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RABBI JUDAH SON OF ILA'I:
HIS CONTRIBUTION TO THE HISTORY OF THE HALAKAH
WITH RESPECT TO MARRIAGE AND THE FESTIVALS

Morton H. Pomerantz

Thesis submitted in partial fulfillment
of the requirements for the Degree of
Master of Arts in Hebrew Letters and
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Prof. Alexander Guttman

DIGEST

Palestine was in chaos after the fall of Bethar. The rebellion had succeeded only in bringing about severe Roman persecution. At this time, Rabbi Judah, son of Ila'i, made his contribution to the Halakah. Rabbi Judah, recognizing the uncertainties of the age, opposed the making of vows in principle. He also was scrupulous in determining what it was that the vow restricted the individual from doing. He made it easier for widows to remarry by accepting testimony from questionable sources regarding the death of the husband. Rabbi Judah kept alive traditions of the performance of the rites of the Temple and the defunct sacrificial cult. He also was stringent in matters regarding the ritual qualifications of the priests. Thus, in case the Temple should be restored, a proper priesthood could engage in the sacrificial rites.

Rabbi Judah frequently clashed with Rabbi Meir on matters of Halakah. There was, to be sure, both personal and political enmity between the two. Nevertheless, the basic cause for the disputes was the view of Rabbi Judah that Mishnah was Midrash as opposed to the view of Rabbi Meir that Mishnah was Halakoth. The two men also had different conceptions about individual areas of Halakah. (Thus, Rabbi Meir tends to favor the making of vows, but Rabbi Judah opposes this.)

Much of Rabbi Judah's Halakah, including his opinions regarding the manner of performing Temple sacrifices, arises out of the needs of his age. He was a firm believer in the principles of exegesis expounded by his teacher, Rabbi Akiba. In this framework, Rabbi Judah, son of Ila'i, made his contribution to the Halakah with respect to marriage and the festivals.

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INTRODUCTION

After the fall of Bethar, despair seemed the most sensible of emotions. In retaliation for the war caused by the Jewish rebels, the Roman authorities engaged in suppression of ordination and other important religious practices. As a result, Judaism itself appeared to be in danger of extinction, and, although the Temple had ceased to exist in the year 70, the people realized for the first time the severity of the prophetic rebuke: "Therefore shall Zion for your sake be plowed as a field, and Jerusalem shall become heaps...."

One of the Sages of this troubled period was Rabbi Judah, son of Ila'i, a disciple of Rabbi Akiba and Rabbi Tarfon. It was his lot in life to help form and help preserve the Halakah during this period of strife. It is now our intent to examine Rabbi Judah's decisions with respect to marriage and the festivals. In our investigation, we shall endeavor to present the reader with Rabbi Judah's opinions and to discover the reasons for these opinions. Trends and tendencies in the Halakah will be noted.

The reader should remember that both of our categories of Halakah, marriage and the festivals, were in desperate need of revision at this time. Because of the chaotic condition of the times, women often could not prove that their husbands were dead and, as a result, were not able

to remarry. Improper bills of divorce from foreign lands could cause a similar problem. As for the festivals, let us remember that the people had not yet entirely adjusted to the idea that the festivals must be celebrated with no Temple rites.

Rabbi Judah attempted to deal with both problems. With regard to marriage, he accepted questionable testimony as conclusive proof of the death of the husband. As for the festivals, he took part in legislating for the immediate needs of the holy day while keeping alive traditions and accounts of the rites of the Temple. Rabbi Judah also took pains to see that the priests kept themselves ritually fit to participate in the sacrificial cult, should it ever be restored.

All translations from rabbinic sources are my own, as are all transliterations to the Roman alphabet. For quotations from the Bible, I have employed in most cases the translations found in the Jewish Publication Society's edition of the Holy Scriptures. In a few cases, the interpretations of the Sages require special renderings of the citations. In such instances, the translations from the Hebrew are mine.

I should like to thank Dr. Ellis Rivkin for his help in advising me about the history and conditions of the period, as well as the understanding I have gained from him

of the methodology of the scientific historian. I should like to express my sincere appreciation to Dr. Alexander Guttman, my thesis advisor. Were it not for his help in this specific undertaking, and the knowledge of the Halakah I acquired from his classes, this work would not have been possible.

While this contribution, if it has some value, is decidedly a minor one, it is hoped that it may play some role in the understanding of the development of the Halakah of this period. As Rabbi Judah labored for the sake of Heaven, so may this work serve the cause of the God of Israel, for more important than any information this thesis may impart is the recognition that "The fear of the Lord is the beginning of wisdom, and the knowledge of the All-holy is understanding."

Cincinnati, 1964

CHAPTER III

HISTORICAL BACKGROUND

A. History From The Destruction Of The Temple To The Fall Of Bethar

In the year 70 of the common era, a profound change took place in the structure of the religion of Israel. It was in this year that the legions of Rome conquered the city of Jerusalem, then in rebellion against Roman rule, and destroyed it. The Temple was burned to the ground and the booty was taken by the victorious Romans from the treasures of the sacred structure.

On the 9th of AB (according to the testimony of the tradition of the Tannaim) or on the 10th of AB (according to the testimony of the tradition of Josephus) the Temple was burned.¹

This change caused the internal structure of the religion of Israel to take on a new form. No longer could individuals bring sacrifices during the appointed seasons, nor could priests serve an appointed time in the service of the sacrificial cult. Contributions for the maintenance or improvement of the Temple necessarily came to an end when the Temple was set afire. The treasures of the Temple were taken to Rome, and there Titus celebrated a triumph honoring the victory of the Romans over the Judean rebels.²

One individual who recognized the severity of the crisis through which the religion of Israel was passing

was Rabban Johanan, son of Zakkai. According to tradition, Rabban Johanan was one of the youngest of the eighty students of Hillel, the Elder.³ This sage was opposed to the rebellion against Rome. Perhaps because of his political views, he was able to obtain the right to found a seat for the Sanhedrin in Jabneh (Jamnia) as a concession from Vespasian, the commander of the Roman forces.⁴

The establishment of this small academy and seat for the Sanhedrin proved to be invaluable for the preservation of the religion of Israel. A reformation of the structure of the religion, now without a Temple, could now be undertaken from this central institution. Also, the Sanhedrin could meet and render decisions, thus guaranteeing continuity with a past. In addition to this, the scholars of Jabneh could train disciples to follow after them as leaders of the Jewish people. These students could be taught the details of the Temple ritual, at this point defunct, so that the Temple service could be reinstituted should the Temple ever be reconstructed. These new leaders could also serve the immediate needs of the people by learning to render accurate decisions on ritual questions brought to them and by being competent to judge the civil cases that would arise from time to time in their vicinities.

Whether Rabban Johanan ever was given the title of Nasi is a matter of dispute. It seems clear that the title was given to Johanan's successor at Jabneh, Rabban Gamaliel II,

a direct descendent of Hillel.⁵ During the period of Gamaliel's leadership, there was so much controversy and dispute that Gamaliel was actually deposed for a short time.⁶ Nevertheless, the Sanhedrin continued to function effectively.

Politically, the Jews were suffering persecution and restriction as a result of the unhappy uprising that brought about the destruction of the Temple. The result of these persecutions was mob violence, which turned into revolution under Bar Kosiba (Bar Kokhba). Although the revolt was at first successful, the Romans, who sustained great losses, captured Bethar to end the uprising after about three years of fighting.⁷ The result of all this was severe persecution by the Romans. Even Jerusalem was turned into a pagan city.⁸ Rabbi Judah himself testifies to the severity of Roman rule by giving accounts of what was done "in the hour of danger" under Hadrian.⁹

This was the world of Judah, son of Ila'i. Palestine was entirely under Roman domination, and the Jews had not yet learned to adjust themselves to conditions in which they were hated subjects of Rome, and lacking a Temple. Bearing in mind the conditions of the times in which Rabbi Judah lived, we shall attempt next to examine the details we have of his personal life. It is thus that we may be able to see the role he played in helping to form the fabric of the Halakah that arose after the destruction of the Temple and the unsuccessful revolt of Bar Kokhba.

B. Biography Of Rabbi Judah, Son Of Ila'i

Rabbi Judah, son of Ila'i, was one of the most prolific of the Tannaitic rabbis. His opinions abound in Mishnah, Tosephta, the various Midrashim, and the extraneous Tannaitic statements of the Talmud. Rabbi Judah was a contemporary of Rabban Simeon, son of Gamaliel II, the Nasi, as well as of Rabbi Meir, Rabbi Jose, son of Halafta, Rabbi Simeon, son of Yohai, Abba Saul, and Rabbi Nehemiah. This means that Rabbi Judah was a member of the third generation of Tannaitic rabbis, who reached their prominence in the period around 140 to 165 of the common era.¹⁰

Hugo Mantel gives as approximate dates for the birth and death of Rabbi Judah the years 100 and 170 of the common era.¹¹ We accept this as approximate dating. Lauterbach gives the birthplace of Rabbi Judah as the Galilean city of Usha.¹² Other sources agree with this. The teachers of Rabbi Judah are said to have been his father, Rabbi Ila'i, one of the students of Eliezer, son of Hyrcanus, Rabbi Akiba and Rabbi Tarfon.¹³ That his father would teach Rabbi Judah is understandable. Rabbi Akiba is credited with being a teacher of the young Judah because of a legend found in the Talmud. According to this account, Rabbi Akiba had 12,000 pairs of disciples, all of whom died at the same time because they failed to treat each other with respect. After this, Rabbi Akiba is said to have come to the south and taught the Torah to Rabbi Meir, Rabbi Judah, Rabbi Jose,

Rabbi Simeon and Rabbi Eleazar, son of Shammua.¹⁴ As for Rabbi Tarfon's being a teacher of Rabbi Judah, we have abundant evidence. We find for example that Rabbi Judah read before Rabbi Tarfon in the synagogue.¹⁵ Again we find that Rabbi Judah consults the opinion of Rabbi Tarfon in questions which arise out of his own actions:

He who swears not to eat meat - he is permitted broth and sediment, but Rabbi Judah forbids it. Said Rabbi Judah: 'There was a case, and Rabbi Tarfon forebade me eggs that had been cooked with it.' They said to him: 'And thus was the matter, but when?' At the time that he says: Let this flesh be forbidden to me. Because in the case of a man who swears to avoid a thing, and it is mixed with another thing - if there is enough to give a flavor, it is forbidden.¹⁶

Judah is also fond of citing as authoritative the actions of Rabbi Tarfon. Thus do we find:

The shepherds go out in sacks, and not the shepherds alone did they say, but every individual; but the Sages spoke of a specific case. Said Rabbi Judah: 'The case of Rabbi Tarfon who went out to the academy on Sabbath nights and they gave to him a sheet; and he took it with his two hands and he went out because of the rains.'¹⁷

Thus it seems clear that Rabbi Tarfon was indeed the teacher of Rabbi Judah. Apparently Rabbi Judah learned his lessons well, for he so surpassed his father in learning that Graetz was moved to write "Rabbi Ila'i and Rabbi Halafta - these two merited a reputation because of their sons more than on their own account; their sons, Rabbi Judah and Rabbi

Jose, were fathers of the Halakah and great men of the Tannaim in the third generation."¹⁸

Rabbi Judah was ordained during a period of persecution. He was ordained by Rabbi Judah, son of Baba, in the countryside between two large cities, along with Rabbi Meir, Rabbi Simeon, Rabbi Jose and Rabbi Eleazar, son of Shamua. Rabbi Judah, son of Baba, was executed on the spot by the Romans because of his failure to heed the Roman prohibition of ordinations.¹⁹ It was at this early stage that Rabbi Judah may have discovered the advantages of supporting a policy of accommodation and friendliness to the Romans, for adopt such a policy he unquestionably did, as we shall see.

The question of the meaning of the title, "Head of the Speakers in every place" is raised in the Talmud. This title is applied to Rabbi Judah, and the question is asked: Why is Rabbi Judah called "Head of the Speakers in every place"? In reply to the question a story is told that Rabbi Judah, Rabbi Jose, and Rabbi Simeon were sitting together, with a certain Judah, the son of proselytes sitting near them. Rabbi Judah spoke first, and he spoke words of praise about the deeds of the Romans, who set up markets, fixed bridges and established baths. Rabbi Jose remained silent, but Rabbi Simeon, son of Yohai, answered with a reply that the Romans only did these things for their own benefit: They set up market places to let harlots dwell in them; they established baths for their own pleasure;

and they fixed bridges so that they might take tolls from them. Judah, the son of proselytes, who had overheard this conversation, reported it to the Roman authorities. As a result of this, it was decreed that Rabbi Judah, who had exalted the Romans by his words, should be elevated; Jose, who remained silent, should be exiled to Sephoris; and Simeon who had spoken hostile words of opposition, should be killed. Because of this, Rabbi Simeon was forced to flee for his life and dwell in caves for a number of years.²⁰

We must now ask ourselves what the significance is of the title, "Head of the Speakers in Every Place"? According to the commentator Rashi, this title was given "at the command of the king, who commanded him to speak first in every place."²¹ Thus we see that, according to Rashi, the title was one bestowed by the government of the Romans, possibly by the procurator, for services rendered to Rome in Rabbi Judah's disputation with Rabbi Simeon, son of Yohai. It should also be noted that this office would, most likely, allow a speaker whose friendliness to Rome had been demonstrated to speak first. Graetz felt that this honor was given to Rabbi Judah because the Sanhedrin was at the time meeting in the city of Usha, and Rabbi Judah was a native of that city. The honor, according to Graetz, was the privilege of being the first to expound the law.²² There is a basic problem present here if we accept the interpretation offered us by Graetz. If Graetz is correct, the story

offered us in the Talmud regarding Rabbi Judah's title is at best meaningless, and at worst, grossly misleading. To one reading the Talmudic account, the reason for the title seems to be implied quite clearly. We must conclude, along with Rashi, that "Head of the Speakers in Every Place" was a title bestowed upon Rabbi Judah by the Romans because of his attitude of accommodation and friendship to Rome.²³

Rabbi Judah distinguished himself by means of his great erudition. Rabbi Judah put to work both his memory and his creative faculties, so that he might expound his religious teachings. He was extremely productive of religious opinions as the pages of Rabbinic texts indicate. Weiss was moved to say that Rabbi Judah, son of Ila'i, was "the greatest of them all, for he is unique over all the Tannaim in the multitude of his religious teachings, whether in Halakah or in Midrash."²⁴ Rabbi Judah also distinguished himself by becoming the Master in the House of Nasi, a position that enabled him to render decisions for that distinguished household.²⁵

Despite all this, Rabbi Judah was not entirely free from the enmity of certain individuals. Rabbi Judah and Rabbi Meir seem to have had a personal bitter conflict. The extent of this bitterness was such, that after the death of Rabbi Meir, Rabbi Judah issued instructions that the pupils of Rabbi Meir should not be allowed to enter his classes for instruction, for he felt that they came to plague him with

Halakoth, instead of to learn. When it happened on one occasion that Symmachos entered his classroom, Rabbi Judah rebuked his students for allowing Symmachos to enter, and he reminded them of his instructions not to allow the students of Rabbi Meir to enter.²⁶

In spite of this somewhat unpleasant personal enmity between Rabbi Judah and Rabbi Meir, Rabbi Judah was considered one of the finest of the Tannaim. He is credited, according to the Talmud, with the authorship of all anonymous statements found in the collection called Sifra.²⁷

Rabbi Judah seems to have been a traveler with an eye for extraordinary beauty. We know that he visited the great synagogue of the Alexandrians from his testimony. Rabbi Judah felt that anyone who had not seen that magnificent structure with his own eyes had never seen the glory of Israel.²⁸

As far as the incidents of Rabbi Judah's personal life are concerned, we do not know a great deal about them. What we do know about this truly remarkable teacher has been left to us in bits and snatches that turn up in the pages of rabbinic literature. However, we do know a great deal about the opinions of this truly remarkable man, for they have been left to us in page after page of the Mishnah, the Tosephta, the Tannaitic, Midrashim, and in numerous extraneous opinions of the Tannaim quoted in the arguments of the Talmud. Rabbi Judah is well known to all the generations of

rabbinic scholars who followed him, not only because of the opinions of his which were accepted, but also because of the numerous discussions over those opinions of his that were rejected and the frequent cases when the rabbis of the Talmud quoted his opinions in an effort to bring light to the dark recesses of some legal discussion. Rabbi Judah thus may rightly claim a position of prime importance among the religious thinkers who molded Rabbinic Judaism in the days when it was young.

