in the name of R. Hanina, a midrash on *IK*. 22:23.

52 Since the Hebrew alphabet has 22 letters, the middle is between the 11th (k) and the twelfth (l) letter.

53 *Is.* 41:4.

54 *Is.* 44:6. The verse probably should have been quoted three times.

(18a line 69) רבי בא ורבי בנימין בר יפת הווי דיין קומי רבי יצחק ונפק דינא עם רבי בנימין. אַתא רבי בא בעי מיטרוף. עַל רבי אמי ואלף. מומחה שְׂכַפֵּף וְדָן דינו דין. רבי אבהו הוה יתיב דיין בכנישתא מדרתא דקיסרין לגרמיה. אָמְרין ליה תלמידוי. וְלֹא כֹן אֵלֶפֶן רַבִּי. אֵל תְּהִי דָן יְחִידִי. אָמַר לוֹ. כִּינֹן דְּאַתּוֹן חֲמוּ לִי יְתִיב דִּינָן לְגַרְמֵי וְאַתּוֹן לְגַבִּי קָמִי שְׂקִיבְלוּ עֲלֵיהּ. וְתֵנִי כֹן. בְּמָה דְּבָרִים אֲמוּרִים. בְּזִמְן שְׁלֹא קִיבְלוּ עֲלֵיהּ. אֲבָל אִם קִיבְלוּ עֲלֵיהּ דָן אֲפִילוּ יְחִידִי.

Rebbi Abba and Rebbi Benjamin bar Jepheth had a lawsuit before Rebbi Isaac; the judgment was for Rebbi Benjamin. Rebbi Abba wanted to complain⁵⁵; Rebbi Immi came and taught: If an expert⁵⁶ forced his opinion as a judgment, his judgment stands.

Rebbi Abbahu was sitting as sole judge in the inclining⁵⁷ synagogue of Caesarea. His students said to him, did the rabbi not teach⁴⁴: “Do not judge sitting alone”? He told them, since you see me sitting alone as a judge and they come to me, it is because they accepted this. It was stated thus⁵⁸: “When was this said? If they did not accept it. But if they accepted it, he even judges as sole judge.”⁵⁹

55 After the fact, he wanted to invalidate the judgment because R. Isaac sat as sole judge.

56 A person who passed the required examinations and was ordained as a judge, in Palestine by the Patriarch, in Babylonia

by the Head of the Diaspora.

57 A synagogue built on an incline in his hometown of Caesarea Philippi on the slopes of the Golan Heights.

58 Babli 5a, *Rosh Haššanah* 25b.

59 Since he is acting as an arbitrator.

(18a line 76) רבי יוחנן אַזל מידון קומי רבי חייה רבה. אייתיב גביה חד תלמיד. וְלֹא כֹן תֵּנִי. אָב וּבְנוֹ הָרַב וְתִלְמִידוֹ שְׁיָהּ נִמְנִין אֶחָד. יִמַר חֲבֵר וְתִלְמִיד הָיָה. כְּרַבִּי לַעְזֹר לְרַבִּי יוֹחָנָן. גִּזְרֵי דִין נִפְקוּ מִן דָּרַב לְגַרְמִיָּה. מִן דְּרַבִּי אַחָא לְגַרְמִיָּה. מִן דְּרַבִּי יוֹנָה וְרַבִּי יוֹסִי לְגַרְמִיָּהוּ.

Rebbi Johanan went with a lawsuit before the Elder Rebbi Hiyya. He took a student to sit with him. But did we not state: “A father and his son, a teacher

and his student, the two are counted as one.⁶⁰ Let us say that he was both student and colleague, like Rabbi Eleazar to Rabbi Johanan⁶¹.

Judgments were rendered by Rav alone, by Rav Aha alone, by Rabbi Jonah and Rabbi Yose by themselves⁶².

60 Tosephta 7:2; Babli 36a. The son or the student cannot be counted on for an independent opinion.

opinions and, more importantly, will not be afraid publicly to state them.

61 Where both Talmudim report many disagreements between them. At this stage, the former student will have independent

62 The head of a Talmudic Academy everywhere is empowered to sit as sole judge.

(18b line 4) תָּמַן תִּנָּיֵן. הַנּוֹטָל שְׂכָרוֹ לְדוֹן דִּינֵי בְּטִילִין. כִּינֵי מִתְּנִיתָא. הַחֲשׂוֹד לִטּוֹל שְׂכָרוֹ יָדוּ.

חַד בַּר נָשׁ אָזַל מִיּוֹדוֹן קוֹמֵי רַב הוּנָא. אָמַר לֵיהּ. אֵייתִי לִי בַר נָשׁ דִּיסוֹק תְּחוּתֵי לְדִיקְלָא. רַב הוּנָא הָנָה רַעִי תוֹרִין וְהָנָה יָדַע שְׁהָדוֹ לְחַד בַּר נָשׁ. אָמַר לֵיהּ. אֵתָא שְׁהָדָא עָלַי. אָמַר לֵיהּ. הֵב לִי אֲגָרִי. וְתַנִּי כֵן. נוֹתְנִין לְדִינָן שְׂכָר בְּטִילוֹ וְלַעֲד שְׂכָר עֲדוּתוֹ.

There, we have stated⁶³: “If somebody takes a fee to judge, his judgments⁶⁴ are invalid.” So is the Mishnah: “He who is suspected of taking a fee⁶⁵ but he judges.”

A person brought a suit before Rav Huna⁶⁶, He told him, bring me a person who climbs the date palm instead of me.

Rav Huna was a cowherd when he knew testimony for a person, who told him, come and testify for me. He answered him, give me my wages. It was stated thus: “One pays the judge for his time and the witness for his testimony.

63 Mishnah *Bekhorot* 4:6, Babli *Bekhorot* 29a, *Ketubot* 105a, *Qiddushin* 58b.

65 It takes an action of a supervising authority to invalidate his judgments.

64 The plural implies that all his judgments are invalid, even those for which he did not take money.

66 Who started out poor as an agricultural worker and only became rich when middle aged. Babli *Ketubot* 105a.

(18b line 9) חַד בַּר נָשׁ סָאֵב לְחַד כְּהֵן. אֵתָא עוֹבְדָא קוֹמֵי רַבִּי יִצְחָק וְאוֹכְלִיהּ חוּלִין. סָבְרִין מִימַר שְׂוִיזָאִין לוֹ דְּמִי תְרוּמָה מִתּוֹכָם.

A person made a Cohen impure⁶⁷. The case came before Rabbi Isaac who made him eat profane food⁶⁸. They wanted to say that one deducts the price of heave from the amount⁶⁹.

67 He made it impossible for him to eat heave, which must be eaten in purity. One has to assume that the impurity was that of corpses, which can be dissolved only by sprinkling with water containing the ashes of the red cow, which at that moment had become unavailable; cf. *Berakhot* 1:1, Note 3.

68 He forbade the Cohen to eat heave; this is a biblical rule agreed to by everybody. It is implied that he required the offending party to pay for the Cohen's food since heave, permitted only to Cohanim, is sold at a discount.

Impurity of persons and food is *invisible damage* which according to the Babli, *Gittin* 53a, can be punished only by a rabbinic fine. According to the Babli, *Sanhedrin* 8a, fines can be imposed only by a panel of three ordained judges. Since it is implied here that R. Isaac was sitting as sole judge, the Yerushalmi strongly disagrees with the Babli. (Cf. *Bava qamma* 9:2, Note 24.)

69 The guilty party only had to pay the difference between profane and sanctified food, i. e., the additional cost incurred by the victim.

11) תני. רבי אליעזר בן רבי יוסי הגלילי אומר. המבצע חוטא והמברך את המבצע הרי זה כמנעץ לפני המקום. שנאמר ובצע ברכך נא יי. אלא יקוב הדין את החר כשעשה משה. אבל אהרן משים שלום. שנאמר בשלום ובמישור הלך אהרן.

It was stated⁷⁰: Rabbi Eliezer ben Rabbi Yose the Galilean says, the person who arranges a compromise is sinning⁷¹, and the one who praises a compromiser is like a blasphemer before the Omnipresent, as it is said⁷²: *he who blesses a compromiser slanders the Eternal!* The law should pierce the mountain, as Moses did⁷³. But Aaron promoted peace⁷⁴, as it is said⁷⁵, *in peace and straightness he went with Me*.

70 Tosephta 1:2, Babli 6b, *Yebamot* 92a.

71 It is clear from the following paragraphs and the parallels, that the statement is interpreted to apply to cases where either the trial already has started or where existing law allows a clear decision.

72 *Ps.* 10:3.

73 Who ordered all people with suits to appear before him for judgment (*Ex.* 18:16) and did not invite them to an arbitration panel.

74 The midrash (*Avot dR. Nathan* I 12, II 24) explains that he dissuaded people from going to court. This is preferable according to everybody.

75 *Mal.* 2:6.

(18b line 14) תני. רבי ליעזר בן יעקב אומר. מה תלמוד לומר ובצע' ברוך נאץ יי. משלו משל למה הדבר דומה. לאחד שגנב סאה חיטין והוליכה לנחתום והפריש חלתה והאכילה לבניו. הרי זה מברך ואינו אלא מנעץ.
רבי מאיר אומר. מה תלמוד לומר ובצע' ברוך נאץ יי. אילו אחי יוסף. שנאמר מה בצע כן נהרג את אחינו וגו'.

It was stated⁷⁰: ⁷⁶“Rebbi Eliezer ben Jacob says, why does the verse say⁷², *he who blesses unlawful gain slanders the Eternal*? They gave a parable, to what can this be compared? To one who stole a *se'ah* of wheat, brought it to the baker, separated its *hallah*⁷⁷, and fed it to his children. He pronounces blessings but it is blasphemy.

⁷⁸Rebbi Meir says, why does the verse say⁷², *he who blesses unlawful gain slanders the Eternal*? These are Joseph's brothers, as it is said⁷⁹: *What is the gain if we slay our brother, etc.*”

76 Babli *Bava qamma* 94a. In other Yerushalmi sources (*Hallah* 1:9 Notes 218-221; *Šabbat* 13:3 14a l. 50) it is an Amoraic statement.

77 To avoid committing a deadly sin. If he recites the required blessing, he commits an intentional sin; if he induces the baker to

recite the blessings, the baker commits an unintended sin and the thief violates the commandment not to put a stone in the way of a blind man.

78 In the Tosephta (1:3) an anonymous statement.

79 *Gen.* 37:26.

(18b line 19) רבי יהושע בן קרחה אומר. מצוה לבצע. שנאמר אמת ומשפט שלום. כל מקום שיש אמת אין משפט שלום. יש שלום אין משפט אמת. ואי זהו אמת שיש בו משפט שלום. הוי אומר. זה בצויע.

דן את הדין זיכה את הזכיי חייב לחייב. מעלה עליו הכתוב כילו עשה צדקה עם הזכיי וכילו עשה צדקה עם החייב. צדקה עם הזכיי. שהחזיר לו קמונו. ועם החייב. שהוציא גזילו מתחת ידו. אמר רבי אבהו. משפט משפט אמורין בפרשה. אמת ומשפט שלום שפטו בשעריכם:

⁸⁰“Rebbi Joshua ben Qorha says, it is a good deed to mediate a compromise, as it is said⁸¹: *Truth and judgment of peace*. If there is truth, there is no judgment of peace. If there is peace, there is no judgment of truth.

What is truth containing a judgment of peace? I am saying, this is compromise.”

⁸²“If somebody judged correctly, absolved the innocent and condemned the guilty, the verse counts it as if he practiced kindness both towards the innocent and towards the guilty. Kindness towards the innocent, because he returned his money to him. And towards the guilty, for he removed the proceeds of robbery from his hands.”⁸³ Rebbi Abbahu said, *judgment* and *judgment* is written in the verse⁸¹: “Truth and judgment of peace judge in your gates.”

80 Tosephta 1:3.

81 *Zach.* 8:16, cf. *Ta`anot* 4:2 (68a l. 75), *Megillah* 3:7 (74b l. 48).

82 Tosephta 1:4, a statement of Rebbi; the same in the Babli 6b.

83 And therefore protects him from the judgment of Heaven.

84 Each referring to one aspect of the act of judging.

(18b line 26) רבי זכריה בעי קומי רבי אמי. עבדין עובדא כההו תניא. תני. רבי שמעון בן מנסיא אומר. פעמים שאתה רשאי לבצע. פעמים שאין אתה רשאי לבצע. כיצד. שנים שבאו אל הדין. עד שלא שמע דבריהן או מששמע דבריהן ואינו יודע היכן הדין נוטה רשאי לומר להן. צאו ובצעו. משתשמע דבריהן ויודע אתה היכן הדין נוטה אין אתה רשאי לבצוע. שנאמר פוטר מים ראשית מדון ולפני התגלע הריב נטוש. עד שלא נתגלע הריב אתה רשאי לנטוש. משנתגלע הריב אין אתה רשאי לנטוש. אמר רבי מתנה. אף הפרשה⁸⁵ צריכה הקרע הדעת.

Rebbi Zachariah asked before Rebbi Immi: Does one act following that Tanna, as it was stated: ⁸⁶“Rebbi Simeon ben Menassiah says, sometimes you are empowered to propose a compromise, sometimes you are not empowered to propose a compromise. How is this? Two come before a judge; before he heard their arguments, or after he heard their arguments but does not know how to correctly apply the law, he may tell them, go and work out a compromise. After you heard their arguments and know how to correctly apply the law, you may not propose a compromise, as it is said⁸⁷: *One may remove the beginning of a quarrel like water; before it becomes manifest, the quarrel may be abandoned.* Before the quarrel became manifest, you are permitted to abandon it; after the quarrel became manifest, you are not

permitted to abandon it.” Rabbi Mattaniah said, even compromise needs intelligent decision⁸⁸.

85 Read with the parallel sources:

הפְּשָׁרָה.

86 Tosephta 1:6, Babli 6b.

87 Prov. 17:14.

88 He objects to the statement that the judge should send the parties away to work out a compromise on their own; he requires the judge to guide them towards a reasonable compromise.

(18b line 34) רבי יהודה בן לקיש אָמר. שְׁנַיִם שָׂבָאוּ אֶל הַדִּין אֶחָד רָדָּ וְאֶחָד חָזַק. עַד שֶׁלֹּא שָׁמַע דְּבָרֵיהֶן רִשְׁאֵי לוֹמַר לָהֶן. אֵינִי נֹזֵק לָכֶם. שְׁמָא יִתְחַיֵּב הַחֹזֵק וְיִהְיֶה חֹזֵק אוֹיְבוֹ. מִשְׁשָׁמַע דְּבָרֵיהֶן אֵין רִשְׁאֵי לוֹמַר לָהֶן. אֵינִי נֹזֵק לָכֶם. שְׁנַאֲמַר לֹא תִגְוֹרוּ מִפְּנֵי־אִישׁ.

רבי יהושע בן קרחה אומר. הרי שהיה יושב אצל הדיין וראה זכות לעני וחובה לעשיר. מניין שלא ישתוק. שְׁנַאֲמַר לֹא תִגְוֹרוּ מִפְּנֵי־אִישׁ. אֵל תִּכְנִס דְּבָרֶיךָ מִפְּנֵי אִישׁ.

ויהו הדיינין יודעין את מי הו דנין ולפני מי הו דנין. ויהיו העדים יודעין את מי מעידין ולפני מי מעידין. לפני מי שְׁאָמַר וְהָיָה הָעוֹלָם. שְׁנַאֲמַר וְעַמְדוֹ שְׁנֵי־הָאֲנָשִׁים אֲשֶׁר־לָהֶם הָרִיב לִפְנֵי יי ואומר אֱלֹהִים נָאב בְּעַד־ת־אֵל. וכן יהושפט אומר לשופטים ראו מה־אתם עושים כי לא לאדם תשפטו כי ליי. וכי אִפְשָׁר לְבָשָׁר וְדָם לְדוֹן אֶת בּוֹרְאוֹ. אֵלָּא אָמַר הַקְדוּשׁ בְּרוּךְ הוּא. אֲנִי אֲמַרְיִת דִּיהָא לְרֵאשִׁיבָא ק' דִּינָרִים וְלִשְׁמַעוֹן וְלֹא כָלוּם. וְאֵת נוֹטְלָן מִזָּה וְנוֹתֵן לָזָה. עָלֵי לְשָׁלֵם לוֹ וְלִפְרַע מֵאוֹתוֹ הָאִישׁ.

תני. רבן שמעון בן גמליאל אומר. הדין בשלשה ופְּשָׁרָה בשניים. יפה כח הפְּשָׁרָה מִכֹּחַ הַדִּין. שְׁשָׁנִים שְׁדָנוּ יְכוּלִין לַחְזוֹר בָּהֶן וּשְׁנַיִם שְׁפָשְׁרוּ אֵין יְכוּלִין לַחְזוֹר בָּהֶן.

⁸⁹“Rebbi Jehudah ben Laqish said: If two people appeared before a judge, one decent and one aggressive. Before he started to hear their arguments, he may tell them, I will not hear your case, lest the aggressive one lose his case and become his enemy. After he started hearing their arguments, he may not tell them, I will not hear your case, for it is said,⁹⁰ *do not be afraid of anybody*.

⁹¹“Rebbi Joshua ben Qorha says, if somebody⁹² was sitting next to a judge and saw a benefit for the poor and a detriment for the rich, from where that he should not keep silent? For it is said⁹⁰, *do not be afraid of anybody*.

⁹⁷The judges have to know with Whom they judge, and the witnesses have to know before Whom they are testifying: before Him Who commanded and the world came into existence, as it is said³⁰, *the two people who are quarrelling shall stand before the Eternal*, and it is said⁹³, *the Almighty stands*

in the assembly of the judges. So Josaphat told the judges, *look what you are doing, for you do not judge for man, but for the Eternal*⁹⁴. How is it possible for flesh and blood to judge his Creator? But the Holy One, praise to Him, said: I said that Reuben should have 100 denars and Simeon nothing. You take from one and give it to the other⁹⁵. I have to repay it to him, and will Myself be paid by this man⁹⁶.

It was stated⁹⁷: “Rabban Simeon ben Gamliel says, judgment is passed by three [judges], a compromise is made by two⁹⁸. The compromise is stronger than the judgment in that two [judges] who judged can repeal their judgment⁹⁹ but two who negotiated a compromise cannot repeal¹⁰⁰.

89 Tosephta 1:7, *Tanhuma Mišpatim* 6, *Sheiltot Mišpatim* 58, and in all Medieval quotes; only in Babli 6b both in the Munich ms. and *editio princeps* incorrectly: R. Simeon ben Laqish.

90 *Deut.* 1:17.

91 Tosephta 1:8.

92 In a similar, anonymous, *baraita* in the Babli (*Ševuot* 31a): A student sitting before his teacher. This probably has to be understood here.

93 *Ps.* 82:1.

94 *2Chr.* 19:6.

95 Incorrectly.

96 The judge.

97 Tosephta 1:9.

98 This also is the text of the Babli, 5b. But in the Tosephta: Just as judgment is rendered by three [judges], so compromise is made before three [judges].

99 Since is was rendered in regular fashion.

100 From the moment a party acquired what was awarded to him by the compromise, since this is a monetary transaction following the rules of *Qiddušin* 1:4-6.

18b line 50) האונס והמפתה כול'. רבי מנא אמר. בנערה מאורסה פליגי. רבי מאיר אומר. מפסדת כתובתה בשלשה ונסקלת בעשרים ושלשה. וחכמים אומרים. מקום שנסקלת שם מפסדת כתובתה. אבל במוציא שם רע כל-עמא מודו מקום שהעדים נסקליו שם הבעל לוקה ונותן מאה סלע. אמר ליה רבי יוסי בירבי בון. הן תניננה פלגה את עבד פלגיה. אלא במוציא שם רע פליגי. רבי מאיר אומר. הבעל לוקה ונותן מאה סלע בשלושה. והעדים נסקליו בעשרים ושלשה. ורבנין מרין. מקום שהעדים נסקליו שם הבעל לוקה ונותן מאה סלע. אבל בנערה מאורסה כל-עמא מודו מקום שנסקלת שם מפסדת כתובתה. ותייא דרבי מנא קרבי זעירא ודרבי יוסי בירבי בון קרבי אבהו.

1 פליגי | כ פליגין 2 בעשרים ושלשה | כ בשלושה ועשרים 3 שם | כ שם היא הן תניננה פלגה את עבד פלגיה | כ אין דלא תנינה פליגא¹⁰¹ 5 פליגא | כ פליגין הבעל | כ - 6 מרין | כ אמ' 7 ותייא | כ ואתייא

“The rapist and the seducer,” etc. ¹⁰²Rebbi Mana said, they disagree about the preliminarily married adolescent female. Rebbi Meïr says, she loses her *ketubah* in a court of three and is stoned in a court of 23; but the Sages say, at the same place which sentences her to be stoned she loses her *ketubah*. But in the case of the calumniator, everybody agrees that by the court in which the witnesses are stoned, the husband is flogged and pays 100 tetrachmas. Rebbi Yose ben Rebbi Abun said to him, would they differ where it was not stated? But they differ about the calumniator! Rebbi Meïr says, he is flogged and pays 100 tetrachmas by the judgment of three and the witnesses are stoned by the judgment of 23; but the rabbis say, by the court in which the witnesses are stoned, the husband is flogged and pays 100 tetrachmas. But in the case of the preliminarily married adolescent female, everybody agrees that at the same place which sentences her to be stoned she loses her *ketubah*. It turns out that Rebbi Mana follows Rebbi Ze‘ira and Rebbi Yose ben Rebbi Abun follows Rebbi Abbahu.

101 The *Ketubot* text is intelligible in contrast to the *Sanhedrin* text. The translation is taken from *Ketubot*.

explained there in Notes 113-116. The *Ketubot* (כ) text is original since only there is the disagreement between Rebbis Ze‘ira and Abbahu being explained.

102 This paragraph is from *Ketubot* 4:4,

רבי אבהו שאל. שור הנסקל כרבי מאיר מהו שיתן הכסף בשלשה ויסקל בעשרים ושלשה. אמר ליה רבי יוסי בירבי בון. שור הנסקל כולו כמון הוא וגזירת הכתוב הוא שייסקל. (18b line 60)

¹⁰³Rebbi Abbahu asked: Following Rebbi Meïr, should an ox which is stoned¹⁰⁴ have to pay damages¹⁰⁵ by a court of three and be stoned by 23? Rebbi Yose ben Rebbi Abun told him, the rules of an ox which is stoned are all about money¹⁰⁶; it is a decision of the verse that it should be stoned.

103 The paragraph is repeated in Halakhah 4.

104 The animal which killed a human (*Ex.* 21:28).

105 Not the ox but its owner.

106 Since fines and corporal punishment are mutually exclusive (*Terumot* 7:1 Notes 19-70; *Gittin* 5:5 Note 136), it is clear that stoning the ox is a fine imposed on its owner.