In the pages that follow, we shall endeavor to examine in detail the Halakah of Rabbi Judah, son of Ila'i, with respect to marriage and the festivals. Throughout these discussions, it is necessary for us to remember the few details we have of the life of Rabbi Judah, and the conditions of the period in which he lived. It is not possible for us to divorce the individual from the type of Halakah he was endeavoring to mold. Rabbi Judah was of necessity engaged in the development of a system of religious behavior that was viable in the life and times with which he was familiar.

It is for this reason that we must see the Halakah of Rabbi Judah, not as something utterly detached from the personality of the man, but as the representative of his convictions and hopes for his religious system and nation in a time of domination and persecution by the severe governors placed in power by Rome. Also, we must never overlook the messianic hopes for deliverance to which Rabbi Judah clung.

It was generally felt that one day the House of David would be restored to the throne in Jerusalem, for foreign domination would be ended once and for all. Hence, regulations for this period of a restored Temple and restored national prestige and glory needed to be learned in detail and transmitted from teacher to student. It is with these thoughts in mind that we begin our examination of the Halakah of Rabbi Judah, son of Ilai.

CHAPTER II

THE METHODOLOGY OF RABBI JUDAH, SON OF ILA'I

In the Halakah of Rabbi Judah, son of Ila'i, one frequently finds the work of an historian rather than the work of an originator; Rabbi Judah was given to quoting opinions he had learned and older traditions that had been taught him. These opinions cited by Rabbi Judah may be divided into two types: (a) Those that dealt with questions not of immediate practical consequence in the time of Rabbi Judah; for example, the ritual of the Temple sacrifices; and (b) Those opinions that dealt with questions of immediate import at that time.

We shall examine first those opinions mentioned by Rabbi Judah which deal with questions of no immediate practical importance in Rabbi Judah's time, such as opinions dealing with the ritual of the Temple. By the time of Rabbi Judah, the Temple had not been in existence for a good many years, and, as a result, the rites associated with it had not been celebrated for a considerable period of time. Although the Temple rites could not be practiced, the pages of the Mishnah demonstrate the fact that the Sages endeavored to determine and record the details of the ceremonies of the Temple. By such study it was hoped that, should the Temple be restored, knowledge of proper procedure in these matters would be readily available. Also, since the Temple ritual

could not be practiced, the study of that ritual might be an acceptable substitute. Nor were the laws regarding the sacrifices at the Temple the only ones then in disuse; the right of the red heifer, as well as that of the bitter waters, were no longer practiced in Rabbi Judah's day:

When murderers increased in number, the rite of the red heifer fell into disuse. When Eleazar, son of Dinai, came - and Tehinah, son of Perishah, he was called - they began to call him Son of the Murderer. When adulterers increased in number, they ceased the rite of the bitter waters; and Rabban Johanan, son of Zakkai, put an end to it, as it is said: 'I will not punish your daughters when they commit harlotry nor your daughters-in-law when they commit adultery....' 1

In dealing with the Halakah of Rabbi Judah, son of Ila'i, we find that he was extremely meticulous in dealing with the details of these practices, and numerous opinions concerning dormant areas of Jewish law are given in his name. Thus, we find with respect to the general requirement of contributing the Shekel dues to the Temple, the question arose as to whether or not the priests should pay. It is here that we see Rabbi Judah's memory for opinions taught him, come into play:

Said Rabbi Judah; The son of Bukhri, testified at Jabneh: Any priest that pays the Shekel dues does not commit a sin. Said Rabban Johanan, son of Zakkai, to him: Not so, but any priest who does not pay Shekel dues does commit a sin, but the priest expounded this scriptural verse to

their own benefit: 'And every meal offering of the priest shall be wholly made to smoke; it shall not be eaten.' Since the 'Omer and the two loaves of bread and the shew-bread are ours, how can they be eaten?' 2

Rabbi Judah's memory was equally able to retain the details he had learned regarding the required actions of the priests when performing some part of the sacrificial service itself. When Rabbi Judah was in possession of a detailed tradition which amended the generalities about the conduct of the priests offered by others, Rabbi Judah did not hesitate to give expression to what he had learned. Thus, it is with the case in which the conduct of the High Priest on the Day of Atonement is known, and the conduct of common priests is known, but the conduct of the High Priest on a week day had been overlooked:

Every day the priests would ascend on the east of the ramp, and they would descend on its west; but this day the High Priest would ascend in the middle, and he would descend in the middle. Rabbi Judah says: 'Always does the High Priest ascend in the middle, and he descends in the middle.' Every day the High Priest sanctifies his hands and his feet from the laver, but this day from the jug of gold. Rabbi Judah says: 'Always does the High Priest sanctify his hands and his feet from the golden jug.' 3

It is thus that we see that Rabbi Judah took extreme care with respect to even the relatively minor details of matters directly concerned with Temple sacrifices. In

support of this view, all anonymous statements in Sifra, tannaitic Midrash, on Leviticus, are attributed to Rabbi Judah.⁴ We also note that Rabbi Judah did not hesitate to express disagreement with the opinion given by another, if that opinion differed in some way from the tradition which he had been taught. This care for detail even extended into a description of the coffers of the Temple. Here also we may note that Judah's opinion is one that does not coincide with that of the majority of the Sages:

Thirteen Shofar chests were there in the Temple, and there was written upon them: 'New Shekel Dues, Old Shekel Dues, Bird Offerings, Young Birds for the Whole Offering, Wood, Frankincense, Gold for the Mercy Seat and six had Free Will Offerings.' New Shekel Dues - for each and every year; and Old Shekel Dues - whoever has not paid his Shekel Dues must pay in the next year; Bird Offerings - they are turtle doves; and Young Birds for the Whole Offering, they are young pigeons, and all of them are Whole Offerings, the words of Rabbi Judah. But the Sages say: 'Bird Offerings - one may be a Sin Offering, and one may be a Whole Offering; and Young Birds for the Whole Offering - they are all Whole Offerings.' ⁵

Aside from traditions about the performance of the sacrificial rites themselves, there was also a good deal of dispute about the proper care and maintenance of the buildings and ground of the Temple complex. Thus, such a mundane procedure as the cleaning of the Temple court after a pilgrim

festival was, of necessity, a proper subject for the discussion of the Sages. Should the Temple be restored, knowledge of all proper procedure, no matter how apparently trivial, would be essential. As we should expect, Rabbi Judah was equipped with traditions regarding the proper cleaning of the court after a festival:

He who opens his jar and he who breaks into his dough on account of the pilgrim festival - Rabbi Judah says: 'He may finish;' but the Sages say: 'He may not finish.' When the pilgrim festival had passed, they began the purification of the court. If the pilgrim festival concluded on Friday, they would not begin because of the honor of the Sabbath. Rabbi Judah says: 'Not even on Thursday, for the priests had not the leisure.'⁶

In addition to these relatively routine problems of the Temple and its maintenance, there were also complex situations which had to be taken into account. Thus, for example, one had to deal with the problem of work permitted in the Temple on the Sabbath and work forbidden in the Temple on account of the Sabbath Day. Here again Rabbi Judah has a tradition to express; in this case it is in dispute with another opinion dealing with the same topic:

They may bring back the lower pivot in the Temple, but not elsewhere in the state; and the upper pivot is forbidden both in the one place and in the other. Rabbi Judah says: 'The upper - in the Temple; and the lower - elsewhere in the state.'⁷

The Sabbath was not the only case of ritual problems apart from the sacrifice which concerned the Temple. There

was also the question of the requirement of the Mezuzah. What in the Temple was included in the scope of this commandment? In this instance, Rabbi Judah expands the requirement from a statement about the Temple to a general rule:

All the chambers that are in the Temple are free from the obligation of the Mezuzah except for the Chamber of the Counselors, because it is the residence of the High Priest seven days of the year. Said Rabbi Judah: 'And thus is there no residence there but this alone?' But they have said every residence falls under the obligation of this requirement, and anything that is not a residence is free from the obligation. ⁸

Finally, we note that Rabbi Judah disputes with his colleagues the number of wood stacks in the Temple on both the Day of Atonement and on a week day:

Every day there were four wood stacks there, but this day five, the words of Rabbi Meir. Rabbi Jose says: 'Every day three, but this day four.' Rabbi Judah says: 'Every day two, but this day three.'⁹

As we may well expect, there was much discussion about the special offerings and Temple ceremonies of the various holidays. These we shall discuss in greater detail when we deal with the festivals themselves. However, we ought not to overlook this kind of tradition, for it is extremely important as far as the Temple ritual is concerned. It is thus that we read, for example, with regard to the

slaughtering of the Pascal Lamb for the Passover:

When the first group went out, the second group entered. When the second group went out, the third group entered. As was the deed for the first group, so was the deed for the second and the third. They recited the Hallel. If they finished, they repeated it; and if they finished the repetition, they recited it a third time, although never did they finish it the third time. Rabbi Judah says: 'Never during the turn of the third group did they reach as far as: "I love that the Lord should hear," because the number of people was small.'¹⁰

Many of the tannaitic traditions taught by Rabbi Judah dealt with the immediate problems of the people, not with the destroyed Temple or its rites. These traditions were passed on through the statements and behavior of a Sage of an earlier generation. By mentioning these traditions, Rabbi Judah was attempting to establish as binding, either what he had been taught in his studies or what he had learned by observing the actions of his teachers. As we might well expect, Rabbi Judah frequently cites as authority his teacher, Rabbi Tarfon. Sometimes Rabbi Judah relies upon decisions rendered by Rabbi Tarfon in response to specific situations:

He who swears not to eat meat - he is permitted broth and sediment, but Rabbi Judah forbids it. Said Rabbi Judah: 'There was a case, and Rabbi Tarfon forbade me eggs that had been cooked with it.' They said to him: 'And thus was the matter! When?' At the time that he says: Let this flesh be forbidden to me, because, in the

case of a man who swears to avoid a thing and it is mixed with another thing, if there is enough to give a flavor, it is forbidden. ¹¹

Also, Rabbi Judah employs the actions of Rabbi Tarfon in order to establish Halakah. This is entirely reasonable, since Rabbi Tarfon would not act in a given manner, unless he believed that such action was proper under the circumstances. Thus, for example, we have the question of acceptable activity on the Sabbath day:

The shepherds go out in sacks. And not the shepherds alone did they say, but any individual; but the Sages spoke of a specific case. Said Rabbi Judah: 'There is a case concerning Rabbi Tarfon, who went out to the academy on Sabbath nights, and they gave to him a sheet because of the rains. He took it with his two hands, and he went out.' ¹²

It is by means of this actual occurrence that Rabbi Judah deals with the problem of going about with protective sheets on the Sabbath. The authority cited is a case in fact that occurred to the noted Sage, his teacher, Rabbi Tarfon. Rabbi Judah was capable of employing these cases about Rabbi Tarfon in disputes with other tannaitic Rabbis. It is thus that we find Rabbi Judah engaged in a dispute with his frequent opponent Rabbi Meir. Here we are dealing with a question of entering a city on the Sabbath.

If one sat down in the road and then stood up and saw that, behold, he was near to a city, since it had not been his intention to do so, he may not enter, the words of Rabbi Meir. Rabbi

Judah says: 'He may enter.' Said Rabbi Judah: 'There was a case in which Rabbi Tarfon entered when he did not intend to do so.' 13

Rabbi Judah, however, did not limit himself to relying upon the opinions and actions of Rabbi Tarfon. Rabbi Judah employed the opinions of Sages of an earlier day as reliable authority. One of the individuals whose opinions Rabbi Judah was able to cite was the distinguished Rabban Johanan, son of Zakkai. For example, Rabbi Judah quotes an opinion of Rabban Johanan regarding covering on the Sabbath:

They may put a dish on top of a lamp so that the flame cannot take hold of the rafter, and they may put it over excrement for the sake of a minor and over a scorpion so that it does not bite. Said Rabbi Judah: 'A case came before Rabban Johanan, son of Zakkai, in Arab, and he said: "I doubt that he is not liable for a Sin Offering." 14

Nor is this the only case in which Rabbi Judah relies upon a decision rendered by the earlier Sage, Rabban Johanan, son of Zakkai, regarding the solution of a problem of Halakah of immediate practical consequence. Another example is the case of opening a jar on the Sabbath:

A man may break the jar in order to eat from it dried figs, if only he does not intend to make a vessel. They may not pierce a plug of a jar, the words of Rabbi Judah; but the Sages permit it. One may not pierce it from the side, and if it was pierced, one may not put wax over it, because he would be smoothing it over. Said Rabbi Judah: 'A case came before

Rabban Johanan, son of Zakkai, in Arab,
and he said: "I doubt that he is not
liable for a Sin Offering." 15

Another individual whose actions were noted as
authoritative by Rabbi Judah was Rabbi Isaac Napaha. Here
the question was that of the propriety of an Erub for an
individual possessing more than one courtyard:

Said Rabbi Judah: 'There is a case
concerning Rabbi Isaac Napaha who
possessed five courtyards in Usha.
However, he did not forbid except for
the place of his residence alone.' 16

One need not think that, simply because Rabbi Judah
offered traditions regarding the decisions and actions of
various earlier scholars, these opinions of his were always
accepted by the other Sages. There were occasions when it
was a feeling of the other Sages that Rabbi Judah was dealing
with a special case whose circumstances should not determine
the general practice under ordinary conditions. Such a
special situation arises in the company of those who are
unusually scrupulous in their observance of the requirements
of the law. An example of this is the case of the house of
Nithzeh in Lydda; Rabbi Judah's account of this occurs in
both the Tosephta and in Talmud. The Tosephta account reads:

Said Rabbi Judah: 'We were spending
the Sabbath in the upper chamber of
the house of Nithzeh in Lydda, and
they were piercing the shell of an
egg and filling it with oil, and
placing it over the mouth of the
lamp on the eve of the Sabbath when
it was growing dark in order that it
burn through the nights of the

Sabbath. And there were elders there,
and not one of them said a word.' 17

It is at this point that the account ends in the Tosephta. However, it continues in the Talmud, and it is there that we see the rejection of this account as authoritative on the grounds that it was an unusual case:

Said they to him: 'Now from there is there any real proof? The House of Nithzeh is different because they were exceedingly scrupulous.' 18

Another type of situation which was considered not normal and, hence, not suitable as a basis for determining general legislation was the situation during a period of danger. Roman persecutions and severe decrees curtailing religious practices and study were not uncommon during this period. Rabbi Judah sometimes refers to cases that occurred during times of danger, but his colleagues rejected these instances as not being suitable for determining general practices:

....Said Rabbi Judah: 'There was a case during a time of danger, and we were lifting a scroll of the Torah from the courtyard to the roof, and from the roof to another roof; and we were reading in it.' They said to him: 'A time of danger is not suitable.' 19

A similar situation is a time of stress, during which certain actions were taken which Rabbi Judah cited as authoritative. However, the other Sages held that a time of stress, much the same as a time of danger, was an unusual occurrence

and not a fit basis for general legislation or practice.