(fol. 17d) **משנה ב:** מכות בשלשה משום רבי ישמעאל אמרו בעשרים ושלשה. עבור החדש בשלשה עבור השנה בשלשה דברי רבי מאיר. רבן שמעון בן גמליאל אומר בשלשה מתחילין ובחמשה נושאים ונותנים וגומרין בשבעה. ואם גמרו בשלשה מעוברת.

Mishnah 2: Whipping by three [judges]; in the name of Rabbi Ismael they said, by 23¹⁰⁷. The lengthening of a month by three [judges]¹⁰⁸, the intercalation of a year by three [judges]¹⁰⁹, the words of Rabbi Meir. Rabban Simeon ben Gamliel says, one starts with three, one discusses with five, and one votes with seven¹¹⁰. But if they voted with three, it is intercalated.

107 The imposition of corporal punishment needs an official court of duly ordained judges. The Mishnah is a reconstruction of what was assumed to be the historic procedure; R. Ismael lived about 70 years after the removal of criminal jurisdiction from Jewish courts and R. Meir, represented by the anonymous opinion, more than 100 years afterwards. But the prescription of the Mishnah certainly was followed by the autonomous Jewish courts under the Parthians.

108 Whether a thirtieth day should be counted for the current month. Fixing the calendar was the sole privilege of a committee of the Patriarch's court as a successor to the Synhedrion. The current computed calendar was promulgated by such a court in the middle of the Fourth Century (*Eruvin* 3:11 21c l. 24).

109 In the current calendar, the addition of 30 days to the lunar year, labelled as "First Adar."

110 A committee of three has to decide whether the year be a candidate for intercalation; an enlarged committee of five has to do the detailed computations; a further enlarged committee of seven has to confirm the computations. Intercalated months in the lunar year are necessary to keep Passover in the "month of spring" as required by *Ex.* 13:4.

There is no basic disagreement between R. Meir and Rabban Simeon, since the latter agrees that in an emergency situation, a duly empowered committee of three is competent. Since Rabban Simeon was the Patriarch of the restoration during the second half of the Second Century, his procedure was the one actually used.

(18b line 63) **הלכה ב:** מכות בשלשה כול. רבי אבהו בעי. מכות בעשרים ושלשה. פועמים שמת ממכותיו והרי יש בו דיני נפשות.

Halakhah 2: "Whipping by three [judges]," etc. Rabbi Abbahu asked: Should not a sentence of whipping be passed by 23 [judges], since sometimes he might die from the whippings, so that it is a case of potential death sentence¹¹¹.

111 He holds that R. Ismael's position is the only reasonable one. But since the problem is purely theoretical (Note 32), it is not pursued further.

18b line 65) בַּר קַפָּרָא שָׁמַע כּוֹלְהוֹן מִהֶדָּא. וַיִּבְרַךְ יי וַיִּשְׁמְרֵךְ: מִכּוֹן שְׁמִיתִיחִילִין בְּשִׁלְשָׁה. וְאַרְבַּע יי פָּנָיו אֵלֶיךָ וַיַּחֲנֵךְ: מִכּוֹן שְׁנוּשָׁאִין וְנוֹתְנִין בְּחִמְשָׁה. וְשָׂא יי פָּנָיו אֵלֶיךָ וַיִּשֶׁם לָךְ שְׁלוֹם. מִכּוֹן שְׁנוּשָׁאִין וְנוֹתְנִין בְּשִׁבְעָה.

רַבִּי יְהוֹשֻׁעַ בֶּן לֵוִי שָׁמַע כּוֹלְהוֹן מִהֶדָּא. וַיִּקַּח רַב־טַבָּחִים אֶת־שְׁלֹשֶׁת שְׁמָרֵי הַסֵּף: מִכּוֹן שְׁמִיתִיחִילִין בְּשִׁלְשָׁה. וְחִמְשָׁה אֲנָשִׁים מֵרָאִי פְּנֵי־הַמֶּלֶךְ. מִכּוֹן שְׁנוּשָׁאִין וְנוֹתְנִין בְּחִמְשָׁה. וְשִׁבְעָה אֲנָשִׁים מֵרָאִי פְּנֵי־הַמֶּלֶךְ: מִכּוֹן שְׁנוּשָׁאִין וְנוֹתְנִין בְּשִׁבְעָה.

אָמַר רַבִּי יוֹנָתָן. מִיכּוֹן לְסִנְהֶדְרִין גְּדוּלָּה שְׁלֹכַל־יִשְׂרָאֵל. וַיִּקַּח שֵׁר הַטַּבָּחִים אֶת־שְׁנֵי כֶּהֱן הָרִאשׁ וְאֶת־צַפְנִיָּה כֶּהֱן הָרִי שְׁנִים. וְשִׁבְעָה אֲנָשִׁים מֵרָאִי פְּנֵי־הַמֶּלֶךְ הָרִי תִשְׁעָה. וְשָׂשִׁים אִישׁ מֵעַם הָאָרֶץ הָרִי שְׁבַעִים חֹסֵר אֶחָד. וּמִן־הָעִיר סָרִיס אֶחָד הָרִי שְׁבַעִים. אֵת תְּנִי תִנִּי. שְׁבַעִים וְאַחַד. וַיִּקַּח רַב־הַטַּבָּחִים אֶת־שְׁלֹשֶׁת שְׁמָרֵי הַסֵּף וְשִׁבְעָה מֵרָאִי פְּנֵי־הַמֶּלֶךְ וְשָׂשִׁים אִישׁ מֵעַם הָאָרֶץ. וּמִן־הָעִיר לָקַח סָרִיס אֶחָד. הָרִי שְׁבַעִים וְאַחַד. וְלָמָּה קוֹרִיחוֹ סָרִיס. שְׁמֹסֵרֵס אֶת הַהֶלְכָּה.

כָּתוּב אֶחָד אוֹמֵר חֲמִשָּׁה וְכָתוּב אֶחָד אוֹמֵר שְׁבַעִים. לִהְיוֹת שְׁנֵי סוֹפְרֵי הַדִּינִים.

Bar Qappara understood everything from here: *May the Eternal bless you and preserve you*, from here that one starts with three. *May the Eternal illuminate His Presence for you and be gracious to you*, from here that one continues with five. *May the Eternal turn His Presence to you and give you peace*, from here that one finishes with seven¹¹².

Rebbi Joshua ben Levi understood everything from the following: *The chief executioner took . . . the three guards of the threshold*¹¹³, from here that one starts with three. *And five men from the king's entourage*¹¹⁴, from here that one continues with five. *And seven men from the King's entourage*¹¹⁵, from here that one finishes with seven¹¹⁶.

Rebbi Jonathan said, from there the great Synhedrion of all of Israel. *The minister of the executioners took Seraiah the Chief Priest and Zephania the priest*¹¹³, these are two. *And seven men from the king's entourage*¹¹⁵, this makes nine. *And sixty men from the People of the Land*¹¹⁷, this makes seventy minus one. *And from the city one eunuch*¹¹⁵, this makes seventy. There are Tanna'im who state seventy-one: *The chief executioner took . . . the three guards of the threshold, and seven men from the king's entourage, and sixty men from the People of the Land, and from the city he took one eunuch*, this

makes seventy-one. And why is he called a eunuch? Because he transposes practice¹¹⁸.

One verse says *five*, the other verse says *seven*. The latter includes the two clerks of court.

112 From the verses of the priestly blessings, *Num.* 6:24-26, which have 3, 5, and 7 words respectively, one may infer that proceeding by 3,5,7 will give a blessed result. In the Babli, 10b, this argument is attributed to early Amora'im; in *Megillah* 23a it is applied to the number of people called to read from the Torah.

113 *Jer.* 52:24.

114 *2K.* 25:19.

115 *Jer.* 52:25.

116 Cf. Babli 10b. According to Rashi *ad loc.*, the verses describe the members of

king Sedekia's court and therefore are appropriate to the determination of the calendar which is a governmental exercise.

117 *2K.* 25:19, *Jer.* 52:25.

118 In rabbinic Hebrew, סרס "to castrate" is also used in the sense of "to transpose words or letters". While in the verse he is described as minister of defense, he is taken here as president of the court who can transpose precedents to apply to other cases. Cf. *Tosafot Megillah* 21b, s. v. כנגד.

3) לית כָּאן עִיבוֹר הַחוּדָשׁ אֶלָּא קִידוּשׁ הַחוּדָשׁ. שְׁמוּאֵל אָמַר. אִין קִידוּשׁ הַחוּדָשׁ פְּחוּת מִעֲשָׂרָה. חֲבִירִים מָהוּ לִיכְנֹס לְקִידוּשׁ הַחוּדָשׁ. אָמַר רַבִּי הוֹשְׁעִיָּה. חֶבֶר הוּנָא וְאַעֲלִי רַבִּי שְׁמוּאֵל בַּר רַב יִצְחָק לְקִידוּשׁ הַחוּדָשׁ וְלִי נָא יָדַע אִין סְלִקִית מִמִּנְיָנָא אִין לָא. פְּשִׁיטָא דְלָא סְלִיק. לָמָּה. בְּגִין דְּהִנֵּה חֲתֻנְיָה. אוּ מִשּׁוּם שְׂאִין חֲבִירִין נִכְנָסִין לְקִידוּשׁ הַחוּדָשׁ. אָמַר רַבִּי כְּהֵנָּא. חֶבֶר הוּנָא וְאַעֲלִי רַבִּי תַנְחוּם בַּר חִיָּה לְקִידוּשׁ הַחוּדָשׁ וְסְלִקִית מִמִּנְיָנָא. הֵדָּא אָמְרָה שְׁחֲבִירִים נִכְנָסִין לְקִידוּשׁ הַחוּדָשׁ.

חֲבִירִים מָהוּ לִיכְנֹס לְעִיבוֹר שָׁנָה. נִישְׁמַעִינָה מִהֵדָּא. מַעֲשֶׂה בְּרַבִּין גְּמִלְיָאֵל שְׁאַמֵּר. יְקָרְוָנִי שְׁבַעָה זְקֵינִים לְעֵלְיָהּ. וְנִכְנָסוּ שְׁמוֹנָה. אָמַר. מִי הוּא שְׁנִכְנָס שְׁלָא בְּרִשּׁוֹת. עֶמֶד שְׁמוּאֵל הֶסְטָן עַל רִגְלָיו וְאַמֵּר. אֲנִי עֲלִיתִי שְׁלָא בְּרִשּׁוֹת. הִלְכָּה נֶצְרָכָה לִי וְנִכְנָסְתִּי לְשָׂאוֹל עֲלִיָּהּ. אָמַר לוֹ רַבִּין גְּמִלְיָאֵל. וּמָה אֶלְדָּד וּמִידָד שְׁכַל־יִשְׂרָאֵל יוֹדְעִים שְׂאִילוּ הֵן שְׁנִים אֲמַרְתִּי שְׂאֵתָה אֶחָד מֵהֶן. וְאַפִּילוּ כֵן לֹא עִיבְרוּהָ בְּהוּא יוֹמָא וְאַפִּלְגּוּ בְּמִילִי דְּאוּרִיָּא וְעִיבְרוּהָ בְּיוֹמָא דְּבִתְרָא.

There is no lengthening of the month, but sanctification of the month¹¹⁹. Samuel says, sanctification of the month needs no less than ten [participants]¹²⁰. Should Fellows¹²¹ be able to enter for the sanctification of the month? Rabbi Hoshaia said, I was a Fellow and Rabbi Samuel bar Rav Isaac took me to the sanctification of the month, but I do not know whether I was counted or not. It is obvious that he was not counted¹²², but why? Was it

because he was his son-in-law¹²³, or because Fellows are not able to enter for the sanctification of the month? Rabbi Cahana said, I was a Fellow when Rabbi Tanhum bar Hiyya took me to the sanctification of the month and I was counted. This implies that Fellows enter for the sanctification of the month.

Are Fellows able to enter for the intercalation of the year? Let us hear from the following: ¹²⁴It happened that Rabban Gamliel said, call seven Elders to a meeting on the upper floor, but eight entered. He asked, who is the one who entered without permission? Samuel minor¹²⁵ stood up and said, I came up here without permission since I have a practical problem and I have to ask advice on it. Rabban Gamliel told him, you compare to Eldad and Medad; if I had said “two”, you would have been one of them. Nevertheless, they did not intercalate on that day but talked about themes in the Torah and intercalated the next day¹²⁶.

119 Babli 10b. In the absence of a computed calendar, the lengthening of the month is automatic. If the Synhedrion does not declare the 30th of a month as the 1st of the next, the 31st automatically is the first of the next month since no lunar month has more than 30 days. Therefore, action by the Synhedrion is needed not to lengthen, but to shorten the month and to designate the 30th as a semi-holiday.

120 To make it a public event. In contrast to the intercalation of the year, the determination of the month has to be made public as soon as possible.

121 Members of the Academy who are pledged to follow the rules of fellowship (cf. Introduction to Tractate *Demay*) but have not yet reached the status of rabbi.

122 If the chair of the meeting had asked him for his opinion, he would have

remembered.

123 Since relatives are barred from sitting together as judges and R. Hoshia was R. Samuel's son-in-law, he could not participate even if qualified.

124 Babli 11a.

125 He is called “minor” because of all people called Samuel only the prophet of the same name reached a higher state of holiness.

126 To protect the secrecy of the algorithm with which the years of intercalation were computed. This supports the contention of the Yerushalmi Gaon Eviatar haCohen in his Epistle that during the entire time of the Second Temple the calendar was computed and testimony about the new moon was only used as confirmation of the computation (M. Gil, *Palestine during the first Moslem period*, vol. 2, Tel Aviv 1983).

(17c line 18) תני סנהדרין שראו את ההורג. אית תנני תני. שנים נעשין עדים ומעידין בפני השאר. אית תנני תני. כולן עדים ומעידין בפני אחרים. רבי יהודה בר פזי בשם רבי זעירה. קשם שחולקין כאן כף חולקין בעדות החודש.

ויקום חד ויתבי חד ויקום חד ויתבי חד. שניא היא שאין העד נעשה דין. רב הונא הנה ידע שהדו לחד בר נש. אזל בעי מידון קומיה וכפר ביה. אמר רבי שמואל בר רב יצחק. בגין דאת יגע דרבי הונא אינשא רבה את כפר ביה. מהו דינא ויטהוד עלך קומי בית דין חורון. אמר ליה רב הונא. ועבדין כן. אמר ליה. אין. ושרא רב הונא גרמיה מן ההוא דינא ואזל ואסיהיד קומי בית דין חורון.

1 רב הונא | ר כהדא רב חונה 2 קומיה | ר קומי אמ' | ר אמ' ליה 3 דר' הונא אינשא רבא | ר דרב חונא בר נשא רבא מהו דינא | ר מה אילו ייול 3 ויטהוד | ר ויטהוד 4 הונא | ר חונה (פעמים) 5 ואסיהיד | ר ואסיהיד חורון | ר חורון

¹²⁷It was stated: If the Synhedrion¹²⁸ saw the killer. Some Tanna'im state: two of them become witnesses and testify before the rest of them¹²⁹. There are Tanna'im who state that they all are witnesses and have to go and testify before other [judges]¹³⁰. Rabbi Jehudah ben Pazi in the name of Rabbi Ze'ira: As they differ here, so they differ about testimony for the New Moon¹³¹.

¹³²Why cannot always one stand up and one sit down¹³³? There is a difference because a witness cannot be a judge¹³⁴. Rav Huna knew testimony for somebody. He¹³⁵ came and wanted to have the suit judged before Rav Huna, and denied all. Rabbi Samuel ben Rav Isaac told him, because you know that (Rebbi) [Rav]¹³⁶ Huna is an important person¹³⁷ you deny everything. What if Rav Huna went and testified against you in another court? Rav Huna asked him, does one do that? He answered, yes. Rav Huna recused himself from that suit, went, and testified before another court¹³⁸.

127 This paragraph has parallels in *Roš Haššanah* 3:1, *Sotah* 9:1 (Notes 18-19). The two are copies of one another; the text here is a reformulation.

128 In the other sources, "a court". The text here is influenced by the sequel which deals with a court empowered to treat calendar matters, the Synhedrion.

129 After addition of another two judges to complete the required number of judges.

130 They hold that a witness is automatically disqualified as a judge since he has an opinion about the case before the start of the proceedings.

131 Whether members of the Synhedrion who saw the New Moon may act as witnesses before their colleagues.

132 This paragraph is a parallel to the text in *Roš Haššanah* 3:1 (58d l.2), noted 8.

133 This refers to Mishnah *Roš Haššanah* 3:1 which prescribes that if three members

of the Court saw the New Moon, one of them may sit with two others as a court and the other two who saw the New Moon appear as witnesses before them. The question arises, why does one have to call two others; would one not be sufficient if alternately one stands up as a witness and one sits down as a judge.

134 Even if one does not hold that a potential witness be automatically disqualified as a judge, he must hold that once a person acted as a witness he is disqualified as a judge.

135 Rav Huna knew testimony for a creditor. The debtor required that the suit be heard in Rav Huna's court. He knew that

Rav Huna, as judge, could not act as witness and was prevented from using his knowledge in his judgment. He thought it was safe to deny any debt.

136 The correct title is in ר.

137 As Rav's successor, he was Chief Judge of all courts under the jurisdiction of the Academy of Sura. The debtor assumed that a Chief Judge could not appear in a lower court.

138 This decides practice. A judge who knows of the case has to disqualify himself and appear as a witness in another court. The Babli agrees, *Roš Haššanah* 25b, *Bava gamma* 90b.

18c line 26) תני רבי שמעון בן יוחי. וקדשתם את שנת החמשים שנה. שנים אתה מקדש ולא חדשים. והתנינו. ראש בית דין אומר. מקדש. מהו מקדש. מקיים. תני. לקידוש החדש מתחילין מגדול. אומר רבי חיה בר אבא. מתנייתא אמרה כן. ראש בית דין אומר. מקדש. תני. לעיבור החדש מתחילין מן הצד. אומר רבי בבידא. וההו ביתא דלרע לא נהיגין כן. ולא שמע דמר רבי חיה נר מריא ורבי יונה ורבי בא בר חיה בשם רבי יוחנן. לעיבור החדש מתחילין מגדול. לעיבור שנה מתחילין מן הצד. וכבר נכנס רבי יוחנן והיה קטן שבכולם. אמרו לו. אמור. הרי השנה מקודשת בעיבורה. אומר. הרי השנה מקודשת בעיבורה. אמר רבי יוחנן. ראה לשון שלימדנו בן הנפח. אילו אמר. בעיבורה. הייתי אומר. אילו אחד עשר יום שהחמה עודפת על לבנה. אלא בעיבור. שהוסיפו לה חכמים שלשים יום. רבי יעקוב בר אחא רבי יסא בשם רבי יוחנן. לעיבור הולכין אחר המינוי. לבית הועד הולכין אחר הרגל. והוא שיש כל-אחד מדבר במקומו וחותרם. כגון רבי חנינה פתח. רבי יוחנן וריש לקיש חותמין. רבי בא בר זבדא פתח. רבי יסא ורבי אמי חתמין. רבי חניי פתח. רבי יונה ורבי יוסי חתמין. רבי כהנא אימני קומי רבי יעקוב בר אחא ועל רבי יעקוב בר אחא קמיה מנייה לעיבורה. אומר. אכן מרה דשמעתא לא מקיים לה.

1 יוחי | ר יוחי א' אתה מקדש | ר מקדשין | 2 ולא | ר ואין מקדשין | והתנינו | ר והא תנינו | 3 מגדול | ר מן הגדול | 4 החדש | ר השנה | ביתא | ר בייא | 5 מריא | ר מדיא | ר' יונה | ר' יונה | ר' בא בר חיה | ר' בא בר חיה בשם ר' חיה | 6 לעיבור | ר לקידוש שנה | ר השנה | 7 והיה קטן שבכולם | ר והוא היה הקטן שבהן | 8 בעיבורה | ר בעיבור | 9 לבנה | ר הלבנה בכל שנה | יום | ר יום ועיבורה | 11 הרגל | ר הרגל | שיש | ר שיהא | אחד | ר אחד ואחד | וחותרם | ר - | וריש לקיש חותמין | ר ור' שמעון בן לקיש חתמין

12 ר' יסא ור' אמי | ר' חייה ור' אסי ור' אימי 13 יוסי | ר' יסא אימי | ר' איתמני קומי | ר' קדמי מן ועל
 | ר' אעל קמיה מנייה | ר' קגמי מנייה 14 אכן | ר' הכין דשמעתא | ר' דשמעתא

¹³⁸Rebbi Simeon ben Iohai stated: *You shall sanctify the Fiftieth Year*¹⁴⁰. You shall sanctify years but not months¹⁴¹. But did we not state¹⁴²: “The president of the court says: sanctified”? What means sanctified? Confirmed¹⁴³. It was stated: For sanctifying months one starts¹⁴⁴ with the most senior person. Rebbi Hiyya bar Ada said, the Mishnah says this: “The president of the court says: sanctified.” It was stated, for intercalation of the (month) [year]¹⁴⁵ one starts from the side¹⁴⁶. Rebbi Zebida said, but this lower house¹⁴⁷ do not proceed in this way, for they did not hear what Rebbi Hiyya bar Marius¹⁴⁸ and Rebbi Jonah, Rebbi Abba bar Hiyya said in the name of Rebbi Johanan: For lengthening the month one starts with the most senior person, for intercalating the year one starts from the side. When Rebbi Johanan was participating as the most junior person, they told him, say: “this year is sanctified in its intercalation.” He said, “this year is sanctified in intercalation.” Rebbi Jonathan said, look at the language which the smith’s son¹⁴⁹ taught us. If he had said, “in its intercalation,” I would have said that this refers to the eleven days by which the solar year exceeds the lunar one, but [he said] “in intercalation”, that the Sages added thirty days to it¹⁵⁰. Rebbi Jacob bar Aha, Rebbi Yasa in the name of Rebbi Johanan: For intercalation one follows the date of ordination. In the Academy one follows usage; each one gives his opinion at his place and sums up. For example, Rebbi Hanina¹⁵¹ started, Rebbi Johanan and Rebbi Simeon ben Laqisch summed up. Rebbi Abba bar Zavda started, Rebbi Yasa and Rebbi Immi¹⁵² summed up. Rebbi Haggai started, Rebbi Jonah and Rebbi Yose summed up. Rebbi Cahana was ordained before Rebbi Jacob bar Aha, but Rebbi Rebbi Jacob bar Aha participated in intercalation before Rebbi Cahana was invited. He said, the person who formulated the tradition does not respect it for himself¹⁵³.

139 This and the following paragraphs are copied from *Roš Haššanah* 2:6 (ר), which is the original source.

140 *Lev.* 25:10.

141 The “sanctification of the month” (Note 119) really is a sanctification of the

Day of the New Moon (*Num.* 28:11-15), not of the entire month. But the Jubilee year itself is holy.

In the Babli 10b, this is in the name of R. Eliezer or R. Eleazar; in *Roš Haššanah* 8b in the name of “the rabbis.”

142 Mishnah *Roš Haššanah* 2:8.

143 The day is confirmed as one of additional religious services.

144 Polling the judges' opinions.

145 The text in brackets, from *Roš Haššanah*, is the correct one. The *Sanhedrin* text, in parentheses, is a scribal error.

146 The senior judge sat in the middle, the most junior judge sat on the last chair to his left or right. One starts polling the most junior judge.

147 The Patriarch's court, the only one empowered to determine the calendar, was held in low esteem by him.

148 It is impossible to determine whether מרייא or מדייא is the correct reading.

149 R. Johanan bar Nappaha, "son of the bellows-blower."

150 Any intercalary year has an additional month of 30 days; in the computed calendar this is Adar I.

151 He probably is R. Hinena, the student of R. Johanan in Tiberias, not R. Hanina, his teacher at Sepphoris

152 This is the correct text, not "R. Hiyya, R. Yasa, and R. Immi" as in *Roš Haššanah* since R. Hiyya (bar Abba), while also a student of R. Yasa, is not known to have participated in an Academy with him.

153 By his own teaching in the name of R. Johanan, he should have insisted that R. Cahana be invited first.

(18c line 44) רבי חייה בר ויה הנה קאים מצלי. אעל רב כהנא וקם ליה מן חורי מצלי. חסל רבי חייה ויתב ליה בגין דלא מיעבר קומוי. שרי רב כהנא מאריז בצלותיה. כין דחסל אמר. כן אתון נהגין לצעורי רבכון. אמר ליה. אנא מבית עלי קאתינא. דכתב בהו אס'תכפר עון בית'עלי בגבח ובמנחה. בגבח ובמנחה אין מתכפר. אבל מתכפר בתפילה. וצלי עלוי וזכה למיטב עד דאתעבדון טופריי סומקין כהנא רקקה.

1 ווא | ר בא | ר | ר' מן חורי מצלי | ר מצלי מן אחוריי | חסל | ר מן דחסל | 2 ר' חייה | ר | ר' חייה בר בא מן צלותיה ויתב | ר יתב | ר מיעבר | ר מיעבר שרי רב כהנא | ר' ר' כהנא | כין | ר מן | אמר | ר' ר' כהנא אמ' ליה | 3 כן | ר הכין | נהגין לצעורי רבכון | ר נהגין גביכון מצערי רב רבכון | ליה | ר ליה. ר'. מבית עלי קאתינא | ר מדבית עלי | דביתב בהו | ר וכתב על בית עלי | 4 ובמנחה | ר ובמנחה עד עולם | מתכפר | ר מתכפר לו (2x) | 5 טופריי סומקין | ר טופריי סומקין | רקקה | ר דקקה

¹⁵⁴Rebbi Hiyya bar Abba was standing praying. Rav¹⁵⁵ Cahana came and stood behind him in prayer. When Rebbi Hiyya had finished, he sat down in order not to walk by him. Rav Cahana spent a long time praying. After he finished, he told him, is that your way to make your teacher suffer? He told him, I am a descendant of the House of Eli, of whom it is written¹⁵⁶: *if the sin of the House of Eli would be atoned for by sacrifice and offering*. By sacrifice and offering it cannot be atoned for, but it can be atoned for by prayer¹⁵⁷. He prayed for him, he reached old age while his fingernails remained red like those of a small child¹⁵⁸.

154 This paragraph is inserted only because R. Cahana, a very minor figure, was mentioned before and there was a story known about him. In the Babli, *Berakhot* 27a, it is told that R. Jeremiah bar Abba was praying behind Rav, and that Rav remained immovable until R. Jeremiah had finished praying, from which it is inferred that one may not walk by a person standing in silent prayer.

155 The person here must be *Rebbi* Cahana, as correctly identified in *Roš Haššanah*, not one of the Rav Cahanas mentioned in the Babli, one of which was a student (and possibly stepson) of Rav, one generation before R. Hiyya bar Abba, and the other a contemporary of Rav Ashi, five

generations later. Nevertheless, this *Rebbi* Cahana is characterized as a Babylonian, first by his use of the prefix ק for the present participle and also because only Babylonian families of priests trace their family back to the priest Eli of Shiloh, whose male descendants are cursed to die young.

156 *I.S.* 3:14.

157 In the Babli, *Roš Haššanah* 18a, the verse is applied to the family of Rabba bar Nahmani, who could prolong life by Torah study and charity work.

158 Translation of the text of ר, רקקה, rather than the text here, רקקה “exceedingly thin”.

(18c line 50) ריש לקיש אקדמון ליה חד סב בעיבור ואעלוגיה מן ההוא תרעא דלהן. אמר. כן יהא בשכרן. ולא שמיצ. דמר רבי קריספדא בשם רבי יוחנן. מעשה ועיברו את השנה שלשה רועי בקר. חד אמר. בכיר ולקיש באדר מינן. וחד אמר. תור באדר בעריה ימות ובטל תינתא לשלח משכיה. וחד אמר. קדום באדר פח בלועד: פוק לקיבליה. ונן חמין הדין שתא ולית בה חד מינהון. ועיברו השנה על פיהם. אמר רבי חלבוביית דין הספים עמיהן. ולא כן אמר רבי זעירא. והוא שניהו הכל מודין מצד אחד. כין דאילין מודין לאילין ואילין לאילין קמי שכולם מודין מצד אחד.

1 ריש | ר' שמעון בן | בעיבור | ר' לעיבורא | דלהן | ר' דהל | 2 דמר | ר' דאמ' | קריספדא | ר' קריספא ועיברו | ר' שעברו | את | ר' - 3 חד | חד מיטון | ולקיש | ר' לקיש | וחד | ר' וחורנה | 3-4 תור באדר ... קדום באדר | ר' switched positions | 3 בעריה | ר' בעדריה | ובטל | ר' ובטל | ישלח משכיה | ר' משכיה | ישלח פח בלועד | ר' פוח לוחד | פוק | ר' ופוק | לקיבליה | ר' לקובליה | ונן | ר' ואנן | הדין | ר' - 5 ולית | ר' דלית | השנה | ר' את השנה | ובית דין הסכים | ר' והסכים | בית דין | ולא | ר' לא | 6 זעירא | ר' זעורה | והוא | ר' והן | הכל מודין מצד | ר' כולם מורין מטעם | כיון | ר' מכיון | מודין | ר' מורין | לאילין | ר' מודי לאילין | 7 שכולם מודין מצד | ר' שכולן מורין מטעם

They preferred an old man to Rabbi Simeon ben Laqish for intercalation but had to remove him by the other door¹⁵⁹. He said, this is their reward¹⁶⁰. Did he not hear what Rabbi Crispus¹⁶¹ said in the name of Rabbi Johanan: It happened that the year was intercalated by three cow hands. One said, in Adar, early and late grain¹⁶² sprout together. One said, in Adar the ox will die

naked¹⁶³ and try to strip off his hide under the fig tree. One said, if in Adar the East wind¹⁶⁴ blows, open your jaws and go towards it. And we see that this year nothing of these applies. They intercalated the year on their word. Rabbi Helbo said, because the Court agreed with them¹⁶⁵. Rabbi Ze'ira said, but they all have to agree to the same reason¹⁶⁶. But since they all agree with one another it was that they all agreed as to the reason¹⁶⁷.

159 He turned out not to have the required qualifications.

160 The embarrassment of having to remove a member of the Court is deserved punishment for the powers-that-be who neglected R. Simeon ben Laqish.

161 The form קריספדא is Babylonian. The story is anonymous in Babli 18b.

162 Barley and wheat.

163 In *Roš Haššanah* בעדריה "in its herd". In Adar (about March) sometimes it is cold and cattle might die; sometimes it is hot,

cattle look for shade under trees and rub themselves against them as if they tried to remove their hides.

164 The start of the Hamsin season.

165 The cow hands might have provided the arguments but the action was the Court's; the story is irrelevant for R. Simeon ben Laqish's complaint.

166 How could they follow the cow hands if each of them gave a different reason?

167 All three of them agreed to all three reasons.

59) (18c line 59) וְרִישׁ לְקִישׁ מְקַפֵּיד עַל הָדָא מִיִּלְתָּא. חָשַׁשׁ עַל מָה דְּמַר רַבִּי לְעֶזֶר. דְּמַר רַבִּי לְעֶזֶר. וְהִיָּתָה יָדִי עַל הַנְּבִיאִים הַחֲזִים שְׁנֵא בְּסוּד עָמִי לֹא־יְהִי זֶה עִיבּוּר וּבִכְתָּב בֵּית־יִשְׂרָאֵל לֹא יִכְתְּבוּ זֶה הַמִּנּוּי. וְאֶל־אֲדָמַת יִשְׂרָאֵל לֹא יָבוֹאוּ זֶה אֲרָץ יִשְׂרָאֵל. רַבִּי לְעֶזֶר כִּד סֶלֶק הָכָא אָמַר. הָא גְבִי תָדָא. כִּד מְנוּנְיָה אָמַר. הָא גְבִי תִרִי. כִּד אָעַל לְעִיבּוּרָא אָמַר. הָא גְבִי תִלֵּת. 1 רִישׁ | ר' שְׁמַעוֹן בֶּן מְקַפֵּיד | ר' מְקַפֵּיד עַל מָה דְּמַר | ר' לֵהִיא דָּאמ' | דְּמַר | ר' דָּאמ' 2 בְּסוּד | ר' וְהִקְסָמִים כְּנָבִי בְּסוּד עִיבּוּר | ר' סוּד הַעִיבּוּר 3 ר' לְעֶזֶר | ר' וְאִמ' ר' לְעֶזֶר סֶלֶק הָכָא אָמַר | ר' סֶלֶקִית לֵהכָא אָמַרִית 4 גְבִי | ר' גְבִי מְנוּנְיָה אָמַר | ר' מְנוּנְיָה אָמַרִית גְבִי תִרִי | ר' גְבִי תִרְתִּי אָעַל | ר' עֲלִית אָמַר | ר' אָמַרִית גְבִי תִלֵּת | ר' תִּלְתִּיהוֹן גְבִי

Why was Rabbi Simeon ben Laqish offended by this? He was worried about what Rabbi Eleazar said, since Rabbi Eleazar said¹⁶⁸: *My hand will be against the prophets who see . . . vain things, in my people's council*¹⁶⁹ *they shall not be*; that is [the secret of]¹⁷⁰ intercalation; *in the documents of the House of Israel they will not be inscribed*; that is ordination; *and to the earth of Israel they shall not come*; that is the Land of Israel. When Rabbi Eleazar came here, he said, I have one. When they ordained him, he said, I have two.

When he was asked to participate in the intercalation, he said, I have all three [with me]¹⁷⁰.

168 Ez. 13:9. In the Bali, *Ketubot* 112a.

170 From the text in *Roš Haššanah*.

169 Identifying biblical סוד “council” with rabbinic סוד “secret”.

(18c line 64) רבי בא בר זבדא בשם רב. טעמא דרבי לעזר בירבי צדוק בשעה שרואין בית דין שלמעלה דין שלמסן שמקדשין אותו גם הם מקדשין אותו.

Rebbi Abba bar Zavda in the name of Rav: The reason of Rebbi Eleazar ben Rebbi Sadoq: When the Heavenly Court sees that the earthly Court sanctifies it, they also sanctify it¹⁷¹.

171 This is a slightly garbled reformulation of the corresponding paragraph in *Roš Haššanah*; it has no relevance here. The reference is to Mishnah *Roš Haššanah* 2:8 where Rebbi Eleazar ben Rebbi Sadoq says that the New Moon after a month of 30 days

does not need sanctification by the Court since it was sanctified by Heaven. In *Roš Haššanah* one reads: When the Heavenly court sees that the Earthly Court *did not* sanctify (the 30th day), they (automatically) sanctify (the 31st day.)

(18c line 66) רבי לעזר בשם רבי חנינה. מעשה בעשרים וארבע קריות שלבית רבי שנכנסו לעבר שנה בלוד ונכנסה בהן עין רע ומתו כולם בפרק אחד. מאותה שעה עקרוה מיהודה וקבעוה בגליל. בעיין מיעקר אף אהן סימנא. אמר לון רבי סימון. אין אנו מניחין ביהודה אפילו זכר. והרי מצינו שקידשו את השנה בבגלת. הדיא בעלת זמנין מיהודה וזמנין מדין. אלתסה וגבתון ובעלת הרי הן מיהודה. בגלתה ועיים ועצם הרי מדין. והרי מצינו שקידשו את השנה בבגלת. מימר. בתים מיהודה ופדות מדין. רבי ירמיה בעא קומי רבי זעירא. ולוד לאו מיהודה היא. אמר ליה אין. ומפני מה אין מעברין בה. אמר ליה. שהן גסי רוח ומעוטי תורה. הפיד אפוי וחמא רבי אחא ורבי יודה בן פזי. אמר ליה. איטא עבדתני מבזה רבון.

Rebbi Eleazar in the name of Rebbi Hanina. It happened that 24 people appointed by the House of Rebbi entered to intercalate the year at Lydda when an evil eye entered with them and they all died at the same time. From that time on they removed it from Judea and established it in Galilee. They also wanted to remove the signal¹⁷². Rebbi Simon told them, do we not even want to leave a remembrance in Judea? But we find that they intercalated the year at Ba'alat. This Ba'alat is sometimes [mentioned as being] in Judea,

sometimes in Dan. *Elteqe, and Gibbeton, and Ba'alat* are from Judea¹⁷³. *Ba'alah, and Iyyim, and Asem*¹⁷⁴ are from Dan, and we find that they intercalated the year at Ba'alat. Let us say that the houses were in Judea and the fields in Dan. Rabbi Jeremiah asked before Rabbi Ze'ira: Is Lydda not in Judea¹⁷⁵? He answered, yes. Then why does one not intercalate there? He told him, because they are coarse of spirit and have little learning¹⁷⁶. He turned his face and saw Rabbi Aha and Rabbi Judah ben Pazi¹⁷⁷. He said to him, presently¹⁷⁸ you made me insult rabbis.

172 They wanted to drop the condition of agriculture in Judea from consideration in deciding on intercalation, as described in the next paragraph.

173 *Jos.* 19:44, in the list of cities of *Dan*.

174 *Jos.* 15:29, in the list of cities of *Jehudah*. Probably the reference should have been to v. 24, mentioning the town of *בְּעִלֹת*.

175 In post-biblical Judea; it was in biblical Benjamin (*1Chr.* 8:13).

176 While before the war of Bar Kokhba it was one of the main seats of learning.

177 Rabbis of Lydda.

178 Greek *ἔτα*. Since the word is also found in Syriac, it is not impossible that two native Babylonians used it when speaking to one another.

1) (18d line 1) עַל שְׁלֹשָׁה סִימָנִין מַעְבְּרִין אֶת הַשָּׁנָה. עַל אֲבִיב וְעַל הַתְּקוּפָה וְעַל פִּירוֹת הָאֵילָן. עַל שְׁנַיִם מַעְבְּרִין עַל אֶחָד אֵין מַעְבְּרִין. וְאִם עֵיבְרִיהָ הָרִי זֶה מַעְוִבֶרֶת. וְכִשְׁהִיא אֲבִיב אֶחָד מֵהֶן הִי שְׁמַחִין. רַבָּן שְׁמַעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר. אִף עַל הַתְּקוּפָה.

¹⁷⁹For three indications one intercalates a year: because of fresh grain¹⁸⁰, the equinox¹⁸¹, and tree fruits¹⁸². One intercalates because of two of them, because of a single one does not intercalate; but if they intercalated, it is intercalated. If fresh grain was one of the reasons, everybody was happy¹⁸³. Rabban Simeon ben Gamliel said, also¹⁸⁴ because of the equinox."

עַל שְׁלֹשׁ אֲרָצוֹת מַעְבְּרִין לַשָּׁנָה. עַל יְהוּדָה וְעַל עֶבֶר הַיַּרְדֵּן וְהַגָּלִיל. עַל שְׁתַּיִם מַעְבְּרִין עַל אַחַת אֵין מַעְבְּרִין. וְאִם עֵיבְרִיהָ אֵינָה מַעְוִבֶרֶת. וְכִשְׁהִי יְהוּדָה אַחַת מֵהֶן הִי שְׁמַחִין מִפְּנֵי שְׁהַעוֹמֵר בָּא מִמֶּנָּה.

"For three regions one intercalates a year, because of Judea, Transjordan, and Galilee¹⁸⁶. One intercalates because of two of them, while because of one of them one does not intercalate; if they did intercalate it is not

intercalated^{187,188}. If Judea was one of the reasons, everybody¹⁸⁹ was happy since the 'Omer was brought from there.

אין מעברין לא מפני הצנינה ולא מפני הגשמים. ואם עיברה אינה מעוברת. אין מעברין לא מפני הגדלים ולא מפני הגוזלים ולא מפני החלב. וכולם סעד לשנה. ואם עיברה מעוברת. רבי ינאי אמר משום רבן גמליאל שהיה אומר. אימריא רכיבין וגוזליא דקיין ושפר באפוי ובאפי חבירי מוספא על שתא דא תלתין יומין.

¹⁹⁰“One intercalates neither because of the cold, nor because of the rains¹⁹¹; if they did intercalate it is not intercalated¹⁸⁸. One intercalates neither because of kid goats nor because of pigeon chicks, nor because of milk [lambs]¹⁹²; but all of them are ancillary reasons for the year. ¹⁹³Rebbi Yannai¹⁹⁴ said that Rabban Gamliel¹⁹⁵ used to say: The sheep are thin and the pigeon chicks small; it appears good in my eyes and in those of my colleagues to add thirty days to the year.”

תני. אמר רבי יודן. מעשה ברבן גמליאל וזקנים שהיו יושבין על גב מעלה בהר הבית ויוחנן סופר הלך יושב לפניו. אמר לו רבן גמליאל. כתוב. לאחנא בני דרומא עילאה לאחנא בני דרומא ארעיא שלמכון וסגא. מודענא לכו דמטא זמן ביעורא. לאפוקי מעשריין מעומרי שובליא. ולאחמא בני גלילא עילאה ובני גלילא ארעיא שלמכון וסגא. מודענא לכו דמטא זמן ביעורא. תפקון מעשריין ממעטני זיתא. לאחמא בני גלותא דבבל בני גלותא דמדי בני גלותא דיוון ושאר כל גלותא דישאל שלמכון וסגא. מודענא לכו דאימריא רכיבין וגוזליא דקיין וימנא דאביבא לא מטא ושפר מילתא באפי ובאפי חבירי מוספא על שתא דא תלתין יומין.

¹⁹⁶“Rebbi Jehudah said: it happened that Rabban Gamliel and the Elders were sitting on stairs on the Temple Mount¹⁹⁷; their scribe Johanan was sitting before them when Rabban Gamliel said to him, write: To our brothers in the Upper Southland and the Lower Southland¹⁹⁸, may you have much peace. We inform you that the time of liquidation has come, to deliver tithes from the sheaves of grain. To our brothers in the Upper Galilee and the Lower Galilee¹⁹⁹, may you have much peace. We inform you that the time of liquidation has come, to deliver tithes from the olive presses. To our brothers in the diaspora of Babylonia, the diaspora of Media, the diaspora of Greece, and all other diasporas of Israel, may you have much peace. We inform you that the sheep are thin, the pigeon chicks small, and springtime has not

arrived; it appears good in my eyes and those of my colleagues to add thirty days to this year.”

אין מעבירין את השנה אלא אם כן היתה חסירה רוב החודש. וכמה רוב החודש. י"ז יום. רבי יהודה אומר שתי ידות החודש כ"א יום. אמר רבי שמואל בר נחמן. והוא שיקרב העומר סוף ניסן שלתקופות. אמר רבי יוסי. עד הפסח. אמר רב מתניה. והוא שיטלו לילב בסוף תשרי שלתקופות.

²⁰⁰“One does not intercalate a year unless it be missing most of a month. How much is most of a month? 16 days²⁰¹. Rabbi Jehudah says two thirds of a month, 21 days.” Rabbi Samuel bar Nahman said, only that the *’Omer* should be brought at the end of Nisan of equinoxes²⁰². Rabbi Yose said, before Passover²⁰³. Rav Mattaniah said, only that *lulav* be taken at the end of Tishre of equinoxes²⁰⁴.

אין מעבירין לשנה לא פחות מחודש ולא יותר על חודש. ואם עיברה אינה מעוברת.

²⁰⁵“One intercalates a year neither less than a month, nor more than a month; if it was intercalated²⁰⁶, it is not intercalated.”

179 The following paragraphs are all in the Tosephta, Chapter 2, 2-11. The present paragraph and the following also are in the Babli, 11b.

180 Since the celebration of the festival of unleavened bread requires the offering of fresh barley grain in the *’omer* ceremony (*Lev.* 23:9-14), the lunar year has to be adjusted so that Passover be celebrated in the “month of fresh grain” (*Ex.* 13:4-5).

181 As explained later, the verses *Ex.* 13:4-5 are interpreted to mean that the spring equinox must fall before Passover, but no more than 30 days earlier.

182 If it seems likely that the fruits will not be edible by Pentecost, the start of the season for First Fruits.

183 It is forbidden to eat from new grain before the *’omer* ceremony, *Lev.* 23:14. If the year was intercalated because new grain

was not ready, it imposed no restrictions on people since new grain was not available anyhow.

184 Rashi in his Commentary wants to delete אף “also”, since it does not make much sense in the context. But since the text is confirmed by three sources, it cannot be deleted.

185 The Babli is undecided as to whether Rabban Gamliel refers to the reasons for intercalations, that the date of the equinox is sufficient as single reason for intercalation, or to reasons for joy.

186 Since the *’omer* can be offered from any place in the Holy Land if barley is not ripe in Judea. Transjordan is defined as that part East of the Jordan which is included in the legal definition of the Land of Israel, cf. *Ševi’it* 6:1, Notes 32-51.

187 In the Tosephta: "it is intercalated." The sentence is missing in the Babli, which has to be read as tacit endorsement of the Tosephta (or better, the Tosephta has to be read as explaining the Babli's position.)

188 Since intercalation was the prerogative of the Synhedrion, the expression "it is not intercalated" can only mean that in this case the intercalation is revocable, in contrast to other cases where it is irrevocable once announced.

189 In Judea, where one could expect cheap new grain after Passover.

190 Babli 11a.

191 The convenience of travelers, pilgrims for the Passover festival, should not be a consideration.

192 Most private obligations of sacrifices are satisfied either with a couple of pigeons or with offerings of lambs and kid goats. It is desirable that there be an ample supply available for pilgrims at Passover time, but this is not an absolute necessity.

193 The text of the Babli makes clear that this sentence explains what is meant by "ancillary reasons for intercalation."

194 The Tanna.

195 In both Babylonian sources, Rabban Simeon ben Gamliel. The Yerushalmi version is preferable, as shown by the later text of Rabban Gamliel I's proclamations.