Thus, in the case of lulabim, we read:

.....Said Rabbi Judah: 'There is a case of the sons of Korkhim, who were handing over their lulabim to their children at a time of stress.' They said to him: 'A time of stress is not suitable.' 20

Of course as one might well expect, there were other circumstances which Rabbi Judah felt were normal, but the other Sages held were sufficiently unusual as to render them no sound basis for legislation in ordinary cases. For example:

In the case of a water channel that passes through a courtyard, they may not fill from it on the Sabbath, except on condition, that one made for it a partition ten hand-breadths high at the entrance and at the exit. Rabbi Judah says: 'The wall that is above it is considered to be in the nature of a partition.' Said Rabbi Judah: 'There was a case concerning a channel in Abel from which they used to fill on the Sabbath with the express permission of the elders.' They said to him: 'Because it was not of the necessary size.' 21

Although it is quite clear that the rabbis of the Tannaitic period employed the Scriptures as the heart and basis of rabbinic Judaism, their ideas of how Scripture ought to be employed were not always and entirely the same. Rabbi Judah, as we shall see, insisted upon an interpretation of the biblical text that was extremely strict and

literal. This is an important part of Rabbi Judah's methodology in dealing with the Halakah of marriage and the festivals. For example, Rabbi Judah insists upon a course of action for the High Priest which is extremely difficult to pursue. This is done by Rabbi Judah in an attempt to fulfill literally the requirements of a biblical commandment:

Seven days before the Day of Atonement, they would separate the High Priest from his household to the Chamber of Counselors, and they prepared for him another priest in his stead, lest something should make him ritually unfit. Rabbi Judah says: 'Even another wife did they prepare for him lest his wife should die, as it is said: And make atonement for himself and for his house. His house - this is his wife.' They said to him: 'If that is so, there is no end to the matter. 22

This strictness with regard to the literal interpretation of Scripture of Rabbi Judah is extremely important in understanding Rabbi Judah's conception of Halakah. To Rabbi Judah the written law and the oral law were one in a very real sense; the oral law, according to Rabbi Judah, must necessarily trace itself directly back to the written law. This is seen in the dispute between Rabbi Meir and Rabbi Judah over a definition of Mishnah; Rabbi Meir was of the opinion that Mishnah is Halakoth, but Rabbi Judah held that it is Midrash.²³

It is possible to see instances in which Rabbi Judah's

opinions on Halakah are based upon a literal interpretation of a scriptural passage. There is, in these cases, a logical connection between the literal words of Scripture and Rabbi Judah's opinion of the Halakah. One example of this is:

Sweet pepper of any quantity whatsoever, and tar of any quantity whatsoever; various kinds of spices and various kinds of metal of any quantity whatsoever; of the stones of the altar and of the dust of the altar, worn out books and their worn out covers that they store away to hide them of any quantity whatsoever. Rabbi Judah says: 'Even he who takes out anything which pertains to idol worship of any quantity whatsoever, as it is said: And there shall cleave naught of the devoted thing to thy hand.'²⁴

This method of interpretation can have an immediate effect upon the determination of Halakah. Thus, with regard to the Temple ceremonies, it would not be difficult to examine Scripture and, from a literal interpretation of the words found therein, determine proper ritual procedure. This is exactly what Rabbi Judah can be found doing:

The blessing of the priests - how was it performed? Outside in the state they say it as three blessings, but in the Temple they say it as one blessing. In the Temple he says the Name as it is written, but outside in the state, with its substitute. Outside in the state the priests lift their hands as high as their shoulders, but in the Temple, over their heads, except for the High Priest, for he does not lift his hands higher than the frontlet. Rabbi Judah says: 'Even the High Priest raised his hands higher than the frontlet, as it is said: And Aaron lifted up his hands toward the people and blessed them.'²⁵

Rabbi Judah's opposition to anything but the literal interpretation of Scripture has many important consequences. Indeed, this severe opposition is carried to the extent that Rabbi Judah is found to oppose the using of exegetical devices in establishing Halakah. It is thus that we find Rabbi Judah opposing the use of the gezerah shawah:

How is it in the case of a halisah?
And she shall answer and say. And
there it says: And levites shall
speak and say. Just as the answer-
ing that is said there is in the
holy tongue, so here it is in the
holy tongue. Rabbi Judah says:
'And she shall answer and say so.
Until she shall say it with this
exact expression. 26

It is important to note with regard to the Mishnah that there is no dispute regarding the question of requiring the statement to be uttered in Hebrew; all agree that one must employ the holy tongue. The only dispute here is the method to be employed in deriving the Halakah from the Scriptural passages. Rabbi Judah takes the word thus to be a part of the directions in the law rather than a part of the formula to be recited.

Thus do we find important trends in the methodology employed by Rabbi Judah in determining Halakah. His practice is frequently to employ as authority either the traditions he has received from his teachers or the actions of noted Sages under given circumstances. In addition, there is a decided tendency to strictness and literalness regarding the interpretation to be employed with respect to Scriptural passages.

CHAPTER III

VOWS AND THE NAZIRITE

It is not entirely clear why the subject of vows was included by the rabbis in the general area of marriage, at least as far as Halakah is concerned. It is possible to advance many plausible reasons for such an inclusion; for example, it is possible to argue that, since a husband could annul the vows of his wife under certain circumstances, the subject of vows was included in the general category of marriage. However, it is not within the scope of this thesis, nor is it to our general purpose, to examine the reasons for such an inclusion; the rabbis of the Tannaitic period felt that it so belonged, and we are dealing with their Halakah and must include it as they did. However, it is very much to our purpose to ascertain the position of Rabbi Judah, son of Ila'i, with regard to the making, scope, and limitations of vows.

It is important for us to note from the start that Rabbi Judah maintains an unfavorable attitude toward the making of vows. Rabbi Judah engages in an interesting and important dispute with Rabbi Meir concerning the desirability of making and fulfilling vows. Rabbi Meir feels that it is more desirable to make vows and fulfill them than not to make them at all, but Rabbi Judah is of the opinion that not making vows is more desirable even than making vows and

fulfilling them.¹

At this point we must avoid the temptation to take the words of Rabbi Judah literally. Rabbi Judah's position, if taken from the literal meaning of his words, is that a truly good individual would avoid making vows. However, if we insist upon maintaining this position, certain difficulties will arise. We are confronted, for example, with Rabbi Judah's own testimony that he himself made vows and asked advice about them from his teacher, Rabbi Tarfon:

He who swears not to eat meat - he is permitted broth and sediment, but Rabbi Judah forbids it. Said Rabbi Judah: 'There was a case, and Rabbi Tarfon forbade me eggs that had been cooked with it.' They said to him: 'And thus was the matter! When?' At the time that he says: 'Let this flesh be forbidden to me, because, in the case of a man who swears to avoid a thing and it is mixed with another thing, if there is enough to give a flavor, it is forbidden.' 2

Rather than allow a complete contradiction to exist between the opinions and actions of Rabbi Judah, it is more reasonable to take Rabbi Judah's statement of opposition as more figurative than literal. Such a statement would then be taken to mean that one ought not to vow frequently or lightly. The reasons for such an attitude would be clear enough during times of periodic Roman persecutions and unsettled conditions marked by a recent unsuccessful attempt at revolt from Rome. Under such conditions, vows could be

made on one day and appear to be easy to fulfill, but the circumstances of the next day might very well make them impossible to fulfill in part or in entirety. Such an element of risk with respect to vows exists under any and all circumstances, but to a much greater degree during periods of persecution and revolution. It is also possible for us to maintain that Rabbi Judah meant literally what he said about the undesirability of vows, but he vowed nevertheless when he was a youthful student of Rabbi Tarfon. This seems to us less likely than our first opinion. In any event, we must recognize that Rabbi Judah's position regarding vows was one of opposition and doubt about their desirability.

Determining the scope and extent of a vow is not the easiest of tasks. One may limit the scope of a vow severely, or one may allow it to extend so that it includes all possible interpretations of the language employed by the maker of the vow. Rabbi Judah maintained the position that the scope of vows should be limited by the circumstances of the individuals who made those vows. Thus, in order to specify exactly what it was that a vow forbade, one must know not only the words that were uttered, but also the circumstances and situation of the individual who had made the vow:

He who has foresworn benefit from his friend, and he entered to visit him, he may stand, but he may not sit. And he may heal his person, but not his property. And he may bathe with

him in a large tub, but not in a small one. And he may sleep with him in the bed. Rabbi Judah says: 'In the hot days, but not in the rainy days, because he would benefit him. And he may sit with him upon the bed, and he may eat with him at the table, but not from the dish; but he may eat with him from the dish that is passed about. He may not eat with him from the bowl that is before the workers, and he may not do anything with him in the furrow, the words of Rabbi Meir; but the Sages say: 'He may work provided he is far from him.'³

It is thus that we see that circumstances of weather play an important part in determining the scope and extent of a vow according to Rabbi Judah. Another circumstance which Judah holds to be of importance in determining what is forbidden by a vow is the consideration of geography. People in different regions have different customs and different understandings. Taking these considerations into account, we see Rabbi Judah differ here with Rabbi Meir:

Unexplicit vows are interpreted strictly, but clearly explicit vows are interpreted leniently. How is this? If one said: 'Behold, this is to me as salted flesh, or as poured wine' - if he vowed concerning the things of Heaven, it is forbidden; if he vowed concerning the things of idolatry, it is permitted; but if it was unexplicit it is forbidden. Behold, this is to me as a separated thing - if as a separated thing of Heaven, it is forbidden; and if it is a separated thing of the priests, it is permitted; but if it is unexplicit, it is forbidden. Behold, this is to me as the tithe - if he vowed as the tithe of cattle, it is forbidden; and if of the grain of

the threshing floor, it is permitted; but if it is unexplicit, it is forbidden. Behold, this is to me as Heave Offering - if as the Heave Offering of the chamber he vowed, it is forbidden; and if of the threshing floor, it is permitted; but if it is unexplicit, it is forbidden, the words of Rabbi Meir. Rabbi Judah says: 'Unexplicit Heave Offering in Judea - it is forbidden; in Galilee - it is permitted, for the people of Galilee know nothing of the Heave Offering of the chamber. Unexplicit separated things - in Judea they are permitted, but in Galilee they are forbidden, for the people of Galilee know nothing of separated things of the priests.'⁴

Rabbi Judah goes even further than this; Rabbi Judah advocates determining the scope of a vow by the circumstances of the individual at the time the vow is made, even though that situation is inherently temporary and changes a relatively short time after the vow was made:

He who vows abstinence from clothing is permitted sack cloth, curtains, and hangings. He who said: 'Konam if wool goes up upon me; he is permitted to dress himself in shearings of wool. If flax goes up upon me; he is permitted to dress himself with stalks of flax.' Rabbi Judah says: 'Everything is according to the one who makes the vow: If he was laden and sweating, and his breathing was heavy and he said: "Konam if wool or flax go up upon me" - he is permitted to dress himself, but he is forbidden to fold them for carrying upon his back.'⁵

In addition to this, Rabbi Judah insisted upon exactitude in language for the making of a vow; inexact expressions constituted no vow as far as Rabbi Judah was con-

cerned. The difference between "As Jerusalem" and "Jerusalem" is the difference between the making of a valid vow and the saying of an expression that is neither a vow nor in any sense binding. Truly Rabbi Judah was so exacting that the exclusion of a one-letter prefix to a word was the difference between making and not making a vow:

He who says: May what I eat of thine be not hullin, not ritually fit, or not clean, unclean, impure, or remnant or refuse - it is forbidden. As the lamb, as the sheds, as the wood, as the Fire Offerings, as the altar, as the Temple, as Jerusalem, or if he vows by one of all the utensils of the altar, even though he did not mention Korban - behold, this individual has vowed with the word Korban. Rabbi Judah says: 'He who says "Jerusalem" has not said a thing.' 6

Another example of Judah's insistence upon exactitude of this sort may be found in this example:

He who says: 'That I may not eat of thine, may it be to me Korban, Whole Offering, Meal Offering, Sin Offering, Thank Offering, or Peace Offering' - it is forbidden. Rabbi Judah permits it. May what I eat of thine be the Korban, as the Korban, or Korban - it is forbidden. For the Korban I shall not eat of thine - Rabbi Meir forbids it. He who says to his friend: 'Konam is my mouth that speaks with thee, my hand that does ought with thee, my foot that walks with thee' - it is forbidden. 7

It is thus that we note Rabbi Judah's exactitude in dealing with a language of vows, while Rabbi Meir is more lax in this respect. Rabbi Judah is careful with language in

another way; he insists upon taking words or expressions as meaning what they generally mean when employed in common parlance. Thus, what is forbidden to the individual making the vow is not everything which conceivably could be included in the scope of the prohibition, but only that which would be meant in generally accepted speech:

From that which is preserved - he is only forbidden the preserves of vegetables. Anything that is preserved I shall not taste - he is forbidden everything that is preserved. From that which is seethed - he is only forbidden seethed meat. Anything that is seethed I shall not taste - he is forbidden anything that is seethed. From that which is roasted - he is only forbidden roasted meat, the words of Rabbi Judah. Anything which is roasted I shall not taste - he is forbidden all that is roasted. From that which is salted - he is only forbidden salted fish. That which is salted I shall not taste - he is forbidden all that is salted. 8

Rabbi Judah was willing to extend this use of common parlance so that the scope of the vow made by the individual could be limited:

From cabbage - he is forbidden young cabbage shoots. From young cabbage shoots - he is permitted cabbage. From grits - he is forbidden soup of grits, but Rabbi Jose permits it. From garlic - he is permitted soup of grits. From lentils - he is forbidden lentil cakes, but Rabbi Jose permits it. From lentil cakes - he is permitted lentils. Wheat in any form I shall not taste - he is forbidden them,

wheat flour or bread. Grits in any form I shall not taste - he is forbidden them either raw or cooked. Rabbi Judah says: 'Konam that I shall not taste grits or wheat - he is permitted to chew them raw.'⁹

It may be tempting to see more than is really there in another dispute between Rabbi Judah and Rabbi Meir dealing with vows. At first glance what we see is an attempt by Rabbi Judah to limit the extent of the vow in time, while Rabbi Meir seeks to extend it:

Until the rains, or until the rains shall be - until the second shower has descended. Rabban Simeon, son of Gamaliel, says: 'Until the time for the shower draws nigh.' 'Until the rains cease - until Nisan is entirely over,' the words of Rabbi Meir. Rabbi Judah says: 'Until Passover has passed.' Konam if I taste wine this year; if the year was intercalated - it is forbidden during the year and during the added period of time. Until the beginning of Adar - until the beginning of the first Adar. Until the end of Adar - until the end of the first Adar. Rabbi Judah says: Konam if I taste wine until it shall be Passover - he is only forbidden until the night of Passover, for he only intended this to be in effect until the time that it is the custom for people to drink wine. ¹⁰

Actually, what we see here is another example of Rabbi Judah's insistence upon employing common parlance in order to determine the scope of a vow; until Passover shall be is taken as meaning until the time when it is customary for people to drink wine. The apparent dispute over vows between Rabbi Judah and Rabbi Meir is in actuality a dispute

about calendation, as one may readily see:

They do not pray for rain except near to the time for rain. Rabbi Judah says: He who passes before the ark on the last holy day of the festival - the last mentions it; the first does not mention it. On the first holy day of Passover - the first mentions it; the last does not mention it. Until when do they pray for rain? Rabbi Judah says: Until the Passover has passed. Rabbi Meir says: Until Nisan is over, as it is said: And He causeth to come down for you the rain, the former rain and the latter rain, at the first. 11

It is quite easy to see that vows could bring exceeding hardships in many cases in which an individual vowed in haste or without proper consideration of the consequences not to have any benefit from the property of a certain other individual. In order to overcome such a difficulty, it is possible to resort to the legal fiction of assigning the property in question to a third individual, thereby allowing the benefits of the property to be obtained. As we may well expect, Rabbi Judah is quite lenient with respect to the use of this device:

What is the thing of those that ascended from Babylon? For example, the Temple Mount and the courts and the well that is in the middle of the way. And what thing is it that is of that city? For example, the public square, the bathing house, the synagogue, the ark, and the books. And one may write his portion over to the Nasi. Rabbi Judah says: It is all one and the same whether he writes it over to the Nasi or to a common individual. What is the difference between one who writes it over to the Nasi and one who writes it over to

a common individual? He who writes it over to the Nasi does not need to give him title, but the Sages say: It is all one and the same, they need to give him title; They spoke of the Nasi only as a specific case. Rabbi Judah says: The people of Galilee need not write over, for their ancestors have written over on their behalf already.¹²

As far as annulling the vows of women is concerned, we find that Rabbi Judah is found to follow logically the premises generally accepted:

There are nine girls whose vows stand: One that was past girlhood and was as an orphan; one in her girlhood and past her girlhood and as an orphan; one in her girlhood and not past her girlhood and as an orphan; one past her girlhood whose father died; one in her girlhood and past her girlhood whose father died; one in her girlhood and not past her girlhood whose father died. One that was in her girlhood when her father died, and after her father died, she grew past her girlhood; one past her girlhood whose father lives; one in her girlhood and past her girlhood, and her father is alive. Rabbi Judah says: Even he who gives his minor daughter in marriage, and she was widowed or divorced and returned to him - and she is yet in her girlhood. ¹³

Among the vows uttered on various occasions, one that was of particular concern to the rabbis of the Tannaitic period was the Nazirite vow. According to Scriptural injunction, one who vowed to become a Nazirite was to refrain from strong drink, uncleanness and the cutting of the hair.¹⁴ A normal Nazirite vow lasted thirty days, although one could vow to be a Nazirite for a longer period of time or for more

than one term.¹⁵ In this realm of vows, we find Rabbi Judah attempting frequently to reconcile the views of the School of Shammai with that of the School of Hillel:

Behold, I am an abstainer from dried figs and fig cake - the School of Shammai say: 'He is a Nazirite'; but the School of Hillel say: 'He is not a Nazirite.' Said Rabbi Judah: 'Even though the School of Shammai said this, they only said it concerning one who said: "Behold, they are Korban upon me."',¹⁶

It becomes tempting at this point to find tendencies in Rabbi Judah's comments toward the position of the School of Shammai. This becomes even more tempting when one remembers that the teacher of Rabbi Judah's father was Eliezer, son of Hyrcanus. However, a conclusion of such tendencies on the part of Rabbi Judah is not justified by the evidence. In the first place, we do not believe that Eliezer, son of Hyrcanus was a Shammaite.¹⁷ Even more significant, Rabbi Judah seems to be arguing from the position of the School of Hillel. Even apparent concessions to the Shammaites are really only tendencies toward leniency:

He who undertook the obligations of a Nazirite for a long period of time and completed his term of being a Nazirite, and afterwards came to the land of Israel - the School of Shammai say: He must be a Nazirite for thirty days, but the School of Hillel say: He must serve his term as a Nazirite from the beginning. There is a case concerning Queen Helena, whose son went to war, and she said: If my son will come from the war in well-being, I will be a Nazirite for seven years. Her son came from the war, and she was a Nazirite seven years. At

the end of the seven years she went up to the land of Israel, and the School of Hillel taught her that she must be a Nazirite yet another seven years. At the end of the seven years, she became ritually unclean, and she was a Nazirite twenty-one years. Said Rabbi Judah: She was a Nazirite only fourteen years.¹⁸

Another example of attempted reconciliation between the position of the Shammaites and that of the School of Hillel is:

If one said: This cow said: Behold, I am a Nazirite if I stand, or this door said: Behold I am a Nazirite if I am opened - the School of Shammai say: He is a Nazirite; but the School of Hillel say: He is not a Nazirite. Said Rabbi Judah: Even though the School of Shammai said this, they said it only concerning one who says: Behold this cow is Korban upon me if she stands. ¹⁹

Rabbi Judah, as one may well expect, relies upon the meaning and intent of words in determining whether the formulation of a Nazirite vow is valid; thus, although it is not customary to do so, Rabbi Judah is willing to use the word shave as an acceptable substitute for the word Nazirite.²⁰

Rabbi Judah holds intent to be so important that he frees an individual from the obligation of fulfilling an unintentional Nazirite vow.²¹ Nonetheless, once an obligation to be a Nazirite has been accepted by an individual, Rabbi Judah insists upon a sincere attempt at fulfillment; he demands fulfillment for transgression, even in the case of a woman whose vow had been annulled by her husband without her

knowledge.²²

It is thus that we find Rabbi Judah dealing with the questions and problems of vows. We should note his extreme care in determining the intent of the individual making the vows by examining the circumstances of the individual, the geographical situation of the individual, and the language employed in the formulation of the vows. We note also that Rabbi Judah tends to limit the scope of the vows to include only that which the maker of the vow intended to say.

CHAPTER IV

LAWS REGARDING MARRIAGE AND DIVORCE

It is now that we shall begin to examine the views of Rabbi Judah, son of Ila'i, with respect to marriage. Up to this point we have dealt only with vows, an area of the Halakah which the rabbis considered a part of the laws dealing with marriage. Now, however, we shall examine Rabbi Judah's Halakah in the area of actual marital relationships.

Marriage provides many problems for those seeking to make regulations for conjugal life. One must provide the proper means not only for entering into a marital arrangement, but also for establishing regulations for support, for termination by divorce, for provision in case of termination of the marriage by divorce or death, and like problems. It is for this reason that we find much discussion among the rabbis in the Tannaitic period concerning proper regulations for initiating marriages, terminating them, and living within a marital situation. All of this is further complicated when one must deal with pride in national stock and religious ritual requirements as well.

According to Jewish marital law, ancestry is an important factor in the determination of the propriety of the proper marriage. The three principle family stocks are the priestly stock, the levitic stock, and the Israelite stock. The most exalted is the priestly stock, which can intermarry

only with its own stock, the levitic stock, or the Israelite stock. Those of levitic and Israelite stock, on the other hand, could intermarry with those of impaired priestly stock, those of proselyte stock, or those of freed stock, as well as among each other.¹

Rabbi Judah maintains an extremely severe position with respect to determining the ancestry of an individual. We note that he is strict with respect to evidence that enables one to claim more elevated stock, but more readily accepts testimony which causes the individual to be considered a member of a lower stock. Thus do we read:

Rabbi Judah says: They do not elevate an individual to the priesthood upon the testimony of one witness. Said Rabbi Eleazar: When? In the case when there are those who are protesting; but in the case when there are none protesting, they exalt an individual to the priesthood upon the testimony of one witness. Rabban Simeon son of Gamaliel says in the name of Rabbi Simeon son of the prefect: They exalt an individual to the priesthood on the testimony of one witness. 2

Here we see Rabbi Judah's severity in cases of elevating an individual to membership in a lofty stock. Of the opinions given us, his is by far the most severe. However, when it is a question of bringing an individual to a stock of lower rank, we find that Rabbi Judah is quite willing to accept testimony that others reject. Thus do we read:

He who says: This son of mine is a mamzer - he is not held to be reliable. Even if both parents say about the

embryo in the womb; He is a mamzer -
 they are not held to be reliable.
 Rabbi Judah says: They are reliable.³

The reason for this severity stems from Rabbi Judah's respect for the sanctity of the priesthood and from his fear that the members of the priesthood may defile themselves by engaging here in forbidden marital relationships. It is for this reason that we find Rabbi Judah taking an extremely strict position with respect to the marriage of a priest and a sterile woman. We find:

A common priest may not marry a sterile woman, except in the case that he has a wife and children. Rabbi Judah says: Even though he has a wife and children, he may not marry a sterile woman, for she is the zonah mentioned in the Torah. But the Sages say: The only ones meant by zonah are the female proselyte, and the freed female slave, or one that engaged in intercourse in the nature of harlotry.⁴

Rabbi Judah maintained a position of extreme strictness with respect to the ancestry of anyone marrying a priest. He included in the forbidden categories individuals whom others neglected to include. By so doing, Rabbi Judah endeavored to remove to as great a degree as possible any doubt about the ancestry of those acknowledged to be priests, and to eliminate as much as possible all questions of taint in the ancestry of generations of priests to come. Thus do we read:

The daughter of a male of impaired priestly stock is eternally ritually barred from the priesthood. An

Israelite that married one of impaired priestly stock - his daughter is fit for the priesthood. One of impaired priestly stock that married the daughter of an Israelite - his daughter is ritually barred to the priesthood. Rabbi Judah says: The daughter of a male proselyte is as of the daughter of a male of impaired priestly stock. 5

Rabbi Judah's fear of improper marriage was not limited to the priesthood. Of course, priests who married improperly rendered their descendants unfit for priestly service, an occurrence which obviously did not affect members of lesser stocks. Nevertheless, Rabbi Judah is very strict about marriage even among the lowest classes. Thus we read:

- All who are forbidden to enter into the congregation are permitted to marry among themselves. Rabbi Judah forbids it. Rabbi Eleazar says: Those that are of certain stock with those of certain stock is permitted, but those of certain stock with those of doubtful stock, and those of doubtful stock with those of certain stock, and those of doubtful stock with those of doubtful stock is forbidden. And who are these of doubtful stock? The shethuki, the asufi, and the Samaritan. 6

However, it would be an error to assume that Rabbi Judah maintains a strict position in all aspects of the Halakah regarding marriage. We find that Rabbi Judah is very lenient with respect to the witnesses necessary to determine the death of a man. This was extremely important because, without evidence of the death of the husband, the wife could neither receive her Kethubah, nor remarry. An example of this leniency shows Rabbi Judah willing to accept

contradictory testimony in order to allow the wife to remarry.

Thus do we find:

In the case that one woman says: He is dead; and another says: He is not dead - the one that says that he is dead may be married and may receive her Kethubah, but she that says that he is not dead may not be married and may not receive her Kethubah. In the case that one says: He is dead; but another says: He was killed - Rabbi Meir says: Since one contradicts another, behold they may not be married. Rabbi Judah and Rabbi Simeon say: Since both of them admit that he is not living, they may be married. In the case that one witness says: He is dead; but another witness says he is not dead; or a woman says: He is dead; and another woman says: he is not dead - behold the wife may not be married. 7

Rabbi Judah's leniency extends also to the evidence that the witness brings. It is one thing to accept a witness as fit to be believed; it is another matter to determine what testimony of his may be accepted as evidence of a situation of fact. Judah, son of Ila'i, is willing to accept as evidence heresay from children. Thus do we find:

Even if he heard the women saying: Such a man is dead - that is sufficient. Rabbi Judah says: Even if he heard the small children saying: Behold, we are going to mourn and to bury such a man. This holds whether he intended it as evidence or whether he did not intend it. Rabbi Judah son of Baba says: In the case of an Israelite, it holds good although he intended it as evidence; but in the case of a Gentile - if he intended it as evidence, his testimony is not testimony. 8

Rabbi Judah is also lenient with respect to a differ-

ent kind of witness; that is the witness who observed the writing and signing of a bill of divorce or get. This leniency enabled the divorced woman to marry more readily, since, if the testimony of the witness was held to be unreliable, the wife must still be considered a married woman. We note at once Judah's leniency with respect to these witnesses:

He who brings a bill of divorce from a land beyond the sea and said: Before me it was written but it was not sealed before me; or, before me it was sealed but it was not written before me; before me it was written in its entirety and a half was sealed before me; or, before me half of it was written and all of it was sealed before me - it is unfit. One says: Before me it was written: and another says: Before me it was sealed - it is unfit. Two say: Before us it was written; and another says: Before me it was sealed - it is unfit. But Rabbi Judah holds that it is fit. One says: Before me it was written; and two say: Before us it was sealed - it is fit. 9

Rabbi Judah here maintains the most lenient of all the positions; he holds a bill of divorce valid which has the support of testimony not considered adequate in the eyes of anonymous opinion. This again is to the benefit of the wife, for it enables her to marry where the anonymous opinion considers her still a married woman. In the Tosephta, the anonymous opinion is identified as that of Rabbi Simeon, son of Eleazar.¹⁰ Again we note the leniency of Rabbi Judah with respect to witnesses of a bill of divorce, even in the

extreme case of an individual who had a part in the death of the husband. Thus do we find:

He who brings a bill of divorce from a land beyond the sea and said: Before me it was written and before me it was sealed - he may not marry the man's wife. If he said: He is dead; or, I have killed him; or, we have killed him - he may not marry the man's wife. Rabbi Judah says: I have killed him - he may not marry the man's wife; we have killed him - he may marry the man's wife. 11

Even in the extreme case of an individual's playing a role in the death of the husband; Rabbi Judah is not only willing to accept the testimony, but even to permit that witness to marry the woman in question. Once again, this leniency benefits the woman and, this time, the witness, should he desire to marry the woman.