196 Babli 11b, Tosephta 2:6.

197 Since they assembled outside the Temple precinct, the procedure is to be dated to the time of the Roman procurators who had taken over criminal jurisdiction "40 years before the destruction of the Temple" (Note 31).

198 The grain growing areas South of Lydda, both in the hills (the Upper) and near

the coast (the Lower). Heave and tithes, which have to be separated immediately after processing, have to be delivered before the holiday, and Second Tithe, in years 1,2,4,5 of the Sabbatical cycle, taken to Jerusalem for the holiday celebration.

199 For definition of these regions see *Ševi'it* 9:2, Notes 40-41.

200 Babli 13a, Tosephta 2:7.

201 The version of the Tosephta implies that a month has to be added if otherwise the Spring equinox would fall on the 17th of Nisan or later, for R. Jehudah on the 22nd or later.

202 "Nisan of the equinox" is the solar period 30 days from the equinox. He is more restrictive and holds that the equinox must fall on or before (but no more than 30 days before) the 15th of the lunar Nisan. "At the end" means "after the first." (Today's computed calendar sometimes violates this rule.)

203 Since the Passover day is the 14th of Nisan, he requires the Spring equinox not to fall after this date. He is reputed to be the editor of the computed calendar, which however has come to us only through the works of authors living several hundred years later.

204 He requires in addition that the fall equinox be no later than the 15th of Tishre. In our computed calendar, this rule is violated about once in a 19 year period.

205 Babli 11a, Tosephta 2:8. The Tosephta here follows the Yerushalmi text, which allows for a "month", i. e., either 29 or 30 days. The Babli prescribes 30 days; it notes 29 as permissible only for Rabban Simeon ben Gamliel (II). The computed calendar in this matter follows the Babli.

206 For a different number of days.

(18d line 28) אין מעברין לא בשביעית ולא במוצאי שביעית. ואם עיברה הרי זו מעוברת. אימתי רגילין לעבר. בערבי שביעיות. רבי זעירא בשם רבי אבהו. הדיא דתימר עד שלא התיר רבי לישח נרק מחוץ לארץ לארץ. אבל משהתיר רבי לישח נרק מחוץ לארץ לארץ היא שביעית היא שאר שני שבוע.

²⁰⁷“One intercalates neither in a Sabbatical year nor the year following a Sabbatical; but if it was intercalated it is intercalated. When does one usually intercalate? The year preceding a Sabbatical.” Rabbi Ze’ira said in the name of Rabbi Abbahu, that is before Rabbi permitted to import produce from outside the Land into the Land. But since Rabbi permitted to import produce from outside the Land into the Land, there is no difference between a Sabbatical and the remaining years of the Sabbatical cycle.

207 Babli 12a, Tosephta 2:9, *Nedarim* 6:13, *Šeqalim* 1:2 (46a 1.51). The text from here to the end of the Halakhah is essentially copied in *Nedarim*, explained in Notes 83-141. The short parallel in *Šeqalim* belongs to a different tradition. The

paragraphs are alternately shortened and extended; they cannot be considered exact copies of one another. The Notes to the text following are restricted to indicate deviations from the text in *Nedarim*.

(18d line 32) היה רבי מאיר אומר. הרי הוא אומר. ואיש בלא מבעל שלשה ויבא לאיש האלהים לחם בכורים עשרים לחם וגו'. והואיל והיתה השנה צריכה להתעבר מפני מה לא עיברה אלישע. אלא מלמד שהיו שני רעבון והיו קופצים לגרנות.

²⁰⁸Rabbi Meir used to say: it is said, *a man came from Baal Shalisha and brought to the Man of God first fruit bread, twenty loaves*, etc. Since the year should have been intercalated, why did Elisha not intercalate? This teaches that it was a year of famine and people were eager for threshing floors.

(18d line 36) אית תני תני. אין מעברין מפני הטומאה. רבי יוסי אומר מעברין. שכן מצינו בחזקיה שעיבר מפני הטומאה. שנאמר כי מרבית העם מאפרים ומנשה ויששכר וזבולון לא הטירו כי אכלו את הפסח בלא כתיוב כי התפלל יחזקיהו לאמר יהנה הטוב יכפר בעד. רבי שמעון אומר. אף על פי שעיברו ניסן אין מעובר אלא אדר. רבי שמעון בן יהודה אומר משום רבי שמעון. עישה יחזקיהו לציבור לעשות פסח שני.

Some Tannaïm state: "One does not intercalate because of impurity." Rabbi Yose²⁰⁹ says, one intercalates, since we find that Hezekiah intercalated because of the impurity, as it is said: *For most of the people from Ephraim, Manasse, Issachar, and Zevulun had not been purified, for they ate the Passover contrary to what is written, for Hezekiah had prayed, saying, the Eternal, the Benevolent, will pardon this.* Rabbi Simeon says, even though he intercalated Nisan, it was Adar which was intercalated. Rabbi Simeon ben Jehudah said in the name of Rabbi Simeon: Hezekiah forced the community to celebrate the Second Passover."

(18d line 41) אֵת תַּנְיִי תַנִּי. מַעֲבְרִין מִפְּנֵי הַטּוּמְאָה. אֵת תַּנְיִי תַנִּי. אֵין מַעֲבְרִין. מֵאֵן דָּאָמַר אֵין מַעֲבְרִין. מִינָה כִּי־אָכְלוּ אֶת־הַפֶּסַח בְּלֹא כִכְתוּב. וּמֵאֵן דָּמַר מַעֲבְרִין. מֵה מְקַיִם בְּלֹא כִכְתוּב. מִפְּנֵי שֶׁעִיבְרוּ נִסָּן וְאֵין מַעֲבְרִין אֶלָּא אָדָר. וְתַנִּיא כִּי דָמַר רַבִּי סִימּוֹן בַּר זְבִיד. גּוֹלְגּוֹלֶת אֶרְנָן הִבְיוּסִי מִצָּאוֹ תַחַת הַמִּזְבֵּחַ.

Some Tannaïm state: One intercalates because of impurity. Some Tannaïm state: One does not intercalate. He who says, one does not intercalate, from the following: *for they ate the Passover contrary to what is written.* How does the one who says one does not intercalate, explain *contrary to what is written*? They intercalated in Nisan but one intercalates only in Adar. This follows what Rabbi Simon bar Zavdi said: they found the skull of Ornan the Yebusite under the altar.

(18d line 46) כְּתִיב כָּל־לִבָּבוֹ הֵלִין לְדְרוֹשׁ הָאֱלֹהִים וְלַעֲשׂוֹת וּלְלַמֵּד בְּיִשְׂרָאֵל חֶק וּמִשְׁפָּט. רַבִּי סִימּוֹן בַּר זְבִיד וְרַבִּי שְׁמוּאֵל בַּר נַחֲמָן. חַד אָמַר. אֶפִּילוֹ כִּמְה עָשָׂה לְטַהֲרֵת הַקּוֹדֶשׁ לֹא יָצָא יָדִי טַהֲרֵת הַקּוֹדֶשׁ. וְחַד אָמַר. אֶפִּילוֹ כָּל־מַעֲשִׂים טוֹבִים שֶׁעוֹשִׂין לְטַהֲרֵת הַקּוֹדֶשׁ לֹא יָצָא יָדִי טַהֲרֵת הַקּוֹדֶשׁ. כְּתִיב וַיַּחֲלִיז בְּאֶחָד לַחֹדֶשׁ הָרִאשׁוֹן לְקַדֵּשׁ וּבָיִים שְׁמוֹנֶה לַחֹדֶשׁ גָּאוֹ לְאוֹלָם יִי וַיִּקְדָּשׁוּ אֶת־בֵּית־יִי לְנִמִּים שְׁלֹשָׁה וּבָיִים שֶׁשָּׁה עֶשֶׂר לַחֹדֶשׁ הָרִאשׁוֹן כִּלְפֵי וְהָלֹא לְיוֹם אֶחָד הָיוּ יְכוּלִין לְבָעַר כָּל־עֲבוּדָה זָרָה שֶׁהָיָה שָׁם. אָמַר רַבִּי אִידִי. מִפְּנֵי צְלָמִי כְּשָׁדִים שֶׁהָיוּ חֲקוּקִים בְּשֹׁשׁ.

It is written²¹¹: *With all his heart he prepared himself to seek God,* to act, and to teach law and justice in Israel. Rabbi Simon bar Zavdi and Rabbi Samuel bar Nahman. One said, with all he did for the purity of the Temple, he did not fully establish the purity of the Temple. One said, with all the good

works he did, he did not fully do his duty for the purity of the Temple. It is written²¹²: *They started on the first of the first month, and on the eighth day they entered the Eternal's Hall and sanctified the Eternal's House for three days; on the sixteenth of the month they finished.* Could they not have eliminated all idolatry from there in one day? Rabbi Idi said, because of Chaldean idols which were engraved in vermillion.

שְׁשֶׁה דְּבָרִים עָשָׂה חִזְקִיָּהוּ. עַל שְׁלֹשָׁה הוֹדוּ לוֹ וְעַל שְׁלֹשָׁה לֹא הוֹדוּ לוֹ. גִּירָר עֲצָמוֹת אָבִיו עַל מִיטַת חֲבָלִים וְכִיתַת נְחֹשׁ הַנְּחוּשֶׁת וְגָנַז טַבֵּלָה שְׁלַרְפוּאוֹת. וְהוֹדוּ לוֹ. סָתַם מִימֵי גִיחוֹן הָעֶלְיוֹן וְקִיצֵץ דְּלָתוֹת הַהֵיכָל וְעִבֵּר נִסָּן בְּנִיסָן. וְלֹא הוֹדוּ לוֹ.

Six things did Hezekiah do; with three they agreed, with three they did not agree. He dragged his father's bones on a bier of ropes, he smashed the bronze snake, and he hid the table of medicines; they agreed. He closed the upper Gihon spring, and he cut down the Temple doors, and he intercalated Nisan in Nisan; they disagreed.

אֵין מְעַבְרִין קוֹדֵם רֹאשׁ הַשָּׁנָה וְאִם עִיבְרוּהָ אֵינָה מְעוּבָרָת. אָבֵל מִפְּנֵי הַדּוּחַק מְעַבְרִין אַחֵר רֹאשׁ הַשָּׁנָה מִיָּד. אִף עַל פִּי כֹן אֵינוֹ מְעוּבָר אֲלָא אַדָּר. רַבִּי אוֹמֵר נִסָּן לֹא נִתְעַבֵּר מִיָּמָיו. וְהִתְנַנֵּן. אִם בָּא הַחוּדָשׁ בְּזִמְנוֹ. אִם בָּא. לֹא בָא. רַב אֲמַר. תִּשְׁרִי לֹא נִתְעַבֵּר מִיָּמָיו. וְהִתְנַנֵּן. אִם הָיָה הַחוּדָשׁ מְעוּבָר. אִם הָיָה. לֹא הָיָה.

One does not intercalate before New Year's Day; if they did intercalate it would be invalid. But for an urgent need one may intercalate immediately after New Year's Day. Nevertheless, only Adar is intercalated.

²¹³Rebbi says, Nisan was never lengthened. But did we not state: "If the New Moon appeared in time"? If it would appear; it did not appear. Rav said, Tishre was never lengthened. But did we not state: "If the month was long"? If it would be, it never was.

וְכִשְׁקִידָשׁוֹ אֶת הַשָּׁנָה בְּאוֹשָׁה בַּיּוֹם הָרִאשׁוֹן עִבֵּר רַבִּי יִשְׁמַעֵאל בֶּן רַבִּי יוֹחָנָן בֶּן בְּרוּקָה וְאֲמַר כְּדָבָרֵי רַבִּי יוֹחָנָן בֶּן נוּרִי. אֲמַר רַבֵּן שְׁמַעוֹן בֶּן גַּמְלִיאֵל. לֹא הֵייוּ נוֹהֲגִין כֹּן בְּבִבְנָה. בַּיּוֹם הַשֵּׁנִי עִבֵּר רַבִּי חֲנַנְיָה בֶּן רַבִּי יוֹסִי הַגָּלִילִי וְאֲמַר כְּרַבִּי עֲקִיבָה. אֲמַר רַבֵּן שְׁמַעוֹן בֶּן

גמליאל. כִּדְ הֵינּוּ נוֹהֲגִי בַּבִּבְנָה. וְהִתְנִי. קִידְ שׁוּהוּ בְּרֹאשׁוֹן וּבִשְׁנֵי. רַבִּי זְעִירָא בְּשֵׁם רַב חֲסִידָאִי. אוֹתָהּ הִשְׁנָה נִתְקַלְקְלָה. מֵה בְּרֹאשׁוֹן וּמֵהוּ בִּשְׁנֵי. רַבָּא בְּשֵׁם רַב. שָׁנָה א' וְשָׁנָה ב'. וְהִתְנִי קִידְ שׁוּהוּ בְּיוֹם הָרֹאשׁוֹן וּבְיוֹם הַשְּׁנִי.

“When they sanctified the year at Usha, on the first day Rabbi Ismael, the son of Rabbi Johanan ben Beroqa, led and recited following the opinion of Rabbi Johanan ben Nuri. Rabban Simeon ben Gamliel said, we did not follow this at Jabneh. On the second day, Rabbi Hananiah, the son of Rabbi Yose the Galilean, led and recited following Rabbi Aqiba. Rabban Simeon ben Gamliel said, this we did follow at Jabneh.” But does this not mean that they sanctified it on the first and the second day? Rabbi Ze’ira in the name of Rav Hisda: That year was disorganized. What is “on the first, on the second”? Rav Abba in the name of Rav: The first year, the second year! But was it not stated: the first day, the second day?

(18d line 64) קִידְ שׁוּהוּ קוֹדֵם זְמַנוּ אוֹ לְאַחַר עִיבוּרוֹ יוֹם אֶחָד. יָכוֹל יֵהָא מְקוֹדֵשׁ. תִּלְמִיד לֹרְמֵר אוֹתָם. אוֹתָם אֵלֶּא הֵם. אֵין אֵלֶּה הֵן מוֹעֲדֵי. קוֹדֵם לְזְמַנוּ כ"ט יוֹם. לְאַחַר עִיבוּרוֹ ל"ב יוֹם. וּמִנֵּיין שְׁמַעְבְּרִין אֶת הַשָּׁנָה עַל הַגְּלִיּוֹת שְׁגָלוּ וְאֲדִין לֹא הִגִּיעוּ. תִּלְמִיד לֹרְמֵר בְּנֵי יִשְׂרָאֵל מַעְדִּי. עֲשֵׂה מוֹעֲדוֹת שְׁעֲשׂוּ כָל־יִשְׂרָאֵל. אָמַר רַבִּי שְׁמוּאֵל בַּר נַחֲמָן. וְהֵן שֶׁהִגִּיעוּ לְהֵרָתָּה.

If they sanctified it before its time or after its lengthening, should I assume it was lengthened? The verse says, *them, them*; not *these are My holidays*? Before its time, the 29th day; after its lengthening, the 32nd day. From where that one intercalates for the year because of the diaspora²¹⁵ who set out but did not yet arrive? The verse says, *the Children of Israel*. Make the holidays so they can be observed by all of Israel. Rabbi Samuel bar Nahman said, only if they had reached the river Euphrates.

(18d line 75) אֵין מַעְבְּרִין אֶת הַשָּׁנָה אֵלֶּא בִּיהוּדָה. וְאִם עִיבְרִיהָ בְּגָלִיל מַעְבְּרָתָּה. הָעִיד חֲנִינָה אִישׁ אוֹנוּ שְׂאֵם אֵינָה יָכוֹלָה לְהִתְעַבֵּר בִּיהוּדָה שְׁמַעְבְּרִין אוֹתָהּ בְּגָלִיל. אֵין מַעְבְּרִין אוֹתָהּ בְּחוּצָה לְאֶרֶץ. וְאִם עִיבְרִיהָ אֵינָה מַעְבְּרָתָּה. אֶת חֲמִי. בְּגָלִיל אֵין מַעְבְּרִין בְּחוּצָה לְאֶרֶץ מַעְבְּרִין. בְּגָלִיל אֵין מַעְבְּרִין וְאִם עִיבְרִיהָ מַעְבְּרָתָּה. בְּחוּצָה לְאֶרֶץ אֵין מַעְבְּרִין וְאִם עִיבְרִיהָ אֵינָה מַעְבְּרָתָּה. בִּיכוּלִין לַעֲבֹר בְּאֶרֶץ יִשְׂרָאֵל. אָבֵל בְּשֹׁאֵינָן יָכוֹלִין לַעֲבֹר בְּאֶרֶץ יִשְׂרָאֵל שְׁמַעְבְּרִין אוֹתָהּ בְּחוּצָה לְאֶרֶץ.

“One intercalates a year only in Judea, but if it was intercalated in Galilee it is validly intercalated. Hanina from Ono testified that, if it cannot be intercalated in Judea, one intercalates in Galilee.” One does not intercalate a year outside the Land; if it was intercalated, it is not validly intercalated. Look at it, one does not intercalate in Galilee; could one intercalate outside the Land²¹⁷? One does not intercalate in Galilee; but if it was intercalated it is validly intercalated. One does not intercalate outside the Land; if it was intercalated it is not intercalated if it was possible to intercalate in the Land of Israel; but if one cannot intercalate in the Land of Israel, one intercalates it outside the Land.

(19a line 6) יִרְמְיָה עִיבַר בְּחוּצָה לָאָרֶץ. יְחִזְקֵאל עִיבַר חוּצָה לָאָרֶץ. בָּרוּךְ בֶּן נְרִיָּה עִיבַר בְּחוּצָה לָאָרֶץ. חֲנַנְיָה בֶּן אַחִי רַבִּי יְהוֹשֻׁעַ עִיבַר בְּחוּצָה לָאָרֶץ. שְׁלַח לֵיהּ רַבִּי ג' אֵיגְרִין גְּבִי רַבִּי יִצְחָק וְרַבִּי נֹתָן. בְּחֻדָּא כְּתַב. לְקֻדְוִשֶׁת חֲנַנְיָה. וְחֻדָּא כְּתַב. גְּדִיִּים שְׁהִינְחַת נַעֲשֹׂי תִיִּשְׁיִים. וּבְחֻדָּא כְּתַב. אִם אֵין אֶת מְקַבֵּל עֲלֵיד צֵא לָךְ לְמַדְבַּר הָאֶסְדּוּ וְתַהֵי שׁוֹחֵט וְנִחוּזִין זֹרֶק. קָרָא קְדָמִיתָא וְאוֹקְרוּן. תְּנִינְתָּא וְאוֹקְרוּן. תְּלִיתָא בְּעָא מִבְּסֻרְתָּהוּן. אֶמְרִין לֵיהּ. לִית אֶת דְּכָבֵר אוֹקְרִתִּין. קָם רַבִּי יִצְחָק וְקָרָא בְּאוֹרִיתָא אֱלָא מוֹעֲדֵי חֲנַנְיָה בֶּן אַחִי רַבִּי יְהוֹשֻׁעַ. אֶמְרִין אֱלָה מוֹעֲדֵי יִי. אִמַּר לוֹן. גָּבֹן. קָם רַבִּי נֹתָן וְאַשְׁלִים. כִּי מִבְּבֶל תֵּצֵא תוֹרָה וְדְבַר־יְהוָה מִנְּהַר פָּקוּד. אֶמְרִין לֵיהּ. כִּי מִצִּיּוֹן תֵּצֵא תוֹרָה וְדְבַר־יִי מִירוּשָׁלַם. אִמַּר לוֹן. גָּבֹן. אֲזַל קִבֵּל עֲלֵיהוֹן גְּבִי רַבִּי יְהוֹדָה בֶּן בִּתְרִיהַ לְנָצִיבִין. אִמַּר לֵיהּ. אֲחֲרֵיהֶם אֲחֲרֵיהֶם. אִמַּר לֵיהּ. לִי נָא יָדַע מַה תַּמּוֹן. מַה מוֹדַע לִי דְּאֵינוֹן חֲכָמִין מְחַשְׁבֵּה דְּכּוֹנְתִי. מִכֵּין דְּלֹא יִדְעִי מְחַשְׁבֵּה דְּכּוֹנְתִיהּ יִשְׁמַעוֹן לֵיהּ. וּמִכֵּין דְּאֵינוֹן חֲכָמִין מְחַשְׁבֵּה דְּכּוֹנְתִיהּ יִשְׁמַע לוֹן. קָם וְרַבֵּב סוּסָא. הוּן דְּמִטָּא מִטָּא הוּן דְּלֹא מִטָּא נִהְיִין בְּקִילְקוּל.

Jeremiah intercalated outside the Land. Ezechiel intercalated outside the Land. Baruch ben Neriah intercalated outside the Land. Hanania the nephew of Rabbi Joshua intercalated outside the Land. Rabbi sent him three letters through Rabbi Isaac and Rabbi Nathan. In one he wrote, to His holiness Hanania. And in one he wrote, the kid goats you left behind became rams. And in one he wrote, if you do not accept, go to the thistle desert, do the slaughtering and let Onias sprinkle. After the first [letter], he honored them. After the second, he honored them. After the third, he wanted to disgrace them. They said to him, you cannot do that since you already did honor us. Rabbi Isaac rose and read in the Torah: These are the holidays of Hanania the

nephew of Rabbi Joshua. They said to him, *the holidays of the Eternal*. He told them, that is with us. Rabbi Nathan rose and concluded: For from Babylonia will Torah go forth and the Eternal's word from Nahar-Peqod. They said to him, *for from Zion will Torah go forth and the Eternal's word from Jerusalem*. He told them, that is with us. He went to complain about them to Rabbi Jehudah ben Bathyra at Nisibis. He said to him, follow them, follow them. He said to him, I do not know whom I left there. Who would tell me that they are knowledgeable in computations as I am? If they did not know the computations, they should listen to him. Since they are knowledgeable in computations as he is, he has to listen to them. He got up and rode on a horse. Where he reached, he reached. Where he did not reach, they continued to follow the corrupt [calendar].

(19a line 21) כְּתִיב אֶל־יֵתֵר זִקְנֵי הַגּוֹלָה. אָמַר הַקָּדוֹשׁ בְּרוּךְ הוּא. בְּיוֹתֵר הֵן עָלֵי זִקְנֵי הַגּוֹלָה. חֲבִיבָה עָלַי כֵּת קִטְנָה שֶׁבְּאַרְצָהּ יִשְׂרָאֵל מִסְנֵה־דָרִין גְּדוֹלָה שֶׁבְּחוּצָה לְאַרְצָהּ. כְּתִיב הַחֶרֶשׁ וְהַמַּסְגֵּר אֶלָּף. וְאַתָּה מִרְ הַכִּין. רַבִּי בִּרְכָּיָה בִּשְׁם רַבִּי חֵלְבֹה וְרַבְּנָן. הַחֶרֶשׁ אֶלָּף וְהַמַּסְגֵּר אֶלָּף. וְרַבְּנָן אָמְרִי. כּוֹלְהוֹן אֶלָּף. רַבִּי בִּרְכָּיָה בִּשְׁם רַבִּי. אֵילֹו הַחֲבִירִים. וְרַבְּנָן אָמְרִין. אֵילֹו הַבּוֹלְבוֹטִין.