Rabbi Judah is also extremely lenient with respect to allowing widows and divorced women to remarry. He even is willing to allow remarriage during the period of mourning. Thus do we find:

The sister-in-law may not perform Halisah, and she may not contract Levirate marriage until after three months. And thus it is with all the rest of the women; they may not be betrothed and may not be married, until after three months. It is all one and the same whether they are virgins or not virgins; it is all one and the same whether they were married or betrothed. Rabbi Judah says: They that were married may be betrothed, and those that were betrothed may be married, except for those betrothed in Judah, because there the bridegrooms

passion grows strong before her. Rabbi Jose says: All the women may become betrothed, except for the widow, because of the period of mourning. 12

It is clear that Rabbi Judah was not one to allow time to hinder the remarriage of a widowed woman. In the Tosephta, the anonymous opinion proclaiming the necessity to wait a period of three months is identified as that of Rabbi Meir. There we find it stated that: "Rabbi Judah permits one to become betrothed and to be married immediately." 13

Despite all this leniency with respect to the witnesses that may be believed in case the question of the validity of a bill of divorce is raised, Rabbi Judah is extremely strict regarding the materials permitted for a valid bill of divorce. Thus, for example:

They may not write it upon that which is joined to the ground. However, if one wrote it upon something so joined, and he cut it off and sealed it and gave it to her - it is fit. Rabbi Judah holds that it is unfit, unless it is both written and sealed after it had been cut off. Rabbi Judah, son of Bathyra, says: They may not write it upon papyrus which has been erased nor upon plain skin, because it can easily be falsified; but the Sages hold these to be fit. 14

This strictness does not altogether conflict with Rabbi Judah's previous leniency, since this case does not deal with the question of witnesses. The reason for the stringency here is that divorce is a serious affair. If the

divorce document could be written too easily, hasty divorces given in the heat of anger could cause all manner of complications. Quite different is the situation if one must sit down and write a deliberate document according to strict rules and complex formulations in the presence of witnesses. Once this has been done, Rabbi Judah is willing to be lenient with the testimony of the witnesses in the matter. Rabbi Judah's strictness with the bill of divorce itself may be seen here:

He who writes out copies of bills of divorce should leave a place for the man and a place for the woman and a place for the time. In documents of debt, he must leave a place for the lender, a place for the borrower, a place for the amount, and a place for the time. In documents of sale, he must leave a place for the buyer, a place for the seller, a place for the amount, a place for the field, and a place for the time. This is because of the advantage. Rabbi Judah holds them all unfit. Rabbi Eleazar holds them all fit except for the bills of divorce for women; as it is written: And he shall write for her - expressly for her. 15

It should also be noted that Rabbi Judah is not inclined to force a man to divorce his wife. Thus do we find:

He who divorced his wife because of her bad reputation may not take her back. If it was because of a vow, he may not take her back. Rabbi Judah says: In the case of any vow, that many people knew, he may not take her back but for one that many people did not know, he may take her back. Rabbi Meir says: In the case of every vow that required the inquiry of a

Sage, he may not take her. But in case it did not require the inquiry of a Sage, he may take her back. Rabbi Eleazar said: They forbid one only because of the other. Said Rabbi Jose son of Rabbi Judah: There was a case in Sidon concerning a man who said to his wife: Konam if III do not divorce thee; and he divorced her. But the Sages permitted him to take her back as an allowance for the general welfare. 16

There are other instances of leniency on the part of Rabbi Judah. For example, a difficult situation can arise when the complex business of vows is interjected into the marital problems of a husband and wife. Thus, a husband may vow to allow his wife to have no benefit from him, married though they be, for a long period of time. Logically, this would necessitate a divorce. After the period of time had elapsed, the husband could remarry his wife. However, if the husband is a priest, such a solution is impossible, for a priest can not marry a divorced woman. In dealing with this problem, as we may expect, Rabbi Judah neglected safeguarding the vow in order to preserve the marriage:

He who vows that his wife should have no benefit from him for thirty days, he must set up an administrator. In case it is for longer than this, he must send her away and give her her Kethubah. Rabbi Judah says: In the case of an Israelite, if for one month, he may maintain the marriage, but if for two months, he must send her out and give her her Kethubah; but in the case of the wife of a priest, for two months he may maintain the marriage, but for three he must send her out and give her her Kethubah. 17

There is a similar opinion recorded in which Rabbi Judah shows special leniency in the case of the wife of a priest. There is a distinct tendency toward leniency in these cases in which there is the danger of the termination of the marriage:

He who vows to refrain from his wife if she tastes a certain fruit, he must send her out and give her her Kethubah. Rabbi Judah says: In the case of an Israelite, if for one day, he may maintain the marriage, but if for two, he must send her out and give her her Kethubah; but in the case of the wife of a priest, if for two days, he may maintain the marriage, but if for three, he must send her out and give her her Kethubah. 18

Despite all these leniencies, Rabbi Judah can be quite severe when the question of disregarding a divine injunction is involved. It is thus in the case of the divorced barren woman and the commandment to be fruitful and multiply.¹⁹ Here Rabbi Judah is concerned with the fulfillment of a commandment; the preservation of the marriage is here a secondary factor. Severity of this type is not common in the opinions of Rabbi Judah regarding marital problems, but it does occur:

Regarding the man who sends out his wife because she is barren, Rabbi Judah says: He may not take her back; but the Sages say: He may take her back. If she married another, and had children from him, and she demanded her Kethubah, Rabbi Judah said: He should say to her: Thy silence is fairer than thy words. 20

In cases such as these, Rabbi Judah, son of Ila'i is very strict. Similarly, Rabbi Judah does not allow an individual to marry a woman seduced or violated by his father for fear that the relationship would be incestuous.²¹ Rabbi Judah is also fairly strict with regard to the ceremony of halisah. He does not permit one of doubtful sex, later found to be a male, to submit to the rite of halisah.²² Rabbi Judah also requires everyone observing the rite to cry out: "The one who had his shoe loosened."²³

To conclude, we have learned much about Rabbi Judah's Halakah with regard to marriage. Rabbi Judah was apparently quite well versed in marriage customs. Indeed, he is able to cite distinct differences between the customs in Judah and those in Galilee.²⁴ In certain matters, Rabbi Judah is very strict; he is quite severe in protecting against the violation of divine injunctions. He is also strict in matters of form, such as the writing of a divorce document and the performance of the rite of halisah. There is also strictness in his insistence upon the proper ancestry for proposed spouses. Indeed, before marriage, he requires the tracing of the ancestry of the proposed wife to examine her female ancestors.²⁵ Nevertheless, Rabbi Judah is extremely lenient in some cases. Rabbi Judah is willing to accept evidence of the death of the husband that others reject. He even accepts the torn garments and weeping of the wife as evidence in a case where the Sages reject it.²⁶ Such

evidence allowed the woman to remarry. Indeed, Rabbi Judah made it as easy as possible for such unfortunate women to remarry. This is extremely important when one considers the slaughter of the rebels in the attempt to free Palestine from Roman rule. Thus is the Halakah of Rabbi Judah with respect to marriage.

CHAPTER VIII

HALAKAH REGARDING THE RITUAL PRACTICES OF THE FESTIVALS

With regard to the festival Halakah, we note an interesting dichotomy. Some of the laws deal with ritual requirements for the festivals; many of these rites may be practiced only as part of the Temple sacrificial cult. Other legislation is concerned with the kinds of labor prohibited on the Sabbath and on other festival days. In this chapter, we shall examine the festival Halakah of Rabbi Judah, son of Ila'i, regarding the ritual requirements of the festivals.

As is the case with many of his colleagues, Rabbi Judah spent a good part of his time dealing with questions of no practical consequence except for some possible future period in which the Temple will have been restored. Indeed, Rabbi Judah was an acknowledged expert with regard to matters of the sacrificial system. As further evidence of his proficiency with regard to matters dealing with the Temple cult, all anonymous statements found in Sifra.¹ Thus, we may expect to find an emphasis on matters concerned with the Temple ritual in this area of Rabbi Judah's Halakah.

An extremely important day for the sacrificial system was the Day of Atonement, during which the High Priest performed the functions specified in the Pentateuch.² How is the High Priest to be prepared for this most important

ritual exercise? Rabbi Judah enters into a dispute with his colleagues on this subject:

Seven days before the Day of Atonement, they would separate the High Priest from his household to the Chamber of Counsellors, and they prepared for him another priest in his stead, lest something should make him ritually unfit. Rabbi Judah says: Even another wife did they prepare for him lest his wife should die, as it is said: And make atonement for himself and for his house. His house - this is his wife. They said to him: If that is so, there is no end to the matter. 3

Nor is this the only issue at stake here; Rabbi Judah also was in possession of a tradition holding that the chamber had a name different from the one mentioned above.⁴ However, this disagreement is only over the preliminary preparations for the event itself. Rabbi Judah was interested in every small detail of the sacrifice itself; he was willing to argue over the meanest detail if it contradicted a tradition which he had been taught about the Temple and that which belonged in it:

They brought the he-goat to him. He slaughtered it and received its blood in a bason. He entered into a place where he had entered, and stood on a place where he had stood, and sprinkled from it once upward and seven times downward; and he was not intending to sprinkle upward or downwards, but to do it as though with a whip. And thus would he count: one, one and one, one and two, one and three, one and four, one and five, one and six, one and seven. He went

out and put it on the second stand which was in the sanctuary. Rabbi Judah says: There was only one stand there.... 5

It is here that we appreciate the extreme care which Rabbi Judah, son of Ila'i, was wont to give to even the smallest of details when dealing with traditions which he had received concerning the Temple and the sacrifices performed within it. It is because of this scrupulous attention to detail regarding the traditions he had received that the importance of Rabbi Judah is seen in fixing for future generations the Temple ritual. Another important question with which Rabbi Judah was forced to deal was that of whether the Sin Offering of the congregation may die or not. Rabbi Judah disagrees with his colleagues by maintaining that it may die:

....for the Sin Offering of the congregation may not die. Rabbi Judah says: It may die. Furthermore, Rabbi Judah says: If the blood is poured out, the scapegoat may die; if the scapegoat dies, the blood is poured out. 6

The Day of Atonement was, of course, not the only day at which special sacrifices were offered at the Temple. One of the most important of these annual special sacrifices was the offering of the Pascal Lamb. This rite was performed with the people divided into three groups:

When the first group went out, the second group entered. When the second group went out, the third group entered. As was the deed for the

first group, so was the deed for the second and the third. They recited the Hallel. If they finished, they repeated it; and if they finished the repetition, they recited it a third time, although never did they finish it the third time. Rabbi Judah says: Never during the turn of the third group did they reach as far as: I love that the Lord should hear, because the number of people was small. 7

As was the case with the Day of Atonement, Rabbi Judah's traditions and opinions regarding the slaughtering of the pascha were not always accepted by his colleagues:

As it was done on weekdays, so was it done on the Sabbath, except that the priests swilled the Temple court, which was not according to the will of the Sages. Rabbi Judah says: One would fill a cup of the mingled blood, and they threw it all at once upon the altar; but the Sages did not agree with him. 8

Some rites associated with the Temple had not been directly connected with animal sacrifices. There were traditions concerning the correct performance of these ceremonies. Rabbi Judah, as we should expect, had been taught many of these traditions and was willing to transmit this information. To take a case in point, the festival of Sukkoth had such ceremonies associated with it. There was the practice of circling the altar with a willow branch:

How was the commandment of the willow branch fulfilled? There was a place below Jerusalem called Mosa. They went down there and cut young branches of willow; and they came and set these up by the sides of the altar, and their tops were bent over the altar.

They sounded a sustained blast, a quavering blast, and a sustained blast. They proceeded one time around the altar every day, and they said: We beseech Thee, O Lord, save now! We beseech Thee, O Lord, make us now to prosper! Rabbi Judah says: Ani waho, pray save us....9

There was also the water libation during the festival of Sukkoth. Rabbi Judah was in possession of a detailed tradition regarding this:

How was the water libation performed? One would fill a golden flask with water from Siloam. When they came to the Water Gate, they sounded a sustained blast, a quavering blast, and a sustained blast. One went up the ramp and turned to his left, and two silver bowls were there. Rabbi Judah says they were of plaster, but they were darkened because of the wine.... Rabbi Judah says: With one log he used to make the libation all eight days
.... 10

There were also traditions concerning festival practices which, although not directly connected with the Temple had fallen into disuse. Many important ritual procedures were no longer practiced, although they were mentioned in the Bible. Thus the question arose as to the similarity or dissimilarity between the Jubilee Year and the New Year:

The Jubilee Year is similar to the New Year with respect to blowing of the Shofar and with respect to benedictions. Rabbi Judah says: On the New Year they blow upon the horns of rams, but on the Jubilee Year upon those of wild goats. 11

However, it would not be accurate to believe that all

of the ritual regulations of Rabbi Judah dealt with practices that were already defunct in his lifetime. Thus, we find that the question of burning the leavened bread before Passover, a current practice, was the subject of a dispute between Rabbi Meir and Rabbi Judah:

Rabbi Meir says: They may eat all five hours, and they burn at the beginning of the sixth. Rabbi Judah says: They may eat all four hours, and they hold in suspension all of the fifth, and they burn at the beginning of the sixth hour. ¹²

Even with regard to this matter, however, Rabbi Judah resorts to telling us a tradition he had learned regarding a practice of the period of the Temple. At that time, two cakes of Thank Offering indicated that one could still eat hames, one cake indicated it should be in suspension, and no cakes signalled that it was time to begin burning the hames.¹³ Rabbi Judah also felt that one could search out the hames up to the time for its removal; but the Sages held that one could search even after the festival was over.¹⁴

Other ritual requirements of immediate practical consequence were those of the citron and the lulab for the holiday of Sukkoth. Here Rabbi Judah is more strict than is Rabbi Meir. Rabbi Meir permits a green citron, but Rabbi Judah holds that it is invalid for the ritual.¹⁵ Another dispute is with regard to the size of the citron:

The minimum size for a small citron -
Rabbi Meir says: like a walnut; Rabbi
Judah says: like an egg. The maximum -

One may hold two in one hand, the words of Rabbi Judah. Rabbi Jose says: Even one in two hands. 16

In a dispute over the lulab, Rabbi Judah wins a victory over Rabbi Meir:

They may not bind a lulab except with its own species, the words of Rabbi Judah. Rabbi Meir says: Even with a cord. Said Rabbi Meir: There is a case of the men of Jerusalem, who used to bind their lulab with threads of gold. They said to him: They bound it with its species below. 17

Thus we find Rabbi Judah dealing with the ritual problems of the festivals. Although Rabbi Judah was interested in seeing that all ritual observances practiced without need of the Temple were observed scrupulously, he spends much of his effort in attempts at reconstruction of the Temple service. Even the practices still carried out in his day with which he dealt, were not real innovations by him, but simply attempts at accurate interpretation of existing requirements. In the realm of ritual observances of the festival, Rabbi Judah seems to have been more of a preserver of ancient traditions than an innovator in any important sense.

CHAPTER VI

LABOR FORBIDDEN DURING FESTIVALS

The festivals provide many difficulties for those involved in the development of the Halakah. The Biblical ordinances and limitations enjoined for these special occasions frequently were embellished and extended by the rabbis in an attempt to safeguard the holiness of the day. Frequently, the rabbis found themselves faced with the difficulty of determining what was forbidden and what permitted by an unspecific Biblical phrase. Thus, for example, it is clear enough that work of any sort is forbidden by the Scriptures on the Sabbath,¹ but what it is that constitutes work is not made clear. It is problems of this sort that engaged the Rabbi's attention during the Tannaitic period. All of this is somewhat complicated by the fact that, by the time of Rabbi Judah, the Temple was no longer in existence. All manner of rituals ordained for observance within the walls of the Holy Temple could no longer be performed. We have already seen how the rabbis of this period attempted to reconstruct for their own time and for posterity what the manner of the Temple service must have been.² In addition to this, there still remained the prohibition of labor on festivals and Sabbaths, prohibitions which needed interpretation. It is with the opinions of Rabbi Judah in these areas that we shall now deal. Logically and for convenience, we may

divide the festivals into three categories: The Sabbath, other festival days, and mid-festival days, or hol ha-mo'ed. In the mind of Rabbi Judah there was a distinct progression with the mid-festival days permitting the most work, festival days allowing less work than these, and the Sabbath allowing the least of all. It is thus that we read:

They may put water over wine dregs in order that they may strain the wine through a napkin or an Egyptian basket; and they may put an egg in a strainer for mustard, and they may make honied wine on the Sabbath. Rabbi Judah says: On the Sabbath - in a cup; on a festival - in a jug; and during the intervening days of the festival - in a large jar. Rabbi Sadok says: All is according to the number of the guests.³

It is here that we see Rabbi Judah progressively limiting the amount to be done according to the occasion. Even with respect to something required for festival use, we note the same type of progressive structure. Thus do we read regarding the lulab:

A woman may receive it from the hand of her son or from the hand of her husband, and put it back into the water on the Sabbath. Rabbi Judah says: On the Sabbath they may put it back, on a festival they may add water, and in the mid-festival period they may change the water. A minor that knows how to shake it is obligated to perform the commandment of the lulab.⁴

The intervening days of a festival were considered sufficiently secular that the rabbis permitted many kinds of work which were forbidden during the primary festival days.