It is written: *to the outstanding Elders in the diaspora*. The Holy One, praise to Him, said: The Elders of the diaspora are very dear to me. But more beloved by Me is a small group in the Land of Israel than a great Synhedrion outside the Land. It is written: *The craftsmen and the smiths one thousand*, and you say so? Rabbi Berekhiah in the name of Rabbi Helbo and the rabbis. Rabbi Berekhiah said, one thousand craftsmen and one thousand smiths. But the rabbis say, together one thousand. Rabbi Berekhiah in the name of Rabbi [Helbo said]²¹⁸, these are the Fellows; but the rabbis say, these are the councilmen.

(19a line 27) רַבִּי הוֹשַׁעְיָה כִּד הָהָה מְקַבֵּל שֶׁהָדִינָא בְּעֵינֵי טַב הָהָה אָמַר לוֹן. הֵיוּ יִדְעִין כְּמָה עֲדוּת יוֹצֵא מִפִּיכֶם. כְּמָה שְׁכַר בְּתִים יוֹצֵא מִפִּיכֶם. אָמַר רַבִּי אֲבוּנָא. וְאִין פִּינִי אֶפִּילוּ בְּדִינִי נִפְשׁוֹת. בֵּת שְׁלֹשׁ שָׁנִים וְיוֹם אֶחָד בָּא עָלֶיהָ הָרִי זֶה בְּסִקִּילָה. נִמְלְכוּ בֵּית דִּין לַעֲבָרוּ וְבָא עָלֶיהָ אֵינוּ בְּסִקִּילָה. אָמַר רַבִּי אֲבִין. אֶקְרָא לְאַלְהִים עֲלֵינוּ לְאֵל גָּמָר עָלֵי. בֵּת שְׁלֹשׁ שָׁנִים וְיוֹם אֶחָד נִמְלְכוּ בֵּית דִּין לַעֲבָרוּ אִין הַבְּתוּלִין חוּזְרִין. וְאִם לֹא הַבְּתוּלִין חוּזְרִין.

Rebbi Hoshaia, when he received witnesses at Kallirhoë, used to say to them: you should know the importance of the testimony that comes from your mouths; how much rent money depends on your mouths. Rebbi Abuna said, if it is so, it is even a matter of criminal law. If somebody sleeps with a girl three years and one day old, he is stoned. The court decides to lengthen, if he sleeps with her he is not stoned. Rebbi Abun said, *I am calling to Almighty God, to the God Who decides with me*. If a girl is three years and one day old, if the court decides to lengthen her hymen does (not) repair itself, otherwise it does [not] repair itself²¹⁹.

208 This paragraph has been shortened and become incomprehensible. Cf. *Nedarim* 6:13, Notes 86-88. Both Talmudim always assume that a prophet by his office must have been a member of the High Court.

209 In *Nedarim*: R. Jehudah. This seems to be the correct quote.

210 *2Chr.* 30:18.

211 There is no such verse in the Bible. The text is a combination of *2Chr.* 30:19 and *Ezra* 7:10.

212 *2Chr.* 29:16.

213 This and the following paragraphs also are found in *Ševi'it* 10:2 (Notes 41-55) and *Roš Haššana* 3:1 (58c l. 51).

214 *Lev.* 23:2. The verse which prescribes publication of the dates of festivals traditionally is spelled defectively אֲתֶם “them” as if it were אַתֶּם “you”, empowering the High Court to decree the times even in disagreement with the astronomical data.

215 The Babylonians who come to Jerusalem in caravans to celebrate Passover.

216 The full text of the verse, *Num.* 23:44, is quoted in the other sources, resulting in an intelligible argument.

217 Why has the prohibition of intercalation outside the Land to be mentioned at all? Could this prohibition not be inferred from the rule for Galilee?

218 Added from the consensus of the parallel texts, missing here.

219 The text here obviously is wrong, but is correct in the parallel texts. It is talmudic doctrine that a girl becomes nubile one day after her third birthday. If she should have been raped before that day, her hymen will regrow and she remains a virgin; after that day the deflowering is definitive. It is stated that her body will follow the calendar decreed by the court.

משנה ג: סמיכת הזקנים ועריפת העגלה בשלשה דברי רבי שמעון. ורבי יהודה אומר בחמשה. החליצה והמאונין, בשלשה. נטע רביעי ומעשר שני שאין דמיו ודועין בשלשה

(fol. 17d)

וְהִקְדָּשׁוֹת בְּשִׁלְשָׁה. וְעָרְכִין הַמֵּיטְלָטְלִין בְּשִׁלְשָׁה. רַבִּי יְהוּדָה אֹמֵר אֶחָד מֵהֶן כֹּהֵן. וְהִקְדָּשׁוֹת
תִּשְׁעָה וְכֹהֵן. וְאָדָם כְּיוֹצֵא בָּהֶן.

Mishnah 3: The leaning of Elders²²⁰ and the breaking of the calf's neck²²¹ by three [judges], the words of Rabbi Simeon, but Rabbi Jehudah says, by five. *Halīṣah*²²² and repudiations²²³ by three [judges], [redemption of] the growth of the fourth year²²⁴ and Second Tithe²²⁵ whose value is not known by three [appraisers], also of Temple dedications²²⁶ by three. Estimations of movables²²⁷ by three [appraisers], Rabbi Jehudah says that one of them must be a Cohen; of real estate²²⁸ nine and a Cohen. The same holds for humans²²⁹.

220 *Lev.* 4:15. If the High Court realized that they had erred in a ruling and permitted something which is biblically prohibited, they have to bring a purification sacrifice and a deputation of the Court has to lean with their hands on the head of the sacrificial animal while confessing their error, as detailed in Tractate *Horaiot*.

221 The ritual of atonement for an unsolved murder, *Deut.* 21:1-9, *Soṭah* Chapter 9.

222 The ceremony by which the widow of a childless man is freed from levirate marriage, which requires involvement of "the Elders", *Deut.* 25:5-9.

223 The repudiation of a marriage by an underage girl, married off by her mother or brothers after her father's death and whose marriage during her minority is valid only rabbinically; cf. *Yebamot* Chapter 13.

224 The fruits of a tree in the fourth year after planting, the first year they are permitted as food, have to be eaten in holiness by the rules of Second Tithe (*Lev.* 19:24; *Ma'aser Šeni* Chapter 5). They may be redeemed under the rules of Second

Tithe, the sanctity being transferred to the redemption money.

225 Cf. *Ma'aser Šeni* 4:2, Note 51. Second Tithe remains the farmer's property but must be eaten in purity at the site of the Temple. If there is any danger of spoilage in transport, the produce may be redeemed and the sanctity transferred to the redemption money, *Deut.* 14:22-26; cf. Introduction to Tractate *Ma'aser Šeni*.

226 Property donated to the Temple which will be sold by the Temple treasurer upon appraisal by a committee of three; *Lev.* 27:11.

227 If a person makes a vow to donate the estimated value of a person to the Temple, the amount payable is specified in *Lev.* 27:2-7 depending on age and sex. If the person wants to pay with movables in lieu of money, their value has to be determined by a committee of three. These rules are detailed in Tractate *ʿArakhin*.

228 *Lev.* 27:14-25. In all verses speaking of redemption of property donated to the Temple, "the Cohen" is mentioned in the singular.

229 Somebody promising to pay to the sold as a slave.
Temple the value a person would fetch if

(19a line 33) **הלכה ג:** סמיכת הזקנים ועריפת העגלה בשלשה דברי רבי שמעון. ורבי יהודה אומר בחמשה. מה טעמא דרבי שמעון. וסמכו שנים. אין בית דין שקול מוסיפין עליהן עוד אחר הרי שלשה. מה טעמא דרבי יהודה. וסמכו שנים. וקני שנים. אין בית דין שקול מוסיפין עליהן עוד אחד. הרי חמשה. ובעגלה ערופה מה טעמא דרבי שמעון. וקניד שנים. ושלפיד שנים. אין בית דין שקול מוסיפין עליהן עוד אחד הרי חמשה. מה טעמא דרבי יהודה. וקניד ושופיד שנים. אין בית דין שקול מוסיפין עליהן עוד אחר הרי שלשה. אמר רבי. נראין דברי רבי יהודה בערופה דלא דריש ונצא. ונראין דברי רבי שמעון בסמיכה דלא דריש וסמכו. אין תימר. נראין דברי רבי יהודה בערופה כמו די דרש וסמכו ונצא. אשכח תימר. ונצאו שנים. וקניד שנים. ושלפיד שנים. אין בית דין שקול מוסיפין עליהן עוד אחד. הרי כאן שבעה. מה מקיים רבי שמעון וקניד ושלפיד. וקניד שנה שופיד. תני רבי לעזר בן געקב אומר. וקניד. זה בית דין הגדול. ושלפיד. זה מלך וכהן גדול.

Halakhah 3: “The leaning of Elders and the breaking of the calf’s neck by three [judges], the words of Rabbi Simeon, but Rabbi Jehudah says, by five.”

²³⁰What is the reason of Rabbi Simeon? “[The Elders] shall lean,” two. No court has an even number of members; one adds another one; that makes three. What is the reason of Rabbi Jehudah? “They shall lean,” two. “The Elders,” two. No court has an even number of members; one adds one; that makes five. And for the calf whose neck is broken, ²³¹what is the reason of Rabbi Simeon? “Your Elders,” two, “and your judges,” two. No court has an even number of members; one adds one; that makes five. What is the reason of Rabbi Jehudah? “Your elders, your judges,” two. No court has an even number of members; one adds another one; that makes three. Rabbi said, the words of Rabbi Jehudah are reasonable for the breaking of the neck, for he does not refer to “they shall go out.” The words of Rabbi Simeon are reasonable for the leaning of the hands, for he does not refer to “they shall lean.” If you would say that the words of Rabbi Jehudah are reasonable for the calf whose neck is broken, if he refers to “they shall lean”, he also should refer to “they shall go out.” It turns out that you have to say “they shall go out” two, “your Elders” two, “and your judges” two. No court has an even number of members; one adds one more; that makes seven. How does Rabbi

Simeon explain “your Elders and your judges”? Your Elders who are your judges. It was stated: Rabbi Eliezer ben Jacob says “your Elders,” that is the High Court; “and your judges,” these are king and High Priest.

230 A very similar text is in *Sotah* 9:1. The commentary, Notes 32-45, also applies here. In the Babli, the parallels are *Sanhedrin* 13b, *Sotah* 44b.

231 The arguments of rabbis Simeon and Jehudah have to be switched; cf. *Sotah* 9:1 Note 33. The argument of R. Jehudah

(attributed here to R. Simeon) is explicit in Mishnah *Sotah* 9:1. The corrected text, treating R. Jehudah’s opinion before R. Simeon’s, follows the Babli which as a matter of principle insists on strict chronological order.

(19a line 47) תַּנִּי הַסְמִיכוֹת בְּשִׁלְשָׁה. לֹא סְמִיכָה הִיא סְמִיכוֹת. תַּמָּן קָרִי לְמִנּוּיָהּ סְמִיכוֹתָא. אָמַר רַבִּי בָּא. בְּרֵאשׁוֹנָה הָיָה כָּל־אֶחָד וְאֶחָד מִמֶּנָּה אֶת תַּלְמִידָיו. כְּגוֹן רַבִּין יוֹחָנָן בֶּן זַבְדִּי מִינָּה אֶת רַבִּי לִיעֶזֶר וְאֶת רַבִּי יְהוֹשֻׁעַ. וְרַבִּי יְהוֹשֻׁעַ אֶת רַבִּי עֲקִיבָה. וְרַבִּי עֲקִיבָה אֶת רַבִּי מֵאִיר וְאֶת רַבִּי שְׁמַעוֹן. אָמַר. יֵשֶׁב רַבִּי מֵאִיר תַּחֲלִילָה. נִתְכַּרְכְּמוּ פָּנֵי רַבִּי שְׁמַעוֹן. אָמַר לוֹ רַבִּי עֲקִיבָה. דִּינִךָ שְׂאֵנִי וּבּוֹרְאֵךְ מִכִּירִין כּוֹחֶךָ. חֲזָרִי וְחַלְקִי כְּבוֹד לְבֵית הָזֶה. אָמְרוּ. בֵּית דִּין שְׁמִינָה שְׁלֹא לְדַעַת הַנָּשִׂיא אֵין מִינוּי מִינוּי וְנָשִׂיא שְׁמִינָה שְׁלֹא לְדַעַת בֵּית דִּין מִינוּי מִינוּי. חֲזָרִי וְהִתְקִינוּ שְׁלֹא יִהְיֶה בֵּית דִּין מִמִּנִּין אֶלָּא מִדַּעַת הַנָּשִׂיא וְשְׁלֹא יִהְיֶה הַנָּשִׂיא מִמֶּנָּה אֶלָּא מִדַּעַת בֵּית דִּין.

It was stated: Leanings by three [judges]. Is not leaning the same as leanings²³²? There²³³, they call ordination “leaning”.

Rebbi Abba said, in earlier times²³⁴, every one was ordinating his students; for example Rabban Johanan ben Zakkai ordained Rebbi Eliezer and Rebbi Joshua²³⁵, Rebbi Joshua Rebbi Aqiba, and Rebbi Aqiba Rebbi Meïr and Rebbi Simeon²³⁶. He said, Rebbi Meïr shall preside; the face of Rebbi Simeon became yellow. Rebbi Aqiba told him, it is enough that I and your Creator recognize your power²³⁷.

They changed and honored this dynasty²³⁸, saying: If a court ordained without the consent of the Patriarch, their ordination is no ordination, but if the Patriarch ordained without consent of the court, his ordination is ordination. They changed again²³⁹ and instituted that neither shall the Court ordain without consent of the Patriarch, nor the Patriarch without consent of the Court.

232 What does the *baraita* imply that is not implied by the Mishnah?

233 In Babylonia, ordination is called “leaning of the hands,” in imitation of *Num.* 27:23. In the Babli, 13b, this usage is labelled as that of the Galilean R. Johanan. Modern usage naturally follows the Babli.

234 Before the war of Bar Kokhba.

235 Before his time, one finds neither formal ordination nor the title “Rebbi”.

236 In the tradition of the Babli, both were ordained, together with three others, by R. Jehudah ben Bava. This tradition is questioned by the Babli itself, *loc. cit.*; its

historical accuracy is in doubt since it counts among the five also R. Jehudah, who belongs to the school of R. Eliezer, not R. Joshua.

237 In the tradition of both Talmudim, R. Simeon is a higher authority than R. Meïr; cf. *Terumot* 3:1, Note 25.

238 In the time of the reconstruction after the war of Bar Kokhba, when the authority of the Patriarch became a political necessity. The dynasty is Hillel’s family, reputed to be of Davidic descent.

239 Under Rebbi’s successors, who had neither learning nor standing to act alone.

19a line 56) תני. בראשונה היו כותבין שטרין חליצה. במוותב פלוני ופלוני חליצה פלגית בת פלוני לפלוני בן פלוני בפנינו. דקרבת לקדמנא ושרת קיניה מעילוי רגליה דימינא ורקת קדמנא רוקא דמתחזי לנא על ארעא ואמרת ככה יעשה לאיש אשר לא יבנה את בית אחיו.

It was stated: From earlier times²⁴⁰, one was writing documents of *halīṣah*²⁴¹: Before X and V²⁴² did Z daughter of U perform *halīṣah* for V son of W, by coming before us, removing his shoe from his right foot, spitting before us visible spittle on the ground, and saying: *So shall be done to the man unwilling to build his brother’s house*²⁴³.

240 Meaning that the text is traditional; its first author is unknown. The parallel in *Mo’ed qatan* 3:5 (82a l. 48) does not have the introduction. [The text in *Mo’ed qatan* is somewhat shortened in the Leiden ms. and *editio princeps* but the full text is in the Ashkenazic fragments published by J. Sussman, *Kobez al Yad* 12(1994) p.70.] A

somewhat enlarged text in the Babli, *Yebamot* 39b. is ascribed to R. Jehudah.

241 Needed by the widow to be able to remarry in another jurisdiction.

242 There should be three names mentioned here since the court must have three members.

243 *Deut.* 25:9.

19a line 60) תני. בראשונה היו כותבין שטרין מיאוינו. במעמד פלוני ופלוני מיאנה פלגית בת פלוני בפלוני בר פלוני בפנינו. לא רעינא ביה לא שוייהנא ליה לא צבינא להחנסבא ליה.

It was stated: From earlier times²⁴⁰ one was writing documents of repudiation²²³: Before X and Y²⁴² did Z daughter of U repudiate V son of W,

by coming before us: I do not like him, I do not want to stay with him, I do not agree to be married to him²⁴⁴.

244 In the Babli, *Yebamot* 107b, this is the required oral declaration of repudiation. The Babli has no document of repudiation; neither have medieval formularies.

(19a line 63) אָמַר רַבִּי יוֹחָנָן הַקָּדוֹשׁ שְׁפָדִיּוֹ יוֹתֵר עַל דָּמּוֹ הָרִי זֶה פָּדִי. וּמַעֲשֵׂר שִׁנִּי שְׁפָדִיּוֹ יוֹתֵר עַל דָּמּוֹ הָרִי זֶה אֵינוֹ פָּדִי. מַה בֵּין הַקָּדוֹשׁ מַה בֵּין מַעֲשֵׂר שִׁנִּי. אָמַר רַבִּי לָא. הַקָּדוֹשׁ יֵשׁ לוֹ תוֹבָעִין מַעֲשֵׂר שִׁנִּי אֵין לוֹ תוֹבָעִין. רַבִּי יוֹנָה בָּעָא. כָּמֵאן דָּמַר. אֵינוֹ כְּנֻסְיָא. בְּרַם כָּמֵאן דָּמַר. כְּנֻסְיָא הוּא. מַה בֵּין הַקָּדוֹשׁ מַה בֵּין מַעֲשֵׂר שִׁנִּי. אָמַר רַבִּי יוֹסִי. וְלֹא כִּבְרֵי נֶאֱמַר טַעֲמָא. הַקָּדוֹשׁ יֵשׁ לוֹ תוֹבָעִין מַעֲשֵׂר שִׁנִּי אֵין לוֹ תוֹבָעִין.

רַבִּי יִצְרָא בָּעָא קוּמִי רַבִּי אֲמִי. נִבְדַּק אוֹתוֹ הָאִישׁ וְאָמַר. לֹא נִתְכַּוְּנִיתִי. אָמַר לֵיהּ. לְכִי בְּדִק. אָמַר רַבִּי יוֹחָנָן הַקָּדוֹשׁ שְׁפָדִיּוֹ וְלֹא הוֹסִיף חוֹמֶשׁ הָרִי זֶה פָּדִי. וּמַעֲשֵׂר שִׁנִּי שְׁפָדִיּוֹ וְלֹא הוֹסִיף חוֹמֶשׁ אֵינוֹ פָּדִי. מַה בֵּין מַעֲשֵׂר שִׁנִּי לְהַקָּדוֹשׁ. אָמַר רַבִּי לָא. שְׁכֵן אֲדָם מְצוּי לְהִיּוֹת מִרְבָּה בְּהַקְדִּישׁוֹ. רַבִּי יוֹנָה בָּעָא. כָּמֵאן דָּמַר. אֵינוֹ כְּנֻסְיָא. בְּרַם כָּמֵאן דָּמַר. כְּנֻסְיָא. מַה בֵּין הַקָּדוֹשׁ לְמַעֲשֵׂר שִׁנִּי. אָמַר רַבִּי יוֹסִי. וְלֹא כִּבְרֵי אֵת אֲמַרְתָּ טַעֲמָא. שְׂאֲדָם מְצוּי לְהִרְבּוֹת בְּהַקְדִּישׁוֹ.

²⁴⁵Rebbi Johanan said, if somebody redeemed Temple dedications for more than their worth, it is redeemed²⁴⁶. But if somebody redeemed Second Tithe for more than its worth, it is not redeemed. What is the difference between dedications and Second Tithe? ^{247,253}Rebbi La said, dedications have claimants, Second Tithe has no claimant. Rebbi Jonah asked, that is following him who says that it is not his property²⁴⁹. But for him who says it is his property, what is the difference between dedications and Second Tithe? Rebbi Yose said, the reason has already been explained: dedications have claimants, Second Tithe has no claimant.

²⁵⁰Rebbi Ze'ira asked before Rebbi Immi: If the person was checked and he said, that was not what I intended? He answered him, when he will be checked.

Rebbi Johanan said, if somebody redeemed Temple dedications without adding its fifth it is redeemed²⁵¹. But if somebody redeemed Second Tithe dedications without adding its fifth, it is not redeemed²⁵². What is the difference between dedications and Second Tithe? ²⁴⁸Rebbi La said, because a person usually adds to his dedications. Rebbi Jonah asked, that is following

him who says that it is not his property²⁴⁹. But for him who says it is his property, what is the difference between Second Tithe and dedications? Rabbi Yose said, did you not already give the reason? Because a person usually adds to his dedications.

245 This piece is a composite of two paragraphs in *Ma'aser Šeni* 4:3, Notes 63-68. In the order of subjects, the sources differ from one another.

246 These rules are purely rabbinical in character.

247 This is a *non sequitur*. The text in *Ma'aser Šeni* shows that the text is garbled; the text which belongs here is the other one starting with "R. La said," with Note 248.

248 If a person overpays for redemption of his Temple dedications, it is a natural thing to do. But if he overpays for Second Tithe, the amount set aside for consumption in Jerusalem would be a mixture of sacred and profane money.

249 This refers to R. Meïr's opinion regarding Second Tithe; cf. *Ma'aser Šeni* 4:3, Note 67.

250 This belongs after the text noted ²⁴⁸ and refers to the answer given in Note 248 (cf. *Ma'aser Šeni* 4:3 Note 66.)

251 Even though adding the fifth in general is a biblical obligation; *Lev.* 27:13,15,19.

252 Even though the obligation of adding a fifth to the redemption money (*Mishnah Ma'aser Šeni* 4:2) is not supported by a verse.

253 This is the appropriate answer to the question following Note 252. The Temple treasurer may attach the dedicator's property to collect the fifth; redemption of Second Tithe is a private matter.

הרי (19a line 76) תני. ההקדישות בשלשה. הדין דתימר במקדיש גוף השדה. אבל אם אמר. הרי עלי מנה להקדש. נישמעניה מהדיא ערכים המיטלטלין בג'. וכי יש ערכים שאין מיטלטלין. רבי יעקב בר אחא רבי שמעון בר ווא בשם רבי חנינה. האומר. ערפי עלי. ודיא לסדרו מקרקע. שמין לו בעשרה. ממטלטלין בשלשה. האומר ערפי עלי. אינו כאומר. דמי שדי עלי. אבל אם אמר. הרי עלי מנה להקדש. שמין לו בשלשה. לכשיצאשיר נידון בהשג יד.