There were, nevertheless, many limitations imposed in order to maintain the sanctity of the occasion. In the area of general labor, Rabbi Judah is rather more strict than his colleagues. For example, we find:

They may set up an oven, a stove, and a handmill during the mid-festival period. Rabbi Judah says: They may not roughen the millstones for the first time. 5

Nevertheless, we find Rabbi Judah willing to make allowances for situations requiring prompt action. Thus we find:

They may cover up the fig cakes with straw. Rabbi Judah says: They may even pile them up. Sellers of produce, clothes, and vessels may sell them in private for the needs of the festival. The hunters and the makers of groats and the grist-millers may perform their work in private for the needs of the festival. Rabbi Jose says: They apply the more stringent ruling to themselves. 6

We also note that Rabbi Judah is willing to permit certain labors during the festival season because they enable one to fulfill ritual requirements. While Rabbi Judah does not give blanket permission for one and all to indulge in any type of labor in order to obtain ritual ends, he nevertheless does make allowances for the manufacture of religious articles that are required immediately. Thus do we find:

They may not write documents of indebtedness during the mid-festival, but if one did not trust an individual or he did not have anything to eat, behold such a one may write.

They may not write scrolls, phylacteries and Mezuzoth during the mid-festival; and they may not correct one letter, even in the scroll of the Court. Rabbi Judah says: A man may write phylacteries and Mezuzoth for himself, and he may spin upon his thigh the purple thread for his fringe. 7

It should be noted here that Rabbi Judah does not give general permission to indulge in these activities; one may not make the above mentioned articles indiscriminately. It is only when one needs to make these articles for his own use, is this permission granted according to the opinion of Rabbi Judah. There is only a slight difference between this and the strict opinion forbidding all labor of this sort,

Rabbi Judah's position of strictness with respect to prohibitions during mid-festival applies to women as well as to men. During this period, Rabbi Judah limits the cosmetics which a woman may employ for adornment. It is thus that we find:

They may not marry wives during mid-festival, neither virgins nor widows, and they may not contract levirate marriage, because this is a joyous occasion for him; but one may take back his divorced wife, and a woman may employ her adornments during mid-festivals. Rabbi Judah says: She may not use lime because this is a disfigurement to her. 8

There is a Tosephta statement which is extremely interesting in the light of the preceding quotation. Here we find that Rabbi Judah is extremely permissive with respect to betrothal during the mid-festival period. This should

not cause us great surprise, in view of Rabbi Judah's general permissiveness with respect to helping women in dire conditions to marry, as we have seen above. It is thus but an extension of previous leniency for Rabbi Judah to permit betrothal during the mid-festival season. In Tosephta we read:

They may not write documents of betrothal or accept them during the mid-festival season. Rabbi Judah permits it, lest another precede him. 9

Here once again Rabbi Judah is willing to allow activity during the mid-festival period which others forbid in order to allow a betrothal to take place. This follows Rabbi Judah's general pattern of leniency in permitting marriages and betrothals to take place without undue obstruction. It should be noted that the permission was given only for betrothals, since the reason put forth by Rabbi Judah would not apply in the case of marriages.

Of greater sanctity than the intervening days of a festival are the primary festival days. Here activity of the individuals are more strictly governed in order to maintain the hallowed spirit of the festival day. Thus Rabbi Judah and the Sages agree that employing a measure on such an occasion is forbidden. Thus do we read:

A man may say to his fellow, fill this vessel for me, but not with the measure. Rabbi Judah says: If it was a vessel for measuring, he may not fill it. There is a case concerning Abba Saul, son of Batnith, who used to fill up his measures on the eve

of a festival and give them to those who would take on the festival. Abba Saul says: Even during the mid-festival period, he did so, because of the clearness of the measures; but the Sages say: Even on week-days, he did thus, because of the exactitude of the measures. A man may walk to a storekeeper with whom he is accustomed to deal and say to him: Give me eggs and nuts by number, for thus is the manner of the master of the house to be counting in his own house. 10

Indeed there was a certain degree of fear that temptations might cause individuals to transgress the injunctions against labor on the day of a festival. For this reason, the Sages sometimes legislated against the temptation, instead of the transgression. In this respect, Rabbi Judah appears more strict than the anonymous opinion:

They may send articles, sewn up or not sewn, even if they contain diverse kinds of material, if they are for the needs of the festival. But not a nailed sandal or a shoe that is not sewn. Rabbi Judah says: Not even a white shoe, because it requires an artisan. This is the general rule: All that one may use on a festival - they may send it. 11

With respect to animals, we find that Rabbi Judah maintained a position which was less strict than that of the Sages, but more strict than the most lenient opinion cited:

Three things did Rabbi Eleazar, son of 'Azariah, permit, but the Sages forbid them: One's cow may go out with the strap that is between her horns, and they may curry the cattle on the day of a festival, and they may grind peppers in their mill.

Rabbi Judah says: They may not curry the cattle on the day of a festival because it causes a benefit, but they may comb. But the Sages say: They may not curry; they may not even comb. 12

One of the problems which continually plagued the rabbis was that of labor on the Sabbath. Much discussion revolved around the questions of what one was permitted to do and what one was forbidden from doing during the period of Sabbath rest. We find page after page of opinion and dispute concerning what constitutes forbidden labor on this occasion. We find that many opinions of Judah, son of Ila'i, dealing with activities permitted and prohibited on the Sabbath have been preserved. These opinions enable us to observe trends and tendencies in the Sabbath legislation proposed by Rabbi Judah. The rabbis dealt with many areas of activity, and these were very frequently compounded by examples and cases. Rabbi Judah himself, employed this practice. Here we must remember that the Sabbath demanded a more stringent abstinence.

With respect to activity on the Sabbath, we find that very frequently Rabbi Judah maintained a lenient opinion. This leniency allowed the individual much more freedom of motion than did more strict opinions. For example, in the case of laundrymen, Rabbi Judah maintains a position more lenient than that of the anonymous scholar quoted before his:

The straw which is upon the bed - one may not move it with his hand, but he may move it with his body; but if it was food for an animal, or if there was a cushion or sheet upon it - he may move it with his hand. The press

of private householders they may loosen, but they may not tighten it; but as for those of laundrymen, one may not touch it. Rabbi Judah says: If it was loosened on the eve of the Sabbath, one may loosen all of it and remove from it. 13

With respect to the performance of religious rituals on the Sabbath, we find that Rabbi Judah frequently is more lenient than generally lenient anonymous opinions. This additional leniency takes the form of lenient exceptions to already permissive anonymous opinions. An example of this is the case of circumcision, which is permitted on the Sabbath:

They may wash the infant, either before the circumcision or after the circumcision, and they may sprinkle upon it by hand, but not by a vessel. Rabbi Eleazar, son of Azariah, says: They may wash the infant on the third day should that fall on the Sabbath, as it is said: And it came to pass on the third day, when they were in pain In the case of one about whom there is a doubt and in the case of an hermaphrodite - they do not violate the Sabbath on its account; but Rabbi Judah permits it in the case of an hermaphrodite. 14

Another case in which Rabbi Judah maintains a position more lenient than an already permissive anonymous opinion is with regard to terumah. Here again we see allowances made to enable the performance of a religious obligation. Thus do we read:

A man may pick up his son, although there is a stone in his hand, and a basket, although there is a stone

inside it; and they may move about Heave Offering that is unclean with the clean and with common produce. Rabbi Judah says: They may even take out the one part of Heave Offering from one hundred and one parts. ¹⁵

Since kindling fires was one of the acts prohibited on the Sabbath,¹⁶ there was much discussion about the severity of this prohibition. Such questions arose as that of determining the time when individuals must cease kindling fires, whether one could or could not carry a lamp, and the type of lamps which were permitted and forbidden. With respect to the period during which it is permitted to kindle fires, Rabbi Judah takes a lenient position:

They may let down the pascal lamb into the oven when it is growing dark, and they may kindle the fire on the wood-pile of the fireroom; but elsewhere in the state, only if the fire can take hold of the greater part. Rabbi Judah says: With respect to charcoal, if it takes hold of any amount at all. ¹⁷

Also with respect to the permitted types of lamps, Rabbi Judah takes the lenient view against a more severe majority opinion. It is thus that we find:

A man may not pierce the shell of an egg and fill it with oil and place it on the opening of the lamp, in order that it may drip, even if it was made of earthenware; but Rabbi Judah permits it. However, if the potter had joined it from the beginning, it is permitted because it is one vessel. A man may not fill a dish with oil and put it on the side of the lamp and put the head of the wick in it so that it should absorb;

but Rabbi Judah permits it.¹⁸

Rabbi Judah supports his position here with a case, which is reported both in Tosephta and in the Babylonian Talmud. While at the house of Nithzeh in Lydda, Rabbi Judah observed the practice described in the quotation above. In the account in the Babylonian Talmud, although not in the Tosephta, the Sages reply that the case is not a valid example, because the people at the house were unusually scrupulous with regard to ritual matters.¹⁹

However, in the case of carrying about a lamp, Rabbi Judah is quite strict. Indeed, he is much more strict than is Rabbi Meir. It is thus we read:

They may carry a new lamp, but not an old lamp, the words of Rabbi Judah. Rabbi Meir says: They may carry all lamps, except for the lamp which they kindled for the Sabbath. Rabbi Simeon says: They may carry all the lamps except for the lamp burning on the Sabbath. If it is extinguished, it is permitted to carry it. But a cup, a dish, and a glass lantern - one does not move them from their place. ²⁰

So far as the question of bathing is concerned, Rabbi Judah is quite lenient, although not so lenient as Rabbi Simeon. Indeed, Judah is much more lenient than is Rabbi Meir. It is thus that we find:

They may not wash themselves either in warm waters or in cold waters, the words of Rabbi Meir; but Rabbi Simeon permits it. Rabbi Judah says: In cold, but not in warm. Said

Rabbi Judah: There is a case of Bethos, son of Zonin, for whom the water-drawers used to fill a container of cold water from the eve of the Sabbath, and they poured 21 upon him in order that he be cooled.

Upon examining the Halakah of Judah, son of Ila'i, one can scarcely fail to note that there is one area of opinion dealing with labor prohibited on the Sabbath, in which Rabbi Judah consistently maintains a severe point of view. This is the question of carrying or moving objects about on the Sabbath. Thus do we find:

He that takes out enough wood to cook a small egg, or spices enough to spice a small egg, and these are included together, or shells of walnuts, or skins of pomegranites, or woad or madder enough to dye a garment small as a hair-net, or urine, soda, soap, cimolian earth, or ashlag enough to clean with them a garment small as a hair-net. Rabbi Judah says: Enough to put across a stain. 22

Another example is:

One, who intended to take out a thing in front of him, put it behind him - he is not culpable. But if behind him, and he put it in front of him - he is culpable. In truth they have said: The woman who wears drawers whether in front of her or behind her is culpable, for it is fitted so as to move back and forth. Rabbi Judah says: Even those who carry letters. 23

In this particular area of Halakah, Rabbi Judah is in truth quite severe. An example of his extreme severity may be found here:

A man may not stand in private property and urinate into a public place; nor in a public place and urinate into private property. In such a manner, he also may not spit. Rabbi Judah says: Even he whose spittle is loose in his mouth may not walk more than four cubits before he spits. ²⁴

I also should be noted that Rabbi Judah is extremely strict in the case of pulling an object in the public domain. Indeed, Rabbi Judah forbids a woman to pull her child along unless it lifts up one leg while resting the other:

Bundles of straw, bundles of wood and bundles of young shoots, if they were set up as food for cattle, they may move them; but if not, they may not move them. They may overturn a basket before chickens that they may run up and down it. In the case of a hen that has run away, they may drive it until it comes in again. Calves and young asses may be pulled on public property. A woman may pull her child. Said Rabbi Judah: When? At a time that he lifts one foot and rests one, ²⁵ but if he is dragged, it is forbidden.

Rabbi Judah maintains a strict position with regard to moving the fragments of a broken oven on the Shabbath. He does this in opposition to the position of Rabbi Jose, although Rabbi Jose relies upon the testimony of Rabbi Eliezer, son of Jacob. ²⁶

Thus is the Halakah of Judah, son of Ila'i, with respect to labor forbidden on the festivals. Despite certain cases in which he is extremely strict, such as carrying on the Sabbath, the general trend of his decisions is toward leniency. We may conclude that he wished to make obedience

to the divine directives to refrain from labor during sacred seasons possible for the people, who were living in a violent age and unsettled conditions.

CHAPTER VII

RABBI JUDAH AND RABBI MEIR

Up to this point we have noted many differences of opinion between Rabbi Judah, son of Ila'i and Rabbi Meir. These two individuals clearly are opponents with regard to their views concerning Halakah. Frequently do we find the opinion of the one challenged by the other. Now we shall endeavor to examine the cases of conflict between the two in order to discover what it was that caused these many differences of opinion.

We must not overlook the fact that there was bitter enmity between the two, although the importance of this should not be exaggerated. Indeed, this bitter feeling persisted after the death of Rabbi Meir. It is related that, after Rabbi Meir's death, Rabbi Judah issued orders forbidding his students to allow the students of Rabbi Meir entrance to his classes. When one of Rabbi Meir's students gained entrance to the class of Rabbi Judah, Judah became quite incensed and interrupted his lesson to express his displeasure.

Our rabbis taught: After the death of Rabbi Meir, Rabbi Judah said to his students: Let not the students of Rabbi Meir enter here because they are quarrelsome, and they do not come to learn Torah, but to plague me with Halakoth do they come. Symmachos persisted and gained admittance. He said to them: Thus did Rabbi Meir teach to me: He who makes a betrothal with his portion whether of the most holy or of less holy, he is not

properly betrothed. Rabbi Judah grew angry at them; he said to them: Did I not say thus to you: Let none of the students of Rabbi Meir enter here, because they are quarrelsome, and not to learn Torah do they come, but to plague me with Halakoth....¹

There was another reason, apart from basic disagreements over principles of Halakah, which may well have played a part in the differences of opinion between the two. In addition to any personal hostilities, politically the two men were in very different positions. Rabbi Meir was very clearly an opponent of expanded honor or power for the Nasi. Rabbi Meir held the position of Hakam.² The holder of this office, as well as the Ab Beth Din, was given the honor of having all the people rise as he entered the room. Rabban Simeon, son of Gamaliel, the Nasi, wished to make a distinction between the office of Nasi and the lesser offices of Ab Beth Din and Hakam. For this reason, he decreed that for the Nasi, all the people should rise, for the Ab Beth Din, one row should rise, and for the Hakam, one individual should rise as he passed. Because of this, Rabbi Nathan, the Ab Beth Din, and Rabbi Meir, the Hakam, who were not present on the day of the change of protocol, entered into a plot to embarrass Rabban Simeon, the Nasi, publicly. However, the plot was revealed by Rabbi Jacob, son of Korshai, with a result that Rabban Simeon was able to defend his reputation and pronounce judgement against Rabbi Nathan and Rabbi Meir.³

Such were the troubled relations between the Nasi and Rabbi Meir. On the other hand, we find that Rabbi Judah and the Nasi were quite friendly. Indeed we have talmudic testimony that Rabbi Judah was singularly honored by being named Master of the house of the Nasi and giving decisions for that household.⁴ Indeed, Rabbi Judah was active politically in an attempt to strengthen the position of authority of the Nasi. This apparently was the point of Rabbi Judah's insisting that the Sanhedrin was composed of seventy. About this, Sidney B. Hoenig writes:

In his support of the Nasi, Rabbi Judah declared that the position was supreme. The Nasi was to serve also as Ab Bet Din and therefore was included in the total of seventy. He supported his belief in the supremacy of the Nasi by asserting, as he is quoted in the Sifre: "One among them was designated above all judges." Rabbi Judah brought to bear also the established precedent of the combined leadership held by the Hillelite dynasty during the last decades of the Temple era. It is to be recalled that with the merger of offices at that time there were only seventy members. Now this close friend and teacher in the Nasi's house laid emphasis on the belief that the new synod too should consist of seventy members.⁵

However, these personal and political considerations are by no means the only reasons for the disputes between the two sages. Personal pettiness did not keep them apart. Indeed we find that the two were quite willing to join forces in opposition to other scholars when their opinions happened

to coincide. It is thus that we read:

If it rolled outside the Sabbath limit and a heap fell on it, or if it was burned, or if it was Heave-Offering and became unclean while it was still day, it is no Erub; if this is when it grew dark, behold this is a proper Erub. If there is a doubt, Rabbi Meir and Rabbi Judah say: Behold this is a donkey-driver and camel-driver. Rabbi Jose and Rabbi Simeon say: If there is a doubt, about the Erub, it is valid. Said Rabbi Jose: Abtolemos testified in the name of five elders about a doubt in the Erub that it is valid.⁶

Thus, we find that we must examine viewpoints of the two men for the differences of opinion between the two with respect to the Halakah. We find that there is one very basic difference between the two in their definition of Mishnah. Rabbi Meir says that it is Halakoth, but Rabbi Judah says that it is Midrash.⁷ Thus we are informed in Talmud that Rabbi Judah was not in the practice of seeking out the reason for Scriptural passages.⁸ It was this kind of seeking for reasons which very probably led to Rabbi Judah's distrust of literal translations and his revulsion at the thought of adding words in an attempt to capture the meaning of the original Hebrew.⁹ His feeling was so strong that he employed the term "that hate you" to those who devoted themselves exclusively to the study of Mishnah.¹⁰

It is thus we see that there was a very basic disagreement between the two respecting the composition of

Halakah. According to Rabbi Meir, the study of Mishnah consisted of a careful learning of the Halakoth; but Rabbi Judah maintains that the proper study of Mishnah is an examination of the written law in order to see in it the oral law. Thus Rabbi Judah maintained the position that the oral law was an almost undistinguishable extension of the written law, a position which Rabbi Meir's view does not hold to be necessary. With a basic difference of viewpoint such as this, it was inevitable that differences of opinion in Halakah should arise.