2 בג' בשלשה וכי | מ - שאין | מ שאין 3 ווא | מ בא האומ' | מ באומ' ערכי | מ הרי ערכי 4 מקרקע | מ מן הקרקע ממטלטלין בשלשה | מ מן המיטלטלין שמין לו בשלשה ערכי | מ הרי ערכי 5 מנה | מ מאה מנה

It was stated: "Temple dedications by three [appraisers]." That is, if one dedicated the body of a field. But if he said, I am vowing a mina for the Temple, ²⁵⁴let us hear from the following: "Appraisal of movables by three [appraisers]." Do there exist appraisals not of movables²⁵⁵? Rabbi Jacob bar Aha, Rabbi Simeon bar Abba in the name of Rabbi Hanina: If somebody says, I am vowing my appraisal, and comes to settle his debt by real estate,

one appraises it by ten [people], by movables by three²⁵⁷. Is one who says, I am vowing my appraisal not like one who says, I am vowing my field's value²⁵⁶? But if he said, I am vowing a mina for the Temple, one appraises him by three [people]. Should he become rich, he will be judged by what he can afford²⁵⁷.

254 From here to the end of the Halakhah there exists a copy in *Megillah* 4:4 (75b l. 16ff., מ).

255 By definition, "appraisals" refers to the sums of money detailed in *Lev.* 27:1-8. Money always is movable.

256 Since the rules of appraisal are the same in both categories.

257 This is difficult to understand; since the text is confirmed by two copies, it cannot be emended. By biblical law, a reduction of payments for the poor is mandated only for appraisals (*Lev.* 27:8),

not for dedications of specified sums. The reduction, based on what he can afford, is determined by a committee of three which must include a Cohen. If the poor person paid only part of the reduced sum and then becomes rich, the original sum is reinstated as soon as he can afford it. If the poor person made his vow (in the *Megillah* version for 100 minas) in order to induce God to make him rich so he may fulfill his vow, it might be in the interest of the Temple to wait with the collection of the debt until the person became affluent.

(19b line 6) תני. העבדים והשטרות והמטלטלין אין להן איגרת בקורת. רבי יודן בר פזי אמר. אכרזה. עולה בר ישמעאל אמר. עבדים שלא יכרחו. השטרות והמטלטלין שלא יגנבו. רבי בא בר כהנא בעא קומי רבי יוסי. לית הדא אמרה שעבדים ניפדין בשלשה. אמר ליה. אין. והתנינן בקרקעות תשעה וכהן ואדם כיוצא בהן. אמר ליה. אכין. אדם דכא בן חורין הוא. חנינה בן שלמיה אמר בשם רב. אתא עובדא קומי רבי ובעא למיעבד כרבנן. אמר ליה רבי לעזר בן פרטא בן רבי לעזר בן פרטא. רבי. לא כן לימדתנו משום זקינד. אלא אם עשו איגרת בקורת. אמר ליה. אין. וחזר ועבד כרבן גמליאל.

1 העבדים והשטרות והמטלטלין | מ עבדים ושפחות ומיטלטלין | בקורת | מ ביקורת - | כמ מהו איגרת ביקורת בן | כמ בר 2 אמ' | כ אומ' השטרות והמטלטלין | כ ושטרות ומטלטלין מ שפחות ומיטלטלין יגנבו | מ יגנבו 3 כהנא | כמ כהן יוסי | מ יוסה שעבדים נפדין | כ שהעבד נפדה 4 והתנינן | מ אמ' ליה. והא תנינן בקרקעות | מ ובקרקעות דכא | כ שכן מ דהכא 5 חנינה | מ חנינה בן | כמ בר אמ' | מ למיעבד | כמ מיעבד 6 בן בן | כמ בן בנו של משום | כמ בשם | מ אם | כמ אם בן 7 אמ' ליה. אין. | כ וקיבלה מ - | וחזר | מ וחזר ביה גמליאל | כמ שמעון בן גמליאל

²⁵⁸It was stated: One does not make public tender for slaves, securities, and movables. [What is public tender?] Rabbi Jehudah ben Pazi said, announcement. Ulla bar Ismael said, slaves lest they flee, securities and

movables lest they be stolen. Rabbi Abba bar Cohen asked before Rabbi Yose: Does this not imply that a slave be redeemed in front of three people? He answered him, yes. But did we not state: “Real estate nine and a Cohen. The same holds for humans”? He answered him, but the human here is a free person.

Hanania bar Šelemiah in the name of Rav: A case came before Rabbi who wanted to act following the rabbis. Rabbi Eleazar ben Proteus, the grandson of Rabbi Eleazar ben Proteus, said to him: Rabbi, did you not teach us in your grandfather’s name, “except if he offered public tender”? He answered, yes, changed his mind, and acted following Rabban Gamliel.

258 The origin of these paragraphs is in *Ketubot*. The sentence in brackets is not in the text here, it is from *Ketubot*, but is necessary to provide continuity of the text. found in *Megillah*, makes sense only in

משנה ד: דיני נפשות בעשרים ושלשה. הרובע והתרבע בעשרים ושלשה שְׁנֵי אֲמָר וְהָרִגְתָּ אֶת־הָאִשָּׁה וְאֶת־הַבְּהֵמָה וְאָמַר וְאֶת־הַבְּהֵמָה תִּהְרֹגוּ. שֹׁר הַנִּסְקָל בְּעֶשְׂרִים וְשֵׁלֶשָׁה שְׁנֵי אֲמָר הַשֹּׁר יִסָּקֵל וְגַם־בְּעֶלְיוֹ יוֹמָת כְּמִיתַת הַבְּעֵלִים כִּן מִיתַת הַשֹּׁר. הַזָּאֵב וְהָאֲרִי הַדּוֹב וְהַנֶּמֶר וְהַבְּרָדָלֵס וְהַנֶּחֱשׁ מִיתָתוֹ בְּעֶשְׂרִים וְשֵׁלֶשָׁה. רַבִּי לִיעֶזֶר אָמַר כָּל הַקּוֹדֵם לְהִרְגֹן זָכָה. רַבִּי עֲקִיבָה אָמַר מִיתָתוֹ בְּעֶשְׂרִים וְשֵׁלֶשָׁה.

Mishnah 4: Capital crimes [are judged] by 23. The participants in active or passive bestiality²⁵⁹ [is judged] by 23, as it is said, *you shall slay the woman and the animal*²⁶⁰, and it says, *and you shall slay the animal*²⁶¹. The bull to be stoned²⁶² [is judged] by 23, as it is said, *the bull shall be stoned, also its owner shall die*²⁶³; like the owner’s death sentence so is the ox’s death sentence. The wolf and the lion, the bear, and the tiger, and the panther, and the snake are sentenced to death by 23²⁶⁴. Rabbi Eliezer says, anyone quick to kill them is meritorious²⁶⁵; Rabbi Aqiba says, they are sentenced by 23.

259 Whether human or animal; the additional statement is needed only for the animal.

260 Lev. 20:16. Since woman and animal are mentioned together, the animal can be condemned only by a court empowered to

judge the woman who had sex with the 263 *Ex.* 21:29.

animal.

264 He does not need permission; it is no case for a court.

261 *Lev.* 20:15, about male bestiality.

262 Which had killed a human.

19b line 15) **פסקא**. דייגי נפשות בעשרים ושלשה. רבי אבהו שאל. שור הנסקל קרבי מאיר מהו ליתן כסף בשלשה ויסקל בעשרים ושלשה. אמר ליה רבי יוסי בירבי בון. שור הנסקל כולו קמון הוא וגזירת הכתוב שישקל.

Paragraph. “Capital crimes [are judged] by 23.”²⁶⁵ Rebbi Abbahu asked: Following Rebbi Meir, should an ox which is stoned have to pay damages by a court of three and be stoned by 23? Rebbi Yose ben Rebbi Abun told him, the rules of an ox which is stoned are all about money; it is a decision of the verse that it should be stoned.

265 End of Halakhah 1, Notes 103-106.

19b line 18) אגנטוס הגמון שאל לרבי יוחנן בן זכאי. השור יסקל וגם בעליו יומת. אמר ליה. שותף ליסטים כליסטים. וכשנצא אמרו לו תלמידיו. רבי. לזה דחיתה בקנה. לנו מה את משיב. אמר להן. כתוב השור יסקל וגם בעליו יומת. כמיתת הבעלים כך מיתת השור. הקיש מיתת בעלים למיתת השור. מה מיתת הבעלים בדרשה וחקירה בעשרים ושלשה. אף מיתת השור בדרשה וחקירה בעשרים ושלשה.

General²⁶⁶ אגנטוס asked Rebbi²⁶⁷ Johanan ben Zakkai: *the bull shall be stoned, also its owner shall die*²⁶³? He answered, the robber's²⁶⁸ partner is like the robber. When he had left, his students asked him, rabbi, this one you pushed away with a cane²⁶⁹; what are you telling us? He said to them, it is written, *the bull shall be stoned, also its owner shall die*, like the owner's death sentence so is the ox's death sentence. Since the owner's death sentence would be by a court of 23, investigation²⁷⁰ and cross-examination²⁷¹, so the ox's death sentence is by a court of 23, investigation and cross-examination²⁷².

266 Greek ἡγεμῶν “leader, commander.” In 19c l. 61 (Note 366) his name is Antoninus, in 19d l. 4 (Note 373) Antigonos. The story has many parallels in which various forms of the name appear.

Jastrow and Krauss think of Quietus, a general of Trajan not likely to have conversed with a person who died under Vespasian. A Genizah text shows that אגנטוס is the correct form. {Perhaps it is not

a name but a title, εὐγενής “noble, well-born.”(E. G.)}

267 His title should be Rabban.

268 Greek, ληιστής, ληϊστής.

269 Since the owner is not executed, the answer cannot be correct.

270 An exact investigation into the circumstances of the crime; the evaluation

of the evidence is within the purview of the court.

271 The determination when, where, and how the crime was committed.

Discrepancies in testimony about these questions make prosecution impossible; cf. Mishnah 5:1-2.

272 *Mekhilta dR. Simeon ben Iohai* 21:29.

(fol. 17d) **משנה ה:** אין דנין לא את השבט ולא את נביא השקר ולא את כהן הגדול אלא על פי בית דין של שבעים ואחד. ואין מוציאין למלחמת הרשות אלא על פי בית דין של שבעים ואחד. אין מוסיפין על העיר ועל העזרות אלא על פי בית דין של שבעים ואחד. אין עושין סנהדריות לשבטים אלא על פי בית דין של שבעים ואחד. אין עושין עיר הנדחת בספר ולא שלש אבן עושין אחת או שתים. בית דין של שבעים ואחד. ואין עושין עיר הנדחת בספר ולא שלש אבן עושין אחת או שתים.

Mishnah 5: One judges neither a tribe²⁷³, nor a false prophet²⁷⁴, nor the High Priest²⁷⁵, except by the court of 71 [judges]. One may start a war of choice²⁷⁶ only by the court of 71 [judges]³³⁴. One may add to the City²⁷⁷ or to the Temple courtyards only by the court of 71 [judges]. One appoints high courts for the tribes²⁷⁸ only by the court of 71 [judges]. One declares a town as deviant²⁷⁹ only by the court of 71 [judges]; one does not declare a border town as deviant, nor three together, but one may declare one or two.

273 According to the Halakhah, either the head of the tribe or a case in which one of the parties is a tribe. The only court of 71 members was the Supreme Court, Mishnah 6.

274 *Deut.* 18:20.

275 Accused of a crime.

276 Any war except a defensive war started by an outside attacker.

277 The part of Jerusalem where sacrifices may legally be eaten. Cf. Mishnah *Ševuot* 2:2.

278 Required by *Deut.* 16:19.

279 A town collectively practicing idolatry, which must be destroyed, *Deut.* 13:13-19.

(19b line 24) **מתני'.** אין דנין לא את השבט כול'. איתא חמי. שנים אין דנים לא כל-שכן שבט. אמר רבי מתתיהו. בנשיא שבטים היא מתניתא. אמר רבי ליעזר. בחורש שבין שני שבטים היא מתניתא.

Mishnah: “One judges neither a tribe,” etc. Come and look: One does not try two people together²⁸⁰, so much less an entire tribe? Rabbi Mattaniah said, the Mishnah speaks of the head of the tribe²⁸¹. Rabbi Eliezer²⁸² said, the Mishnah speaks about a forested area between two tribes²⁸³.

280 Mishnah 6:8.

282 Read: R. Eleazar.

281 A criminal trial. In the Babli, 15b, this is reported in the name of a Rav Mattanah.

283 A border dispute.

(19b line 26) אמר רבי זירא. נאמר כאן ודון ונאמר להלן ודון בודון דברו הנביא. מה ודון שנאמר להלן בנביא השקר הכתוב מדבר. אף ודון שנאמר כאן בנביא השקר הכתוב מדבר. אצר רבי חזקיה. נאמר כאן דיבר ונאמר להלן אשר ידבר הנביא בשם יי. מה דיבר שנאמר להלן בנביא השקר הכתוב מדבר. אף דיבר שנאמר כאן בנביא השקר הכתוב מדבר.

Rebbi Ze'ira said, it says here “criminal” and it says there “criminal”, *the prophet said it criminally*²⁸⁴. Since about “criminal” used there, the verse speaks about a false prophet, also about “criminal” used here, the verse speaks about a false prophet²⁸⁵. Rebbi Hizqiah said, it says here “spoke” and it says there, *that the prophet would speak in the Eternal's name*. Since about “spoke” used there, the verse speaks about a false prophet, also about “spoke” used here, the verse speaks about a false prophet.²⁸⁶

284 *Deut.* 18:22, the law of the false prophet. “Here” refers to the judge who refuses to obey the rulings of the Supreme Court, who acts criminally in his disobedience and is tried before the Supreme Court, *Deut.* 17:8-12.

285 The verse does not speak about a false prophet but about a lower court judge who refuses to accept the authority of the Supreme Court. What is meant is that the procedural details given for the treatment of the rebellious judge also apply to the

treatment of the false prophet. The argument is known as הקש “trap”. If the same word is used in two contexts, details found in one context and left indeterminate in the other can be transferred from one to the other. As a hermeneutic principle, *heqqesh* should be used only if the word in question is not loaded with additional meaning. But in *Sifry Deut.* 178, the expression “criminal” is interpreted to mean that the false prophet may be prosecuted

only if criminal intent can be shown, not if he acted in error.

In the Babli, 16a, the argument is in the name of R. Yose ben Hanina.

286 It seems that the *heqdeš* should not be about the verb דָּבַר but the noun דָּבָר

“pronouncement”, referring to the judgment of the Supreme Court in case of the rebellious judge, *Deut.* 17:10, and the false prophet who pronounces in the Eternal’s name, *Deut.* 18:20.

(19b line 32) **מתני'.** אין מוציאין למלחמת הרשות אלא על פי בית דין של ע"א. רבי יהודה אומר. פתחילה. ויעל דוד בדבר גד זה מלך ונביא. יחל שלמה לבנות את ביתי אליהו ישראל בהר המורלה אשר נראה לו אילו אורים ותומים. לדיד אביהו זה סנהדרין. שאל אביד וגדד זקנד ולאמרו לו. השיר וילך אחריהם הושעלה נחצי שרי יהודה. תודות ואעמדה שתי תודות גדולות ותהלוכות למיין מעל החומה לשער האשפות. אמר רבי שמואל בר יודן. מה כתוב מהלכות לא תהלוכות. אלא בניטלות על ידי אחר.

רב הונא בר חייה בשם רב מיייתי לה דבר תורה. ככל אשר אני מראה אותך את תבנית המשכן ואת... כל-כלי וכן תעשה: כן תעשו לדורות. משה זה מלך ונביא. אחר אילו אורים ותומים. אספה-לי שבעים איש מזקני ישראל זה סנהדרין. שאל אביד וגדד וגו'. השיר וילך אחריהם הושעלה נחצי שרי יהודה. תודות ואעמדה שתי תודות גדולות ותהלוכות למיין מעל החומה לשער האשפות. אמר רבי שמואל בר יודן. מה כתוב מהלכות לא תהלוכות. אלא בניטלות על ידי אחר.

Mishnah. “One may start a war of choice only by the court of 71 [judges]²⁸⁷. ²⁸⁸Rebbi Jehudah says, as at the start: ²⁸⁹*David ascended following Gad’s word, that is king and prophet.* ²⁹⁰*Solomon started to build the Temple of the Eternal, Israel’s God, on Mount Moriah where He had appeared to him, there are Urim and Tummim.* ²⁹⁰*To his father David, this is the Synhedrion,* ²⁹¹*ask your father and he will tell you, your Elders and they will speak to you.* Song, *after them went Hoshiaia and half the officers of Judea*²⁹². Thanksgiving sacrifices, *I put up two large thanksgiving sacrifices being in procession going to their right on the wall going to the dung gate*²⁹³. Rebbi Samuel bar Yudan said, what is written, walking? No, being in procession, only being taken by others²⁹⁴.

Rav Huna bar Hiyya²⁹⁵ in the name of Rav quotes it from the words of the Torah. *As all that I am showing you, the shape of the building and the shape . . . of all its vessels, so you shall execute*²⁹⁶. So you shall execute in all generations. Moses is king and prophet. Aaron represents Urim and

Tummim. *Assemble for me seventy men from the Elders of Israel*²⁹⁷, that is the Synhedrion; *ask your father and he will tell you*, etc. *Song, after them went Hoshiaia and half the officers of Judea. Thanksgiving sacrifices, I put up two large thanksgiving sacrifices being in procession going to their right on the wall going to the dung gate. Rabbi Samuel bar Yudan said, what is written, walking? No, being in procession, only being taken by others.*

287 This probably should be deleted.

288 The following four paragraphs do not refer to the quote of the Mishnah but are a commentary to Mishnah *Ševuot* 2:2: “One only adds to the city and the Temple courtyards by king and prophet, Urim and Tummim, the Synhedrion of 71 members, two thanksgiving sacrifices, and song.” Only the walled part of the city of Jerusalem counts as “before the Eternal”, where family sacrifices may be consumed (*Deut.* 12:18,14:23); the suburbs are “countryside” which does not count for pilgrimage and sacrifice. Since there were no Urim and Tummim in the Second Temple, Pharisees did not consume sacrifices in the parts of Jerusalem which were added in Hasmonean and later times (Note 306).

In *Ševuot*, only beginning and end of the discussion here are quoted as a reference.

289 *2S.* 24:19, speaking of David going to buy the Temple area.

290 *2Chr.* 3:1. The verse is misquoted in several places.

291 *Deut.* 32:7. The persons one asks to get definitive answers to all questions of religion are the members of the High Court of 71 members.

292 *Neh.* 12:32. This refers to the members of the Synhedrion walking behind the thanksgiving sacrifices (*Ševuot* 15b); the musical part of the ceremony is described in verses 41,42.

293 *Neh.* 12:31.

294 In his opinion, the sacrifices were not walked on the wall but were carried. In the opinion of the Babli, *Ševuot* 15a and Tosephta *Sanhedrin* 3:4, not the animals were carried but the leavened bread required for a thanksgiving sacrifice (*Lev.* 7:13). It is possible that this is meant here.

295 In the Babli, *Sanhedrin* 16b, he is referred to as Rav Shimi bar Hiyya (in one ms. Shimi bar Ashi; this can be disregarded, replacing a *hapax* by a frequently quoted name).

296 *Ex.* 25:9. The final clause in the sentence seems to be redundant; it is explained as referring to future buildings.

297 *Num.* 11:16.

(19b line 46) כִּי־צַד הָיוּ מְהֻלָּכוֹת. רַבִּי חִיָּהוּ רַבָּה וְרַבִּי שְׁמַעוֹן בְּרַבִּי. חַד אָמַר. זֶה כִּנְגֵד זֶה. וְחֲרָנָא אָמַר. זֶה אַחֵר זֶה. וְשִׁנְיָהּ מִקְרָא אֶחָד דּוֹרְשִׁין. וְהַתּוֹדָה הַשְּׁנִיתָה הַהוּלָכֶת לְמוֹל וְאֵי אַחֲרֶיהָ. מֵאן דָּמַר. זֶה כִּנְגֵד זֶה. וְהוּא יֵשֵׁב מִמֶּלֶךְ. וּמֵאן דָּמַר. זֶה אַחֵר זֶה. וּמִלֵּךְ אֶת־רֹאשׁוֹ מִמּוֹל עָרְפוֹ. וּמֵאן דָּמַר. זֶה כִּנְגֵד זֶה. נִמְצָא כָּל־מִקּוֹם וּמִקּוֹם מִתְפַּכֵּר בְּתוֹדָה אַחַת. וּמֵאן דָּמַר. זֶה אַחֵר זֶה. נִמְצָא

קל-מקום ומקום מתכפר בשתי תודות. מאן דמר. זו אחר זו. יאות דתנינן. הפנימית נאכלת וחיצונה נשרפה. ומאן דמר. זו כנגד זו. אי זו היא הפנימית. זו ששמוכה לבית. רבי יסא בשם רבי יוחנן. על פי נביא נאכלת. אמר רבי ירמיה. תניי תמן. נביא יש כאן אורים ותומים למה אני צריך. אשכח תני. רבי יהודה אומר. צריך אורים ותומים.

²⁹⁸How did the processions go? The elder Rabbi Hiyya and Rabbi Simeon ben Rabbi. One said, one opposite the other; the other said, one after the other; both are explaining the same verse: *The second thanksgiving sacrifice went לְמִוֶּלֶח and I after it*²⁹⁹. He who said, one opposite the other, *and he dwells opposite me*³⁰⁰. But he who said, one after the other, *he should break off its head behind its neck*³⁰¹. For him who said, one opposite the other, it turns out that every place was purified by one thanksgiving sacrifice³⁰²; for him who said, one after the other, it turns out that every place was purified by two thanksgiving sacrifices³⁰³. For him who said, one after the other, this is correct following what he had stated: “the inner one is being eaten, the outer one is being burned.”³⁰⁴ For him who said, one opposite the other, what is the inner one? The one closer to the Temple. Rabbi Yasa in the name of Rabbi Johanan: It was eaten on the instruction of a prophet³⁰⁵. Rabbi Ze’ira said, they state there: Since a prophet is there, for what do I need Urim and Tummim³⁰⁶? It was found stated: Rabbi Jehudah says, Urim and Tummim are needed³⁰⁷.

298 Ševuot 15b, the entire paragraph.

299 Neh. 12:38, in MT למואל. According to Gesenius, one has to read מואל as contraction of מֵאֵל “not first, not with it”. This justifies both meanings quoted here, “opposite” and “after”.

300 Num. 22:5.

301 Lev. 5:8.

302 In principle, one sacrifice would suffice if the procession went around the entire wall.

303 Since we do not expect two sacrifices for the same purpose, one has to find differences of purpose for the two.

304 Tosephta 3:4, Megillat Ta’anit 6. The Babli, *loc. cit.*²⁹⁹ suggests that the first makes sacrifices possible; therefore, it has to be burned outside the Temple. The second one then is a legitimate thanksgiving sacrifice, most of which has to be eaten by the priests as public well-being sacrifice (Mishnah Zevahim 5:5).