It was not, however, merely a general difference of viewpoints that caused the disputes between Judah, son of Ila'i, and his opponent, Rabbi Meir. There were also differences of viewpoint with respect to individual areas of the Halakah. It was thus in the case of the Halakah regarding vows. Rabbi Judah maintained that it was more praiseworthy not to make a vow at all than to make a vow and fulfill it; Rabbi Meir held that it is more praiseworthy to fulfill a vow than either to make a vow and not fulfill it or not to make a vow at all.¹¹ Since the verse reads, "I will pay my vows unto the Lord," the opinion of Rabbi Meir seems to be favored.

Here we see a basic disagreement in outlook: Rabbi Meir is generally encouraging to those who wish to make vows; Rabbi Judah tends to discourage the making of vows by his attitude in this matter. This difference regarding the encouragement or discouragement of vow-making makes disputes

in this area inevitable. It also should be noted that Rabbi Judah tends to consider the situation of an individual making a vow, whereas Rabbi Meir often neglects this.¹² This attention to the details of the circumstances under which the vow was made enables Rabbi Judah to limit the scope of a vow, sometimes quite severely.¹³

It should be noted that Rabbi Judah and Rabbi Meir differ over numerous principles with respect to the Halakoth of marriage. Here again we find that these differences of opinion are caused by basic differences in the outlook of the two men regarding the rules governing the institution of marriage. Thus, for example, we find that Rabbi Judah believes in extreme leniency in qualifying witnesses to report the death of the husband of a given woman. This leniency makes it quite easy for the woman to remarry in the event of her husband's death. Indeed, Rabbi Judah goes so far as to hold that even contradictory testimonies may be accepted as evidence of the husband's death. Rabbi Meir is not so lenient in this matter as to permit the acceptance of contradictory statements to establish a fact, although the woman is prevented from remarrying because of this strictness. We read:

In the case that one woman says: he is dead; and another says: he is not dead - the one that says that he is dead, may be married and may receive her Kethubah, but she that says he is not dead, may not be married and may not receive her Kethubah. In the case that one says: he is dead; and another says: he was killed - Rabbi Meir says:

Since one contradicts the other, behold these may not be married. Rabbi Judah and Rabbi Simeon say: Since both of them admit that he is not living - they may be married. In the case that one witness says: he is dead; but another witness says: he is not dead; or a woman says: he is dead, but another woman says: he is not dead - behold this one may not be married.¹⁴

Thus we see that Rabbi Meir is unwilling to accept Rabbi Judah's extreme leniency in allowing a widowed woman to be married. Rabbi Meir is unwilling to forego the basic rules of logic in establishing a fact in order to make the remarriage of a widow easier. Rabbi Judah, on the other hand, holds the position that the remarriage of a widow is of sufficient importance that ordinary rules of jurisprudence may be overlooked in order to accommodate the marriage.

Rabbi Judah was willing to make numerous sacrifices of logical principles in order to expedite the remarriage of a widow; Rabbi Meir is less willing to overlook certain requirements and as a result enters into various conflicts with Rabbi Judah. One of these instances, as we have seen, is the case of testimony regarding the death of a woman's husband. Another case in which this may be observed is that of the recently widowed woman. Rabbi Meir says of these recently widowed women that "it is necessary to wait three months." Rabbi Judah, on the other hand, "permits them to become betrothed and to be married immediately."¹⁵

It is thus that we see that there was a very basic

dispute between Rabbi Judah and Rabbi Meir on the question of permitting expediences to override legal requirements, in the questions of permitting the remarriage of widows. This is a very basic dispute with much practical consequence in cases of widows who seek to be remarried. Here Judah tends to leniency, while Meir is much less flexible.

The differences between Rabbi Judah and Rabbi Meir in the realm of festival legislation very often seems to be a case of disputes over the specific ritual practices without necessarily reflecting any great difference of opinion in basic principles. Nevertheless, it would not be accurate to maintain that no trends of any sort may be seen. In truth, the careful observer will find disagreements between the two on fundamental issues. Thus, the seasonal calendar of the two men is somewhat different. Hence the difference of opinion as to what constitutes the end of the season of the latter rain. We read:

They ask for the rain only close to the rainy season. Rabbi Judah says: When one passes before the ark on the last festival day of the festival - the last one mentions it; the first does not mention it. On the first festival day of Passover - the first one mentions it; the last does not mention it. Until when may they ask for the rains; Rabbi Judah says: Until Passover has passed; Rabbi Meir says: Until Nisan has ended, as it is said: And He causeth to come down for you the rain, the former rain and the latter rain in the first month. 16

For the practical consequences of this difference in seasonal calendation, one need only consider vows which are contingent upon the end of the latter rain.¹⁷

We may also note other important differences between these two. Rabbi Judah does not permit carrying lamps as Rabbi Meir does.¹⁸ With respect to the question of bathing on the Sabbath, Rabbi Meir is quite severe; Rabbi Judah however, is willing to permit bathing if it is not done in warm water. We find this expressed most clearly in the Tosephta. It is here that we find:

They do not wash themselves either in warm waters or in cold waters, the words of Rabbi Meir; but Rabbi Simeon permits it. Rabbi Judah says: In cold, but not in warm. Said Rabbi Judah: There is a case of Bethos, son of Zonin, for whom the water-drawers used to fill a container of cold water from the eve of the Sabbath, and they poured upon him in order that he be cooled. ¹⁹

It is thus that we see genuine areas of difference with regard to views of Halakah, between Rabbi Meir and Rabbi Judah. Without doubt, some of their differences were influenced by feelings of mutual hostility and political enmity; It would be a mistake to overlook these aspects of the differences between the two. Nevertheless, one ought not to consider only these personal and political elements, so that they overshadow the genuine differences in basic principles which influenced the opinions of these two sages. Underlying the teachings of the two, are their definitions of Mishnah;

Rabbi Meir is attempting to compile an accurate list of Halakoth, while Rabbi Judah feels that he is engaged in an extension of biblical exegesis. In more specific areas, we also note genuine differences of viewpoint. For example, we have seen that Rabbi Meir considered the making of vows very desirable indeed, but Rabbi Judah was somewhat skeptical about the desirability of this practice. Again we note that Rabbi Judah was so permissive in his views regarding the remarriage of widows that he was willing to accept contradictory testimonies and permit marriage during the period of mourning. Rabbi Meir, on the other hand, is insistent that the remarriage of a widow should not override basic practices regarding witnesses and the general amenities of a three month mourning period. It is thus that we see important differences in outlook regarding Halakah in the opinions of Rabbi Meir and Rabbi Judah. Even if we overlook the personal and political clashes between the two, there seems little likelihood that the differences in Halakah between the two could be reconciled. The two belonged to two different schools of thought regarding the nature of Halakah, and they disagreed over basic principles in more limited areas. It is in such a light that we must understand the many disputes between these two sages, Rabbi Judah and Rabbi Meir.

CHAPTER VIII

CONCLUSION

Up to this point, we have examined in detail the Halakah regarding marriage and the festivals of Rabbi Judah, son of Ila'i. Various trends were noted in his opinions regarding vows, marriage, divorce, and festival legislation. It is now time to see if any conclusions can be reached regarding Rabbi Judah and his Halakah. In our attempt to arrive at conclusions, we shall seek to discover what kind of system of Halakah Rabbi Judah wanted to establish, and why he desired its establishment. In order to do this, we shall need to regard three aspects of Rabbi Judah's situation: (1) Rabbi Judah lived a relatively short time after the destruction of the Temple; (2) Rabbi Judah lived during the chaotic period following an unsuccessful rebellion; (3) Rabbi Judah held the opinion that basically Mishnah was Midrash.

The first two aspects are matters of historical fact and, as a result, are in need of no further explanation. The third aspect requires some interpretation. Rabbi Judah clearly followed the exegetical principles of Rabbi Akiba, not those of Rabbi Ishmael. There is an abundance of evidence for this position. First, there is Rabbi Judah's statement that Mishnah is Midrash, although Rabbi Meir maintains that it is Halakoth.¹ Second, we are given the information that

Rabbi Judah does not seek reasons for biblical commandments, except in cases where the text itself explains the necessity for the injunction.² We also have clear demonstrations of Rabbi Judah's relying upon the meaning of the words of Scripture and avoiding the use of Rabbi Ishmael's herm^eneutic rules for expounding Scripture. There is even a case in which Rabbi Judah relies upon the meaning of a small word in Scripture, as Rabbi Akiba was wont to do, but rejects the device of the gezerah shawah as proof for exactly the same point of view. This is the case with the formula recited for the rite of halisah:

How in the case of halisah? Here it is: And she shall answer and say; and there it says: And the Levites shall answer and say. Just as the answering that is said there is in the Holy Tongue, so here it is in the Holy Tongue. Rabbi Judah says: And she shall answer and say thus. It is of no account until she shall say it with this exact expression. 3

It is important that we understand precisely what is in question here. No one disputes the conclusion of anyone else; all agree that the formula of the halisah must be said in Hebrew for the rite to be valid. The disagreement here is over the methodology to be applied to a text in Scripture in order to arrive at the conclusion. The anonymous first opinion employs the exegetical device called gezerah shawah. It is one of Hillel's seven hermeneutic rules and one of Rabbi Ishmael's thirteen. This is precisely the device that

Rabbi Judah rejects. Instead, Rabbi Judah relies upon an examination of a two-letter word in the biblical text. Such a procedure is in accord with Rabbi Akiba's belief that no word in Scripture is superfluous, and that major principles may be inferred from the smallest of words in a biblical text. Taken together with Rabbi Judah's statement that Mishnah is Midrash, this seems to us to be conclusive evidence of support for the exegetical method of Rabbi Akiba. This concern for even the smallest of words in a biblical text may well have influenced Rabbi Judah's belief that: "He who translates a verse as it is formed is a liar, and he who adds to it is a blasphemer."⁴ It is in this sense that we must understand Rabbi Judah's devotion to the words of Scripture.

We have noted that on ^e aspect of Rabbi Judah's situation was that he lived a relatively short time after the destruction of the Temple. This proximity to the era of the Temple and its sacrificial cult played an important role in the Halakah of Rabbi Judah. The age in which he lived was one that was familiar with many accounts of the glories of the Temple and with many traditions concerning the manner of performing the sacrificial rites. People still remembered the accounts of their parents and grandparents dealing with all manner of detail regarding the structure, cult system, and rituals of the Temple which was no more. There was also reason for hope for an eventual rebuilding of the structure

and a return to the glories of the past. As Solomon's Temple had fallen, so the larger Temple of Herod had fallen; as Solomon's Temple had been replaced by another, so this later Temple might be replaced with still another. Thus was the situation of the people of Rabbi Judah's day.

Judah, son of Ila'i, was not unaffected by the feelings of longing and reverence for the Temple, sacked and desecrated considerably less than a century earlier. Indeed, Rabbi Judah devoted much of his efforts to questions of the rites of the Temple and the defunct sacrificial cult. An indication of this is the attribution of anonymous statements in Sifra to him.⁵ There are three reasons why such concern for practices of the past should cause such energetic devotion from a scholar of this period. First, there was the realization of the important role played by the Temple in the spiritual life of the people in days gone by. Such a realization created the desire to know as much as possible about this sacred structure and the rites that took place within it. Second, there was the hope that the Temple might be restored and the sacrificial cult revitalized. Such a hope required adequate knowledge about the structure of the Temple complex and the rites practiced within it, for anyone who was to rebuild the Temple and restore the sacrificial cult would be in need of such information. Third, some kind of substitute for the actual practice of the offering of

sacrifices upon the altar was required until such time as the Temple would be restored and the priests returned to the performance of their sacred duties. Thus it is that Rabbi Judah is deeply concerned about the details of the performance of the various rites, although these practices had ceased when the Temple had been burned by the Romans. These reasons prompted thorough investigations of the various traditions regarding the details of the various sacrifices. Thus Rabbi Judah is extremely careful about even the most trivial points with respect to the actions of the High Priest on the Day of Atonement.⁶ Similarly, there was great concern about the singing of the levites during the slaughtering of the paschal lamb.⁷ Exactitude in tradition was the prime concern here. Hence the concern for correct and detailed accounts of the rite of the willow branch⁸ and the water libation⁹ on the Festival of Tabernacles. Details of traditions were scrutinized with the utmost seriousness in order to assure the maximum degree of accuracy in knowledge of the sacrificial and other Temple rites. Nothing less would be satisfactory.

There was yet another problem to consider. If the Temple was to be restored, it would require priests who were ritually fit for sacrificial service. Measures were needed to see to it that members of the priestly class did not engage in such marriages that their offspring were impaired so that they could not perform their ritual functions. In order

to prevent this, Rabbi Judah resorted to strict limitations for priestly marriages. He maintained that no one might be admitted to the standing of a priest on the evidence of a single witness.¹⁰ Despite the leniency of the Sages in this respect, Rabbi Judah held the view that a sterile woman is a zonah for a common priest.¹¹ In a similar spirit, he equated the daughter of a male proselyte with the daughter of a male of impaired priestly stock, thereby disqualifying her from marriage with a priest.¹² By measures such as these, Rabbi Judah hoped to maintain the purity of the priesthood and to keep them ritually qualified for service in the Temple.

There is also something more here. Rabbi Judah went beyond mere protection of a qualified priesthood. He also would not allow intermarriage among those forbidden to enter the congregation.¹³ In addition to protecting the purity of the priests, Rabbi Judah seems to have had a fear of improper marriage in general. Thus he is willing to believe that a child is a mamzer on the word of the parents, although the anonymous opinion given does not accept such testimony.¹⁴ We must conclude that Rabbi Judah had a greater fear of improper marriage than the majority of his contemporaries. Perhaps this was stimulated by the chaotic conditions prevalent after an abortive rebellion. In any event, the concern is clearly seen in his opinions on this subject to a greater extent than among others.