305 Who defined the meaning of “inner” and “outer”?

306 The nature of the Urim and Tummim oracle already was no longer known when the Second Temple was built; Nehemiah (7:65) uses the expression “the coming of a Cohen with Urim and Tummim” as

synonym with “the coming of the Messiah.” The requirement of Urim and Tummim disqualifies all parts of Jerusalem not forming part of Solomon’s city.

307 In the Babli, *Ševuot* 16a, it is a dispute among Babylonian Amoraïm whether Nehemiah’s ceremony, without king and

oracle, was a valid dedication of the rebuilt city of Jerusalem or whether it was a token ceremony to re-establish the intrinsic sanctity of Jerusalem created by Solomon’s Temple. The quote here, from an otherwise unknown *baraita*, qualifies the second opinion as minority opinion of a Tanna.

(19b line 56) אָמַר רַבִּי אֲבָהוּ. אֵתְפִלְגֵּנוּ רַבִּי יוֹחָנָן וְרִישׁ לְקִישׁ. חָד אָמַר. בּוֹנִין וְאַחֵר בֶּדֶּ מִקְדִּישִׁין. וְתִרְנָה אָמַר. מִקְדִּישִׁין וְאַחֵר בֶּדֶּ בּוֹנִין. מָאן דָּמַר. בּוֹנִין וְאַחֵר בֶּדֶּ מִקְדִּישִׁין. אִין רוֹאִין אֶת הַמַּחֲצוֹת כְּאֵלֵי הֶן עוֹלוֹת. בִּיקְשׁוּ לְהוֹסִיף עַל הֵיכַל בְּמָה מוֹסִיפִין. בְּשִׁתֵּי הַלֶּחֶם. וּמִקְדִּישִׁין בְּיוֹם טוֹב. אֶלָּא בְלֶחֶם הַפָּנִים. וּמִקְדִּישִׁין בְּשַׁבָּת. אֶלָּא בְלִילִיה. וּמִקְדִּישִׁין בְּלִילִיה. אָמַר רַבִּי יוֹסִי בִירְבִי בּוֹן. בְּמִנְחַת מֵאֶפֶה. נִיחָה בְעֲלִיתָן מִן הַגּוֹלָה שֶׁהִקְרִיבוּ וְאַחֵר בֶּדֶּ קִידָשׁוֹ. בְּהַכְנִסְתָּן לָאָרֶץ בְּמָה קִידָשׁוֹ. אָמַר רַבִּי יוֹסִי בִירְבִי בּוֹן. בְּשִׁתֵּי תוֹדוֹת הַבָּאוֹת מִנוֹב וְגִבְעוֹן.

Rebbi Abbahu said, Rebbi Johanan and Rebbi Simeon ben Laqush disagreed. One said, one builds and afterwards one dedicates³⁰⁸. The other one said, one dedicates and afterwards one builds³⁰⁹. For him who says, one builds and afterwards one dedicates, one does not say that the partitions are as if built up³¹⁰. If one desires to add to the Temple Hall, by which means does one add³¹¹? By the two loaves³¹². Does one dedicate on a holiday³¹³? Then by the Shew Bread. Does one dedicate on the Sabbath³¹⁴? Then in the night³¹⁵. Does one dedicate in the night³¹⁶? Rebbi Yose ben Rebbi Abun said, with a baked flour offering³¹⁷. One understands that on their return from the diaspora they sacrificed and then dedicated. When they entered the Land,³¹⁸ with what did they dedicate? Rebbi Yose ben Rebbi Abun said, with two thanksgiving sacrifices coming from Nob³¹⁹ and Gibeon.

308 One builds as if the buildings were profane. Only when the Temple enclosure is complete does one dedicate the Temple area, and when the walls of Jerusalem are rebuilt does one dedicate the city. During the building period one is not restricted by all the rules applying to the Temple area. This is possible since the dedication by

Solomon was annulled by the destruction of the Temple. One has to assume that it is possible to dedicate the area of the altar and its enclosure without dedicating the Temple, as done in the time of the first return from Babylonia under Cyrus, *Ezra* 3:3,6.

309 He holds that the dedication by Solomon is permanent. Therefore, any

building must be done under restrictive rules (but it can be built in stages, cf. Mishnah *Idiut* 8:6). If the outline of the Temple enclosure or the original city walls was still visible in Zerubabel's time, no rebuilding was necessary in order to restore the service of the altar.

310 They actually have to be restored before Temple service can be resumed whole or in part.

311 In imitation of the rules given for dedication of the city of Jerusalem under Nehemiah, any dedication must involve a sacrifice. The Babli, *loc. cit.*²⁹⁹, insists that the sacrifice be used in the place to be dedicated. This leads to a catch-22 situation since a sacrifice can be dedicated only after the dedication of the holy place. There is no reason to assume that the Yerushalmi accepts this reasoning.

312 The two loaves of leavened bread dedicated on Pentecost to permit use of new wheat, *Lev.* 23:17. This is in imitation of the leavened bread used for the dedication of the city, cf. ²⁹⁵. A parallel discussion is in the Babli, *Ševuot* 15a/b.

313 Since the dedication has far-reaching legal consequences, it has the status of an acquisition, which is not acceptable on

Sabbath or holiday, *Is.* 58:13. In addition, the Babli points out that the dedication of the leavened breads is the slaughter of the accompanying well-being sacrifice; then the dedication would not be by bread.

314 The Shew Bread is removed from the sanctuary on the Sabbath, *Lev.* 24:8. It becomes available for secondary use on the Sabbath, when it cannot be so used.

315 The following evening, after the end of the Sabbath.

316 *Ex.* 30:2 prescribes that the Tabernacle be erected during daytime. This rule then is extended to include all building activity of the Temple.

317 The daily flour offering of the High Priest, *Lev.* 6:12-16.

318 When they entered the Land, they had the Tabernacle which was dedicated in the desert. What one asks here is, how was Solomon's Temple dedicated?

319 The priests' settlement at Nob already was destroyed at the time when the priests from Nob resided at Anatot. The active place of worship was Gibeon, but "Nob and Gibeon" is used as a legal term to indicate the status of holy places after the destruction of Shiloh, before the building of the Temple; cf. Mishnah *Zevahim* 14:7.

19b line 64) אָבָא שְׁאוּל אוֹמֵר. שְׁנֵי בָצִים הָיוּ שָׁם. הַתַּחְתּוֹנָה וְהָעֲלִיּוֹנָה אֵין קְדוּשָׁתָהּ גְּמוּרָה. הַתַּחְתּוֹנָה נִתְקַדְּשָׁה בְּכוֹלָן. וְהָעֲלִיּוֹנָה בְּעֲלִייתָן מִן הַגּוֹלָה לֹא בְּמִלָּךְ וְלֹא בְּאוּרִים וְתוֹמָיִם. לְפִיכָךְ הַתַּחְתּוֹנָה עִם הָאָרֶץ אוֹכְלִין שָׁם קֳדָשִׁים קָלִין וּמַעֲשֵׂר שְׁנִי וְחִבְרִים אוֹכְלִין שָׁם קֳדָשִׁים קָלִין אֲבָל לֹא מַעֲשֵׂר שְׁנִי. וְהָעֲלִיּוֹנָה עִם הָאָרֶץ אוֹכְלִין שָׁם קֳדָשִׁים קָלִין אֲבָל לֹא מַעֲשֵׂר שְׁנִי. וְחִבְרִים אוֹכְלִין שָׁם קֳדָשִׁים קָלִין וּמַעֲשֵׂר שְׁנִי. מִפְּנֵי מָה לֹא קֳדָשׁוּהָ. מִפְּנֵי שֶׁהֵיטָה תּוֹרַפָּת יְרוּשָׁלַם שָׁם וְהֵיטָה יְכוּלָה לִכְבֹּשׁ מִשָּׁם.

³²⁰Abba Shaul says, two subdivisions³²¹ were there, the lower and the upper, whose sanctification was not complete. The lower one was dedicated

with a full ceremony, but the upper one only when they came from the diaspora, without a king and without Urim and Tummim. Therefore, in the lower one the vulgar³²² eat family sacrifices and Second Tithe; Fellows eat there family sacrifices but not Second Tithe³²³. In the upper one, the vulgar eat family sacrifices but not Second Tithe³²⁴; Fellows eat there family sacrifices and Second Tithe³²⁵. Why did they not sanctify it? Because it was the vulnerable spot of Jerusalem; it could be conquered from there³²⁶.”

320 This *baraita* exists in another three versions: Tosephta 3:4 (T), Babli *Sevuot* 15b (B), *Megillat Ta'anit* 6 (M). A detailed discussion of all four texts, to be used with due caution, is in Note 22 to volume 3 of H. Graetz's *Geschichte der Juden*.

321 ביצין corresponds to the readings of B,T, ביציעין, ביציעין, ביציעין by degeneration of the guttural. One has to accept Graetz's derivation from בצע “to split” against Rashi's *marais* “marsh.” M has “places on the Mount of Olives”, an emendation by a person who did not understand the text.

322 For the notions of “vulgar” and “Fellow”, cf. Introduction to Tractate *Demay*, p. 349.

323 Since family sacrifices have more holiness than Second Tithe, one has to

accept the reading of M: “family sacrifices and certainly Second Tithe.”

324 Because these were living quarters in the expanding city.

325 Read with B,T,M: “neither family sacrifices nor Second Tithe.”

327 This defines the “upper subdivision” as the suburb between the second, Herodian wall and the incomplete third wall of Agrippas I. The lower subdivision then is the part of the old city between the Hasmonean and Herodian walls. Since the third wall could not be completed, the dedicated part of the city could not be expanded there. The subdivision is called *upper* because it slopes upwards from the Damascus gate to the North. The lower subdivision could have been dedicated by a ceremony imitating Nehemiah's.

(19b line 71) אין עוֹשִׂין סְנִיְהִדְרוֹת לְשִׁבְטִים. תִּלְמוּד לומר לְשִׁבְטִיד וְשִׁפְטִי אֶת-הָעָם.
אין עוֹשִׂין עִיר הַנִּדְחָת. רַבִּי יוֹחֲנָן בְּשֵׁם רַבִּי הוֹשַׁעְיָה. תִּלְתָּא אַמּוּרִין. חַד אַמַּר. אַחַת עוֹשִׂין
שְׁתֵּים אֵין עוֹשִׂין. וְחֲרָנָא אַמַּר. הַסְמוּכוֹת עוֹשִׂין הַמְּפֹזְרוֹת אֵין עוֹשִׂין. וְחֲרָנָא אַמַּר. מְפֹזְרוֹת
אֵין עוֹשִׂין כָּל-עֵיקָר שְׁמָא נְפֻצוּ גוֹיִים וְנִבְאוּ לְאַרְצָא יִשְׂרָאֵל. וְאֵית דְּבָעִי מִימַר. שְׁמָא נְפֻצוּ
הָאוֹיְבִים וְנִבְאוּ לְיַדִּי קִרְחָה.

“One only appoints high courts for the tribes.” The verse says³²⁷, *for your tribes, they shall judge*.

“One only declares a town to be deviant.” Rabbi Johanan in the name of Rabbi Hoshai: ³²⁸Three Amora'im, one says, one makes³²⁹ one but not two. The other said, clusters one makes³³⁰, dispersed ones one does not make. The other said, dispersed³³¹ one does not make at all, lest Gentiles spread and come to the Land of Israel; some want to say that enemies should not spread and lay waste.

327 *Deut.* 16:18. For the argument behind the quote, cf. *Makkot* 1:17 (Note 74), Babli 16b.

328 In the Babli, 16b, the first opinion is attributed to Rav, the converse of the second to R. Simeon ben Laqish, the third opinion to R. Johanan.

329 No court is empowered to declare more than one town as deviant at the same time.

330 Two neighboring towns can be considered as one. There is no need to emend the Yerushalmi to follow the Babli.

332 This should read, or be interpreted as, “border town” as in the Mishnah.

משנה ו' סנהדרין גדולה היתה של שבעים ואחד וקטנה של עשרים ושלשה. ומניין לגדולה שהיא של שבעים ואחד. שנאמר אסף לי שבעים איש מזקני ישראל ומשה על גביהן הרי שבעים ואחד. רבי יהודה אומר. שבעים. ומניין לקטנה שהיא של עשרים ושלשה. שנאמר ושפטו העדה והצילו העדה עדה שופטת ועדה מצלת הרי כאן עשרים. ומניין לעדה שהיא עשרה. שנאמר עד מתי לעדה הרעה הזאת יצאו יהושע וכלב.

Mishnah 6: The High Synhedrion³³² had 71 members and a lower one 23 members. From where that the High Court has 71 members? For it is said³³³: *Assemble for me 70 men of the Elders of Israel*, and Moses was presiding, that makes 71. Rabbi Jehudah says, 70³³⁴. From where that a lower court has 23 members? For it is said, *the congregation shall judge, the congregation shall save*³³⁵. One congregation judges, one congregation saves, this makes twenty. And from where that a congregation consists of ten persons? As it is said, *how long this evil congregation*³³⁶, without Joshua and Caleb.

332 As usual in rabbinic sources, the political institution of the Synhedrion is identified with the juridical of the High

Court, projecting Jabneh arrangements into Temple times.

333 *Num.* 11:16.

334 He is known for the correctness of his historical traditions. For the political functions of a Synhedrion, an even number of members is acceptable. The judicial functions were exercised by committees of

23 each.

335 *Num.* 35:24,25 speaking of the trial of the homicide; cf. *Sifry Num.* #160.

336 *Num.* 14:27, interpreted as speaking of the ten bad spies.

(19c line 2) **מתני'.** סנהדרין גדולה כול'. רבי בא רבי יסא בשם רבי יוחנן. נאמר כאן עדה ונאמר להלן עד-מתי לעדה הרעה. מה לעדה האמורה להלן עשרה אף כאן עשרה. אמר רבי סימון. נאמר כאן תוד' ונאמר להלן תוד'. מה תוד' שנאמר להלן עשרה אף כאן עשרה. אמר ליה רבי יסא בירבי בון. אם מתוד' את' ילוי' לה סגין אינון. אלא נאמר כאן בני ישראל ונאמר להלן בני ישראל ונבואו בני ישראל לשבד. מה בני ישראל שנאמר להלן עשרה אף כאן עשרה.

Mishnah: “The High Synhedrion,” etc.³³⁷ Rebbi Abba, Rebbi Yasa in the name of Rebbi Johanan: It says here “congregation”, and it says there “congregation”, *how long the evil congregation*. Since “congregation” there means ten, so here also ten.

Rebbi Simon said, it is said here “amid”, and it is said there “amid”. Since “amid” there means ten, so here also ten. Rebbi Yose ben Rebbi Abun told him, if you want to infer from “amid”, there are too many. But it is said here “the sons of Israel”, and it is said there, “the sons of Israel”, *the sons of Israel came to buy grain*. Since “the sons of Israel” there were ten, so here also ten.

337 This is not a repetition of the Mishnah. The paragraph really does not refer to the qualifications of a court but to the requirement of having 10 adult males in attendance for religious observations of a

“congregation.” The paragraph is an almost complete quote from *Berakhot* 7:3, Notes 106-108, is repeated in *Megillah* 4:4 (75b l. 7), *Babli* 23b, and is alluded to in *Sanhedrin* 4:10.

(fol. 18a) **משנה ז'** ומניין להביא עוד שלשה. ממשמע שנאמר לא תהיה אחרי רבים לרעות שומע אני שאמר יהיה עמהם לטובה. אם כן למה נאמר אחרי רבים להטות. לא כהטייתך לטובה הטייתך לרעה. הטייתך לטובה על פי (עד) אחד, הטייתך לרעה על פי שנים ואין בית דין שקול מוסיפין עליהן עוד אחד הרי כאן עשרים ושלשה. וכמה זה בעיר ותהא ראוייה לסנהדרין מאה ועשרים. רבי נחמיה אומר מאתים ושלשים כדי שרי עשרות.

Mishnah 7: From where that one adds another three³³⁸? From the interpretation of what is said³³⁹, *do not follow the majority to be unfavorable*, I understand that He said, follow them to be favorable. Then why was it said, *to bend after the majority*? Your bending to be favorable is not equal to your bending to be unfavorable. Your bending to be favorable shall be by one [vote] (witness), your bending to be unfavorable shall be by two. Since no court may be even-numbered, one adds another one to obtain 23. How many people shall live in a town that it may have a criminal court? 120. Rabbi Nehemiah said 230, that they might be commanders over tens³⁴⁰.

338 Since Mishnah 6 established that a criminal court must have 20 judges/jurors.

339 Ex. 23:2: *Do not follow the majority to do evil; do not testify in a quarrel, to bend, to twist after the majority.* This is read to mean that for acquittal one vote is enough but that for conviction one needs a qualified

majority even without the one judge who is voting. Cf. *Mekhilta dR. Ismael Mišpaṭim* 20, dR. *Simeon ben Iohai* 23:2 (in the name of Rebbi.)

341 Since the verse requires that judges be outstanding personalities, Ex. 18:21, *Deut.* 1:15, each judge must be qualified at least to be the leader of ten men.

9) (19c line 9) **מתני'.** ומניין להביא עוד שלשה כול'. אומר רבן שמעון בן גמליאל. בראשונה לא היו חותמין על כתובת נשים כשירות אלא כהנים לויים וישראלים משיאין לכהונה. אומר רבי יוסי. בראשונה לא היתה מחלוקת בישראל אלא סנהדרין שלע"א היתה יושבת בלשכת הגזית. ושני בתי דינין של שלשה שלשה היו יושבין אחד בחיל ואחד בבהר הבית. ובתי דינין שלכ"ג היו יושבין בכל עיירות ארץ ישראל. צריך אחד מהן לשאול דבר הלכה הנה בא ושואלה בבית דין שבעירו. אם שמעו אמרו לו ואי לא הנה הוא ומופלג שלחן באין ושואלין אותה בבית דין הסמוך לעירו. אם שמעו אמרו להן ואי לא הנה הוא ומופלג שלחן באין ושואלין אותה בבית דין שבהר הבית. אם שמעו אמרו להן ואי לא הנה הוא ומופלג שלחן באין ושואלין אותה בבית דין שבחיל. אם שמעו אמרו להן ואם לאו לא היו אילו ואילו מתכנסין לבית דין הגדול שבלשכת הגזית שממש תורה יוצאה ורוחת לכל ישראל. שנאמר מן המקום ההוא אשר יבחר יי וגו'. סנהדרין שבלשכת הגזית אף על פי שהיתה שלע"א לא היו פחותין מכ"ג. צריך אחד מהן לצאת הנה מסתכל. אם יש שם כ"ג הנה יוצא ואם לאו לא הנה יוצא. והיו יושבין מתמיד שלששר עד תמיד שלגין הערבים. ובשבתות ובמימים טובים היו יושבין בבית המדרש שבהר הבית. ושלחן הלכה. אם שמעו אמרו להן ואי לא עומדין על המנין. רבו המעפין זיכו. רבו המחזיקין חיבו. רבי המטהרין טיהרו. רבו המטמאין טימאו. שממש תורה יוצאה ורוחת לכל ישראל. משרבו תלמידי שמי והלל שלא שימשו רביהו כצורכן רבי

הַמַּחֲלֻקוֹת בְּיִשְׂרָאֵל וְנִעְשׂוּ שְׁתֵּי תוֹרוֹת. וּמִשָּׁם הָיוּ שׁוֹלְחִין בְּכָל-עֵינִיזוֹת שְׁבָאֲרָץ יִשְׂרָאֵל וְכָל-מִי שֶׁהָיוּ מוֹצְאִין אוֹתוֹ חָכָם עָנִי שְׂפָמוֹ עֵין טוֹבָה נֶפֶשׁ שְׂפִלָּה רוּחַ נְמוּכָה לֵב טוֹב יֵצֵר טוֹב חֶלֶק טוֹב הָיוּ מוֹשִׁיבִין אוֹתוֹ בְּבֵית דִּין שְׁבֹהֵר הַבֵּית וְאַחֵר כֶּךָ בְּבֵית דִּין שְׁבִחִיל וְאַחֵר כֶּךָ בְּבֵית דִּין הַגְּדוֹל שְׁבִלְשָׁכֶת הַגְּזִית.

Mishnah: “From where that one adds another three, etc. It was stated:

³⁴¹Rabban Simeon ben Gamliel said, in earlier times the *ketubah* of qualified women³⁴² was signed only by priests, Levites, or Israel whose daughters were qualified to marry into the priesthood.

³⁴³Rebbi Yose said, in earlier times there was no disagreement in Israel³⁴⁴ but the Synhedrion of 71 members were sitting in the free-stone hall³⁴⁵; two courts of three³⁴⁶ members each were sitting, one in the glacis³⁴⁷ and one on the Temple Mount³⁴⁸; and a court of 23 was sitting in every town of the Land of Israel. If somebody had a question of religious practice, he went and asked it from the court in his town. If they had heard [the answer], they told him; otherwise he and their distinguished member went and asked a court in their neighborhood. If these had heard [the answer], they told him; otherwise he and their distinguished member went and asked from the court on the Temple Mount. If these had heard [the answer], they told him; otherwise he and their distinguished member went and asked from the court on the glacis. If these had heard [the answer], they told him; otherwise they together entered the High Court in the free-stone hall since from there instruction came accepted in all of Israel, as it is said: *From this place which the Eternal will choose*³⁴⁹. Even though the Synhedrion in the free-stone hall had 71 members, those present never numbered less than 23. If one of them had to leave, he was looking around; if 23 others were present, he would leave, otherwise he would not leave³⁵⁰. They were in session from the daily morning sacrifice to the daily evening sacrifice. On Sabbaths and holidays, they were sitting in the study hall on the Temple Mount³⁴⁸. If a question of practice came up, if they had heard the answer, they told them; otherwise they prepared to vote. If a majority was for acquitting, they acquitted. If a majority³⁵¹ was for a guilty verdict, they rendered a verdict of guilty. If a majority was for declaring pure, they declared pure. If a majority was for declaring impure, they declared impure. From the time that there were many students of Shammai and Hillel

who did not study enough under their teachers, many disagreements arose and two doctrines developed³⁵². From there³⁵³, they were sending to all towns in the Land of Israel; any time they found a person who was wise, meek, even-tempered, benevolent, pleasing, humble, good-hearted, with good intentions, and well endowed, they were placing him on the court of the Temple Mount³⁵⁴, from there to the court on the glacis, and from there to the High Court in the free-stone hall.

341 Tosephta 7:1, *Hagigah* 2:9.

342 Whose offspring were qualified to marry into the priesthood. In Temple times, this could serve as proof of qualification; cf. *Qiddušin* 4:4.

343 Most of the following text also is in the Babli, 88b. R. Yose, the collector of most of the material of *Seder 'Olam*, represents a very idealized past.

345 A patently incorrect statement. The ancient rabbinic disagreement about the treatment of private sacrifices on holidays is the topic of *Hagigah* 2; the statement declares all non-rabbinic sects as non-Jewish.

345 Adjacent to the Temple, built into the Herodian Temple wall, constructed from large rectangular stones without mortar.

346 Read: 23. However, A. Weiss (לשאלת) טיב בית דין של שבעים ואחד, ספר היובל לכ' לי יושבין מימינו וזקנים משמאלו מפני כבוד הזקן. New York 1946) insists

that the only courts of 23 in Jerusalem were committees of the court of 71.

347 The space between the Temple wall and a smaller wall surrounding the Temple areas.

348 Outside any enclosure.

349 *Deut.* 17:10. Disobedience of a High Court ruling is only a capital crime if the ruling was delivered from "the place", from a court sitting in a room partially on Temple grounds. When the High Court lost its standing as court of criminal appeals (Note 31) and left the free-stone hall, it also lost its ability to prescribe practice *ex cathedra*.

350 Babli *Soṭah* 45a.

351 In his theory, on appeal only a simple majority is needed.

352 Babli *Soṭah* 47b.

353 The free-stone hall.

354 In all three Babylonian texts, the person is appointed judge in his town and the appeals courts replenished from sitting judges.

19c line 36) סנהדרין היתה כחצי גורן עגולה והנשיא יושב באמצע כדי שיהיו רואין אותו ושמעין קולו. אמר רבי לעזר בירבי צדוק. כשהיה רבן גמליאל יושב בבינה היה אבא ואחיי יושבין מימינו וזקנים משמאלו מפני כבוד הזקן.

The Synhedrion was like a threshing floor in the shape of a semi-circle; the president sat in the middle so they might see him and hear his voice.

Rebbi Eleazar ben Rebbi Sadoq said, when Rabban Gamliel was sitting at Jabneh, my father and his brother were sitting to his right and the Elders to his left, to honor the old man³⁵⁵.

355 The "old man" was R. Sadoq, a Zakkai's school in pre-war Jerusalem. member already of Rabban Johanan ben

(19c line 39) כְּמָה הֵן שׁוֹפְטֵי יִשְׂרָאֵל. שְׁבַע רִיבּוֹא וּשְׁמוֹנוֹת אֲלָפִים וְשֵׁשׁ מֵאוֹת. שְׁרֵי אֲלָפִים שֵׁשׁ מֵאוֹת. שְׁרֵי מֵאוֹת שְׁשֹׁת אֲלָפִים. שְׁרֵי חֲמִשִּׁים י"ב אֲלָף. שְׁרֵי עֶשְׂרוֹת ס' אֲלָף. נִמְצָאוּ שׁוֹפְטֵי יִשְׂרָאֵל. ז' רִיבּוֹא וּשְׁמוֹנוֹת אֲלָפִים וְשֵׁשׁ מֵאוֹת. מֶה טַעֲמָא דְרַבִּי נְחֶמְיָה. וְהוּא שְׂיָהָא שֵׁם בֵּית דִּין שְׁלֹכ"ג. וְהִנְדִּינוּ וְהַעֲדִים וְזוֹמְמִיהוֹן וְזוֹמְמֵי זוֹמְמִיהוֹן וְחָזוּ וְסוֹפְרִיהוֹן וְשָׁמְשׁ. מֶה טַעֲמָא דְרַבָּנָן. וְהוּא שְׂיָהָא שֵׁם י"ב סְנִיְהֲדְרִיּוֹת שֶׁל י"ב שְׁבֻטִים.

³⁵⁶How many were the judges of Israel³⁵⁷? 78'600. Appointed over a thousand, 600. Appointed over a hundred, 6'000. Appointed over fifty, 12'000. Appointed over ten, 60'000. It turns out that the judges of Israel were 78'600.

³⁵⁸What is the reason of Rebbi Nehemiah? That there should be a court of 23, and the parties, and the witnesses, and the witnesses for perjury, and the witnesses for perjury of the witnesses for perjury, and the rabbi, and the clerks of court, and the beadle. What is the reason of the rabbis? That there might be twelve courts for the twelve tribes.

356 Halakhah 10:2 Note 214. Babli 18a, *Tanhuma Mišpaṭim* 6 (a *Šeilta*).

357 Appointed by Moses. The numbers are inexact since in no census were there exactly 600'000 men.

358 This paragraph is thoroughly corrupt. In the Babli, 17b, a very forced count connects the 120 men required by the rabbis

to a court of 23 acting as a law school to 3•23 = 69 students. Cf. also Tosephta 3:9. If one adds to the 35 people enumerated for R. Nehemiah the 69 law students mentioned in Mishnah 4:10, one arrives at a minimum number attributed in the Tosephta to R. Jehudah; but no emendation can be trusted.

(19c line 46) וּמִשָּׁה עַל גְּבִיּהוֹן. דְּבַר תִּקְנָה עָשָׂה מִשָּׁה. בְּשָׁעָה שְׁאַמֵּר לוֹ הַקְדוּשׁ בְּרִידָה הוּא פְּקוּד כָּל-בֶּכֶר זָכָר בְּבִנֵי יִשְׂרָאֵל אָמַר. אִי זֶה מְקַבֵּל עָלָיו לִיתֵן חֲמִשָּׁת שְׁקָלִים לְגוֹלְגוּלְתָּ. מֶה עָשָׂה. נָטַל כ"ב אֲלָף פִּיטְסִיקוֹ וְכָתַב עֲלֵיהוֹ בֶּן לִוי. וְרַע"ג וְכָתַב עֲלֵיהוֹ חֲמִשָּׁת שְׁקָלִים. וְהִטִּילוּ לְקֻלְפֵי. אָמַר לָהֶן. בּוֹאוּ וְטַלוּ פִיטְסִיקִים. כָּל-מִי שֶׁעָלָה בְּיָדוֹ בֶּן לִוי הִזָּה אוֹמֵר לוֹ. כָּבֶר פְּדִאָד

בן לוי. וְכָל־מִי שֶׁעָלָה בְּיָדוֹ חֲמִשָּׁת שֶׁקֶלִים הָיָה אוֹמֵר לוֹ. מָה אֶעֱשֶׂה לָךְ מִן הַשְּׂמִימִים הָאֵלֶּה. רַבִּי יְהוּדָה וְרַבִּי נְחֻמָּה מְתִיב תַּנְיָא לְחִבְרִיָּא. אֵילּוּ כְּתִבְתָּנִי לְוִי סִילְקֶת. אֶלָּא קִדְ עֲשֵׂה. נָטַל כ"ב אֶלֶף פִּיטְקִין וְכָתַב לְוִי וּמֵאֵתִים וְשִׁבְעִים וְשָׁלֹשָׁה כְּתַב עָלֵיהֶן חֲמִשָּׁת שֶׁקֶלִים וְהִטִּילָן לְקַלְפִּי. אָמַר לָהֶן. בּוֹאוּ וִטְלוּ פִיטְקִיכֶם. כָּל־מִי שֶׁעָלָה בְּיָדוֹ לְוִי אָמַר לוֹ. קָבֵר פְּדָאָד בֶּן לְוִי. וְכָל־שֶׁעָלָה בְּיָדוֹ חֲמִשָּׁת שֶׁקֶלִים הָיָה אוֹמֵר לוֹ. מָה אֶעֱשֶׂה מִן הַשְּׂמִימִים הָאֵלֶּה. מְתִיב תַּנְיָא לְחִבְרִיָּא. הִגַּע עֲצָמָךְ שֶׁעָלָו כּוֹלָם לְוִי. אָמְרוּ לוֹ. מַעֲשֵׂה נִסִּי הָיָה וּמִסְוָרְגִין עָלָיו. אָמַר רַבִּי שְׁמוּאֵל. עַל דַּעֲתִיָּה דְתַנְיָא אַחוּרִיָּא מַעֲשֵׂה נִיסִין. עַל דַּעֲתִיָּה דְתַנְיָא קְדָמִיָּא אֵינוּ מַעֲשֵׂה נִיסִין. אָמְרוּ לֵיהּ. כּוֹלְהוֹן מַעֲשֵׂה נִיסִין הֵיוּ וּמִסְוָרְגִין עָלָיו.

"And Moses was presiding."³⁵⁹ Moses found a way to settle things. When the Holy One, praise to Him, told him, *count all male firstborns among the Children of Israel*³⁶⁰, he said, who will consent voluntarily to give five sheqel per head? What did he do? He took 22'000 tickets³⁶¹ and wrote on them "Levite" and 273 on which he wrote "five sheqel" and put all of them in an urn³⁶². He told them, come and take your ticket. To any one who drew a ticket saying "Levite" he said, a Levite already redeemed you. To anybody who drew a slip saying "five sheqel" he said, what can I do, it is from Heaven; Rabbi Jehudah³⁶³. But Rabbi Nehemiah the Tanna objected to the colleagues: If you had given me the possibility of a Levite, it would have come up for me.³⁶⁴ But the following is what he did. He took 22'000 tickets³⁶⁵ and wrote on them "Levite" and two hundred seventy three on which he wrote "five sheqel" and put all of them in an urn. He told them, come and take your ticket. To any one who drew a slip saying "Levite" he said, a Levite already redeemed you. The anybody who drew a ticket saying "five sheqel" he said, what can I do, it is from Heaven. The Tanna objected to the colleagues: Think of it, if all came up as "Levite"³⁶⁶? They told him, it was miraculous and they came up alternately. Rabbi Samuel said, in the opinion of the second Tanna, it was a miracle. In the opinion of the first Tanna, it was not a miracle³⁶⁷. They told him, it was a miracle in any case since they came up alternately.

359 *Tanhuma Bemidbar* 21, *Tanhuma Buber Bemidbar* 25, *Num. rabba* 4(9), shortened Babli 17a.

360 *Num.* 3:40. The reference should have been to vv. 46,47 where Moses was commanded to collect 5 *sheqel per person* from 273 of the 22'273 firstborn of the 11

tribes. The other 22'000 were redeemed by the service of 22'000 Levites. Since he was instructed to take the 5 *sheqel* from 273 persons, he could not simply collect 1'365 *sheqel* from 22'273 persons.

361 Greek τιττάκιον "ticket, label, etc."

362 Greek κάλπη, "urn".

363 The Midrash sources make it clear that the preceding was R. Jehudah's opinion; the following is R. Nehemiah's. The Babli only mentions R. Jehudah's opinion.

364 Since there were only 22'273 tickets, it was a mathematical necessity that 273 people would have to pay. The distribution of these was a pure matter of probabilities; there is no reason to invoke Heaven in the matter.

365 The parallel sources, and the paragraph after the next, make it clear that one has to read: 22'273 tickets reading "Levite".

366 Assuming that the tickets in the urn are well mixed and all tickets have the same probability to be drawn, the probability that in 22'273 drawings of 22'546 tickets no slip of "5 *sheqel*" or that all of the 273 extra tickets would be drawn is practically zero. (The first probability starts with a string of 117 zeroes after the decimal point, the second with 639.) If all 273 extra tickets were actually drawn, it was a clear sign from Heaven.

367 While in the first scenario by necessity 273 tickets of "5 *sheqel*" were drawn, these slips were drawn with approximately constant frequency, about 122.6 per 10'000 draws, against the probabilistic frequency of 121.1 per 10'000. One cannot say that alternately "Levite" and "5 *sheqel*" were drawn since then the drawing would have ended after 546 draws.

(19c line 61) אַנטונינוס הַגָּמוֹן שָׁאַל אֶת רַבֵּן יוֹחָנָן בֶּן זַכַּאי. בְּכָל חֲסִירֵין וּבִפְרָט וְתִירֵין. אָמַר לֵיהּ. אוֹתָן שְׁלֹשׁ מֵאוֹת וְתִירֵין בְּכוֹרֵי כְּהוּנָה הֵיוּ וְאִין קְדוֹשׁ מוֹצִיא קְדוֹשׁ.

³⁶⁸General Antoninus³⁶⁹ asked Rabban Johanan ben Zakkai: The sum is deficient, the details are excessive. He told him, these 300 were firstborn of the priesthood; no holy one redeems a holy one³⁷⁰.

368 Babli *Bekhorot* 5a, *Num. rabba* 4(7).

369 In *Bekhorot* קוטרקוס, in *Num. rabba* הונגטיס ; cf. Note 267.

370 In the census reported in *Num.* 3, the families of the Levites were reported as Gershon 7'500, Qehat 8'600, Merari 6'200,

for a total of 22'300. But in the summation in v. 39 only 22'000 are reported and this number reappears as the number of Levites freeing firstborns from payment. Instead of "priesthood" one has to read "Levites".

(19c line 61) כִּיּוּצָא בּוֹ וְלֹאמַר יי אֶל-מֹשֶׁה אֶסְפֶּה-לִּי שְׁבָעִים אִישׁ מִזִּקְנֵי יִשְׂרָאֵל. אָמַר מֹשֶׁה. אִם אֶטוּל ו' מִכָּל-שִׁבְט הָרִי ע"ב. י' מו' וּב' מֵה' אִי זֶה שִׁבְט מְקַבֵּל עָלָיו לִהְיוֹת פָּגוּם. מֶה עָשָׂה. נִטַּל שְׁבָעִים פִּיטְקִין וְכָתַב עֲלֵיהֶן זָקוֹן וּב' חֶלֶק וְהִטִּילוּ לְקַלְפֵּי. אָמַר לָהֶן. בּוֹאוּ וְטלוּ פִיטְקֵיכֶם. קָל- שַׁעֲלָה בִּידוֹ זָקוֹן הָיָה אוֹמֵר לוֹ. מִיּוֹד מִן הַשָּׂמִים. וְכָל-מִי שַׁעֲלָה בִּידוֹ חֶלֶק הָיָה אוֹמֵר לוֹ.

מה אַעֲשֶׂה וּמִן הַשָּׁמַיִם הוּא. רַבִּי יוֹדֶה וְרַבִּי נְחֻמִּיָּה מְתִיב תִּנְיָא לְחַבְרִיָּא. אֵילֹו כְּתִבְתִּנִּי זָקֹן סִלְקָת. אֶלָּא כֹּךְ עָשָׂה. נָטַל ע"ב פִּיטְקִין וְכָתַב עֲלֵיהֶן זָקֹן וְשָׁנִים חֲלָקִין וְהִטִּילָן לְקַלְפִּי. אָמַר לָהֶן. בּוֹאוּ וְטֹלוּ פִיטְקִיכֶם. מִי שֶׁעָלָה בְּיָדוֹ זָקֹן אָמַר לוֹ. כָּבֵר מֵינּוּךְ מִן הַשָּׁמַיִם. וּמִי שֶׁעָלָה בְּיָדוֹ חֶלֶק הָיָה אָמַר לוֹ. וְמִה אַעֲשֶׂה וּמִן הַשָּׁמַיִם הוּא. מְתִיב תִּנְיָא לְחַבְרִיָּא. הִגַּע עֲצָמָךְ שֶׁעָלָו כּוֹלֶם זָקֹן. אָמְרוּ לֵיהּ. מַעֲשֶׂה נִיסִין הָיָה וּמִסּוּרָגִין עָלוּ. אָמַר רַבִּי שְׁמוּאֵל. קִשְׁיָתִיָּה קוּמִי רַבִּי אֲבָהוּ. עַל דַּעְתִּיָּה דְּתִנְיָא אַחֲרֵיָּא מַעֲשֶׂה נִיסִים. עַל דַּעְתִּיָּה דְּתִנְיָא קִדְמִיָּא אֵינוּ מַעֲשֶׂה נִיסִים. אָמַר לֵיהּ. מַעֲשֶׂה נִיסִין הָיוּ וּמִסּוּרָגִין עָלוּ.

³⁷¹Similarly. *the Eternal said to Moses, assemble for Me seventy men of the Elders of Israel*³³⁴. Moses said, if I am taking six per tribe, there will be 72, ten of six each and two of five, which tribe will agree to be discriminated against? What did he do? He took 70 tickets and wrote on them "Elder", two he left blank, and put them in an urn. He told them, come and take your ticket. To any one who drew a slip saying "Elder" he said, from Heaven they appointed you. To anybody who drew a blank slip he said, what can I do, it is from Heaven; Rabbi Jehudah³⁶³. But Rabbi Nehemiah the Tanna objected to the colleagues: If you had given me the possibility of an Elder, it would have come up for me.³⁶⁴ But the following is what he did. He took 72 tickets and wrote on them "Elder" and two blank ones and put all of them in an urn. He told them, come and take your ticket. To any one who drew a slip saying "Elder" he said, from Heaven they appointed you. The anybody who drew a blank slip he said, what can I do, it is from Heaven. The Tanna objected to the colleagues: Think of it, if all came up as "Elder"? They told him, it was miraculous and they came up alternately³⁷³. Rabbi Samuel said, I objected before Rabbi Abbahu: in the opinion of the second Tanna, it was a miracle. In the opinion of the first Tanna, it was not a miracle. He told him, it was a miracle in any case since they came up alternately³⁷⁴.

371 *Tanhuma Beha'alotekha* 11, *Tanhuma Buber Beha'alotekha* 22, *Sifry Num.* 95, *Num. rabba* 15(14), *Yalqut Šim'on*y 736, *Babli* 17a.

372 From here on there exists a Genizah fragment (L. Ginzberg, *Yerushalmi Fragments from the Genizah*, New York 1909, p. 256 ff.) where, however, few lines are

complete. Its readings are noted G only in paragraphs where they are reasonably complete and mark a genuine difference in the text.

373 The probability of at least one of the blank tickets remaining in the urn, assuming uniform distribution (thorough mixing) of the tickets, was 0.14316.

374 I. e., about evenly spaced.

(19d line 3) שאל אנטיגנס הגמון לרבן יוחנן בן זכאי. משה רבכם או גנב היה או לא היה בקי בחשבון. דכתיב בקע לגלגלת. אין תעבד קנטירא מאה ליטרין חד מן אישתא גנב. ואין תעבדיניה שיתין ליטרין פלגא גנב. אמר ליה. משה רבן גזבר נאמן ובקי בחשבון היה. אמר ליה. והכתיב ונחשת התנופה עשרים ככר. והיידא לון סלקין תשעין ושית ליטרין ואית עבד ליה פרוטרוט. אמר ליה. משום דלא סליק קינטירא. ואין תימר דסליק קינטירא פלגא גנב. אמר ליה. והכתיב ואתהאלף ושבוע המאות וחמשה ושבועים. והיידא לון סלקין שבועים וחד ליטרין ואת עבד ליה פרוטרוט. אמר ליה. משום דלא סליק קינטירא פלגא גנב. אמר ליה. והכתיב והשקל עשרים גרה עשרים שקלים חמשה ועשרים שקלים עשרים וחמשה שקלים המנה יהיה לכם. כפרו של הקדוש ברוך הוא כפול היה. אמר ליה. גיזבר נאמן ובקי בחשבון היה.

1 שאל אנטיגנס הגמון לרבן | G | אגנטס האגמון שאל את רבן | לא | G | שלא | 2 בחשבון | G | בחשבונות לגולגלת. אין תעבד קנטירא | G | ואין תעבד קינטירא. | 3 תעבדיניה שיתין | G | תעבדינה אישתין | נאמן | G | נאמן היה | 4 והכת' | G | - עשרים ככר | G | שבעים וגו' | והיידא לון | G | והיידילון | ושית | G | ושת | 5 קינטירא | G | קינטירא | קינטירא | G | קינטיר | פלגא | G | ופלגה | 6 וחמשה ושבועים | G | וגו' | והיידא לון | G | והיידילון | שבועים וחד | G | שובעין וחדה | 6 ליה | G | לה (twice) | קינטירא פלגא | G | קנטירא פלגא | 9 כפול היה. אמ' ליה | G | ... כפול הוא אמר לה משה רבכון

³⁷⁵General Antigonos³⁷⁶ asked Rabban Johanan ben Zakkai: Your teacher Moses either was a thief or he did not know how to compute, for it is written: *a beqa' per head*³⁷⁷. If you make the *centenarius* 100 pounds,³⁷⁸ he stole one sixth. If you make it 60 pounds, he stole half. He answered him, our teacher Moses was a trustworthy treasurer expert in computations. He answered him, is it not written, *they contributed bronze twenty talents*³⁷⁹; for us that makes 96 pounds³⁸⁰ and he mentions them in detail. He answered back, because it does not add up to a *centenarius*; if you would say that it added up to a *centenarius*, he would have stolen half. He told him, but it is written *I' 775*, would that not make 71 pounds³⁸¹ and he mentions it in detail. He answered back, if you would say that it added up to a *centenarius*, he would have stolen half. He told him, but it is written, *the sheqel is 20 gera, twenty sheqel, twenty-five sheqel, twenty-five sheqel the maneh*³⁸² shall be for you³⁸³; the talent of the Holy One, praise to Him, was double. He answered back, he³⁸⁴ was a trustworthy treasurer and expert in computations.

375 A different version is in the Babli, *Bekhorot* 5a.

376 In G, אגנטוס, cf. Note 267.

377 The discussion is about *Ex.* 38:25,26 (in the LXX, ed. A. Rahlfs, 39:2,3) where it is stated that the Temple tax of a *beqa'*, half a *sheqel*, paid by 603'550 men came to 100 *kikkar* 1775 *sheqel*. The LXX follows rabbinic tradition in identifying the *beqa'*, the Babylonian *zuz*, with the *drachma*, i. e., the *sheqel* with the *dupondius*, and the *kikkar* (Accadic *gaggarum* "disk") with the talent of 60 minas or 6'000 *drachmas*, i. e. 3'000 *sheqel* (cf. *Qiddušin* 1:1, Note 122.) But in *Qiddušin* 1:3 Note 339 it is declared that any *sheqel* mentioned in the Torah is a Roman *tetradrachma*. Then the silver contributed should have been twice the recorded amount, 201 talents 550 *sheqel*.

378 The *libra* weighing 100 *drachmae* is the natural weight equivalent of the Greek *mina* in coin. The *centenarius*,

"hundredweight", 100 pounds, is taken as the equivalent of the talent. But if by *sheqel* a *tetradrachma* is meant, a talent should have been 120 *mina*, not 60 as usual, and not 100 as presumed here. Computed from above, one-sixth is missing in the latter, half in the former case.

379 A scribal error; in the verse (and G): 70 talents. The total recorded was 70 talents, 2'400 *sheqel*.

380 Since 25 *tetradrachma* make a *mina*, 2'400 *drachma* are 96 *mina*. Nevertheless, the verse mentions *sheqel*, not *mina*.

381 @ 25 *tetradrachma* each.

382 The Babylonian *mina*.

382 *Ez.* 45:12; the correct text, intended here, is: 20 *sheqel*, 25 *sheqel*, 15 *sheqel* make a *maneh*, for a total of 60. Therefore, it is impossible to identify the Greek *mina* as 25 *sheqel*. Cf. *Qiddušin* 1:2 Note 204.

383 Read with G: "Your teacher Moses."