Rabbi Judah was able to make the destroyed Temple

and the defunct sacrificial cult serve the past, the present, and the future. By study of these things of the past, he preserved their memory and furthered the understanding of the history of the religion of Israel. He strengthened the links between the Judaism of his own day and that of the days of the Temple, destroyed but a short time before his own era. He kept alive the knowledge required for the day when a new Temple might be built, and thus he kept alive the hope that the situation of the Jews might once again be one of prosperity and glory. Finally, study of the Temple and the order of the sacrifices could be employed as a kind of substitute for the sacrificial service no longer practiced. Thus did Rabbi Judah deal with the sacrifices and the Temple.

It is impossible, however, to deal with things defunct to the exclusion of problems of one's own time and yet have a viable religious system. One must consider the needs of one's own age. Rabbi Judah lived in the unsettled period following a rebellion. The Roman authorities frequently felt inclined to institute severe and repressive measures against the Jews living under their sway. Such conditions cause problems for the pious and the defeated nationalist. Rabbi Judah was not unaware of this situation and recognized the need for steps to ease the religious burden of the conquered people. These steps may be seen in different areas of his Halakah, which we shall now endeavor to examine.

Vows are troublesome to the religious individual. A

vow that one may fulfill today may become impossible of fulfillment tomorrow. This is especially true in the disorder that follows rebellion. Rabbi Judah recognized this problem. His feeling was that vows were to be discouraged. While Rabbi Meir felt that it was most desirable to make and fulfill vows, Rabbi Judah held that it is best not to vow at all.¹⁵ In case a vow was made, Rabbi Judah employed the good judgment to examine all the circumstances. He held that one should examine the words of the vow, the general meaning the words are usually taken to have, the area in which the vow was said, and other conditions that may be relevant, such as the season of the year. This tended to prevent an individual from making an unintentional vow. Thus Rabbi Judah met the needs of his day by discouraging the making of vows and helping to eliminate the danger of someone making an unintentional vow by employing careless language.

It is in this spirit that Rabbi Judah differentiated between Judea and Galilee with respect to a vow made concerning undefined Heave Offering.¹⁶ Rabbi Judah recognized that different communities understood the term Heave Offering differently. As an example of Rabbi Judah's concern for the circumstances of the individual, we have his statement that if an individual was carrying wool or flax and vowed not to have that material come upon his back, the man may wear garments of the material; he simply may not carry the

material in question upon his back.¹⁷ With respect to vows, Rabbi Judah was indeed responsive to the needs of his time.

After an abortive rebellion, there is usually all manner of disorder in the state. Families are separated, many men are dead, and many are missing without a trace. Such were the conditions of the period in which Rabbi Judah lived. These conditions were especially difficult for the wives of those missing without a trace. Without some evidence that the husband was in fact dead, he was presumed alive and his wife could not marry another. Such a circumstance was very much to the disadvantage of the woman, who was bound to her missing husband for the rest of her days. In order to ease this situation, Rabbi Judah was extremely lenient in accepting evidence of the death of a woman's husband. Such leniency made remarriage possible, as a stricter position would not. Here again Rabbi Judah attempted to adjust the Halakah to the needs of his own day and the requirements of disordered circumstances.

Rabbi Judah's leniency in this matter goes to extremes. If one wife says that her husband was killed and the second wife says he died a natural death, Rabbi Judah permits both to remarry.¹⁸ This he does in spite of the fact that the testimony in the case is contradictory; either the husband was killed, or he died a natural death. Rabbi Judah is even willing to admit as evidence hearsay from the lips of children.¹⁹ Here again this leniency works to the advan-

tage of the supposed widow.

A similar situation existed with regard to bills of divorce. If the witnesses for a bill of divorce sent from a land outside Palestine were not qualified, the woman, in such a case, would not be divorced and would not be able to remarry. In a chaotic period following an attempt at revolution, this problem could be particularly acute. Here, once again, Rabbi Judah maintained a lenient position. Thus in the case when two witnessed the writing of the bill of divorce and another one witnessed the signing, Rabbi Judah maintained that the bill was valid.²⁰

Indeed, Rabbi Judah is so lenient as to permit a man who played some role in the death of the husband to marry the wife, provided that the man alone did not cause the husband's death.²¹ Such a decision works to the advantage of both the man and the widow, who may desire to remarry. Rabbi Judah is actually so permissive that he is willing to dispense with the mourning period of three months in order to allow either betrothal or marriage.²² Rabbi Judah is willing to accept the tears of a woman as evidence that her husband is indeed dead, although the Sages do not permit such evidence to qualify her for remarriage.²³

Rabbi Judah was lenient in matters that required an individual to divorce his wife. Here Rabbi Judah was willing to make it as easy as possible for the marriage to continue. Thus, although an anonymous opinion will not allow an indivi-

dual who vowed to divorce his wife to take her back, Rabbi Judah permits it if the vow was not known to many.²⁴ Since a priest may not remarry his divorced wife, Rabbi Judah extends special leniencies to priests in cases of vows either that the wife should receive no benefit from the husband or that the husband would abstain from his wife.²⁵ Here we see Rabbi Judah's willingness to be lenient in order to preserve marriages threatened with dissolution on technical religious grounds. Rabbi Judah was decidedly interested in maintaining the sanctity of the Jewish marriage.

Despite all these leniencies, Rabbi Judah firmly believed that the purpose of marriage was procreation. Thus, in the case of a woman divorced because she was barren, Rabbi Judah holds that the husband may not take her back, although the Sages permit him to do so.²⁶ This exception from Rabbi Judah's general leniency is to be taken, however, as an unusual case in which there is the danger of violation of the scriptural injunction to be fruitful and multiply. This case is clearly the exception and not the rule.

It appears clear that Rabbi Judah was in the practice of considering the needs of his own day in attempting to establish Halakah. He was even willing to accept the most loose and questionable kind of evidence when the circumstances of his own day made it seem necessary to do so. Rabbi Judah was deeply concerned with the needs of the people. "They said about Rabbi Judah, son of Ila'i, that he would suspend

the study of Torah in order to take part in the leading forth of a body or the marriage of a bride."²⁷ When a man vowed that he would have nothing to do with his wife unless Rabbi Judah tasted her cooking, Rabbi Judah tasted it in order to bring about a reconciliation.²⁸ Thus did Rabbi Judah concern himself with the problems of the people. His Halakah reflects an acute awareness of the situation of his times and the circumstances of the Jews of that period. Rabbi Judah was intent upon making the Halakah serve the conditions of the age in which he lived. We have here a kind of flexibility. Such decisions on the part of Rabbi Judah helped to set precedents for future generations, who would find that very frequently the conditions of the time demanded leniencies in the Halakah. Thus do we find the second aspect of Rabbi Judah's Halakah. This important element in his decisions cannot be overlooked.

We must now examine the third aspect of Rabbi Judah's Halakah. This is his belief that Mishnah was essentially Midrash. This view was, as we have seen, an expression of the exegetic principles of the school of Rabbi Akiba. This should not surprise us, for Sifra is generally considered to be the work of the school of Akiba. We have also noted the tradition that Rabbi Akiba was one of the teachers of Rabbi Judah. This element is extremely important in the Halakah of Rabbi Judah, as we shall see.

Rabbi Judah was not a member of the school of Ishmael, who held that the Torah is written in the language of man and, as a result, may be repetitious. Rabbi Judah was a member of the school of Akiba, who held that every word in the Bible has an important meaning. This was an important influence in his Halakah. Thus, Rabbi Judah insisted that it was necessary to prepare another wife for the High Priest, although the Sages did not think so. This was because the Bible demanded that he make atonement for himself and for his house; i.e., his wife.²⁹ In a similar manner, Rabbi Judah maintained that the High Priest raised his hand above the frontlet when giving the blessing in the Temple, for it is stated that Aaron lifted up his hand toward the people.³⁰ We may also note Rabbi Judah's belief that one was culpable if he took out on the Sabbath anything pertaining to idols, for it is stated that nothing of the devoted thing should cleave to one's hand.³¹

Thus is the view of Mishnah of Rabbi Judah. This view is not as logical as the view of the school of Ishmael, but is more imaginative. Rabbi Judah's view is an invitation to find Halakoth in every word of every scriptural passage. It also opens the door to mystical interpretations of Bible from all sides. The significance of this should not be underestimated. This is also true with respect to the Halakoth of the members of the school of Rabbi Akiba, many of whose views were accepted. Such a view also tends to base

rabbinic Halakah to a very large degree upon the Bible. Thus there is a clear link to Moses, who received the Torah on Sinai and transmitted it to Joshua. Here we see the extreme importance of the view of Mishnah maintained by Rabbi Judah, son of Ila'i.

Thus is the Halakah of Rabbi Judah, son of Ila'i, with respect to marriage and the festivals. He was not as clever in debate as was Rabbi Meir, who is remembered as a great maker of parables.³² Nevertheless, he was active in politics, both in matters concerning the Roman government and in matters regarding the status of the Nasi. He was dedicated to a faithful exposition of older traditions, regarding the defunct Temple cult and otherwise, and to the principles of Midrash in Mishnah taught to him by Rabbi Akiba, his former teacher. His contribution to the Halakah was great in both quantity and quality. His name is justly held in high regard by students of the Halakah.

FOOTNOTES

CHAPTER I

1. Gedaliahu Alon. Toldoth Ha-jehudim Be-eres Jisrael Be-tekuphath Ha-Mishnah We-Ha-talmud. p. 25.
2. Heinrich Graetz². Geschichte der Juden von den ältesten Zeiten bis auf die Gegenwart. Volume 3. P. 407.
3. Ibid. Volume 4. P. 11.
4. Ibid. Volume 4. P. 12.
5. For the questions involved in this dispute, see: Hugo Mantel. "The Title Nasi in Jewish Tradition". (Studies in the History of the Sanhedrin.)
6. Graetz. op. cit. Volume 4. pp. 36-37.
7. For a thorough account of the revolt and subsequent defeat, see: Graetz. op. cit. Volume 4. Chapter 8.
8. Graetz. op. cit. Volume 4. pp. 167-168.
9. Alon. op. cit. P. 262.
10. So most scholars. Herbert Danby, however, calls this the fourth generation.
11. Hugo Mantel. Studies in the History of the Sanhedrin. P. 110.
12. Jacob Z. Lauterbach. "Judah ben Ilai". (The Jewish Encyclopedia. Volume 8.) P. 343.
13. Ibid. P. 343.
14. Talmud Babli. Yebamoth 62b.
15. Talmud Babli. Mesillah 20a.
16. Mishnah. Nedarim 6:6.
17. Tosephta. Shabbath 6:13.
18. Graetz. op. cit. Volume 4. P. 64.
19. Talmud Babli. Sanhedrin 14a.

20. Talmud Babli. Shabbath 33b. The subsequent account of Rabbi Simeon's life in caves while hiding from the Romans, although strongly colored with legends, has a strong basis in fact. The title (Rosh Ha-medabrim) may have meant that Rabbi Judah actually spoke first in debate; see: Talmud Babli. Berakhoth 63b.
21. Rashi. ad locum.
22. Graetz. op. cit. Volume 4. P. 200.
23. For an interesting view of the significance of this title, see: Louis Engelberg. Judah Bar Ilai: Spokesman for his People. Master's thesis. Harry Fischel Graduate School, Yeshiva University. 1963.
24. Isaac Hirsch Weiss. Dor Dor We-dorshaw. Volume 2. P. 154.
25. Talmud Babli. Menahoth 104a.
26. Talmud Babli. Kiddushin 52b.
27. Talmud Babli. Sanhedrin 86a.
28. Tosephta. Sukkah 4:6. Rabbi Judah's account of this synagogue also occurs in Talmud Babli. Sukkah 51b.

CHAPTER II

1. Mishnah. Sotah 9:9. Scriptural quotation is Hosea 4:14. This rite was to work only if the husbands were righteous; Talmud Babli. Sotah. 47b.
2. Mishnah. Shekalim 1:4. Scriptural quotation is Leviticus 6:23.
3. Mishnah. Yoma 4:5.
4. Talmud Babli. Sanhedrin 86a.
5. Mishnah. Shekalim 6:5.
6. Mishnah. Hagigah 3:7.
7. Mishnah. Erubin 10:12.
8. Tosephta. Yoma 1:2. The High Priest lives there during the seven days preceeding the Day of Atonement. See: Mishnah. Yoma 1:1; Tosephta. Yoma 1:1.

9. Mishnah. Yoma 4:6.
10. Mishnah. Pesahim 5:7. They never reached Psalm 116:1 during the third turn, according to Rabbi Judah. This account also occurs in Tosephta. Pesahim 3:11.
11. Mishnah. Nedarim 6:6.
12. Tosephta. Shabbath 6:13.
13. Mishnah. Erubin 4:4.
14. Mishnah. Shabbath 16:7.
15. Mishnah. Shabbath 22:3. A variant reading for "The Sages" is "Rabbi Jose".
16. Tosephta. Erubin 7:7.
17. Tosephta. Shabbath 2:5. For comparison, see: Talmud Babli. Shabbath 29b.
18. Talmud Babli. Shabbath 29b.
19. Tosephta. Erubin 8:6. See: Tosephta. Sukkah 1:7.
20. Tosephta. Sukkah 2:9.
21. Mishnah. Erubin 8:7.
22. Mishnah. Yoma 1:1. Scriptural quotation is Leviticus 16:6. See: Tosephta. Yoma 1:1.
23. Talmud Babli. Kiddushin 49a-49b.
24. Mishnah. Shabbath 9:6. Scriptural quotation is Deuteronomy 13:18.
25. Mishnah. Sotah 7:6. Scriptural quotation is Leviticus 9:22.
26. Mishnah. Sotah 7:4. Biblical text is Deuteronomy 25:9. Second part of gezerah shawah is Deuteronomy 27:14. This is evidence that Rabbi Judah followed the exegetic principles of the school of Akiba and not those of the school of Ishmael. See: Chapter 8 infra.

CHAPTER III

1. Midrash. Tehillim. To Psalms 116:18.
2. Mishnah. Nedarim 6:6.
3. Mishnah. Nedarim 4:4.
4. Mishnah. Nedarim 2:4. See: Tosephta. Nedarim 1:6.
5. Mishnah. Nedarim 7:3.
6. Mishnah. Nedarim 1:3.
7. Mishnah. Nedarim 1:4.
8. Mishnah. Nedarim 6:3.
9. Mishnah. Nedarim 6:10.
10. Mishnah. Nedarim 8:5.
11. Mishnah. Ta'anith 1:2. Scriptural quotation is Joel 2:23.
12. Mishnah. Nedarim 5:5.
13. Mishnah. Nedarim 11:10.
14. Numbers 6:1-21.
15. Mishnah. Nazir 1:3; 1:7; 3:6.
16. Mishnah. Nazir 2:1.
17. See: Alexander Guttman. "Eliezer ben Hyrcanus - A Shammaite?" (Ignace Goldhizer Memorial Volume, Part II.) pp. 100-110.
18. Mishnah. Nazir 3:6.
19. Mishnah. Nazir 2:2.
20. Tosephta. Nazir 2:4.
21. Tosephta. Nazir 2:8; 2:9.
22. Mishnah. Nazir 4:3; Tosephta. Nazir 3:15.

CHAPTER IV

1. Mishnah. Kiddushin 4:1.
2. Mishnah. Kethuboth 2:8. A variant reading is "Rabbi Eliezer".
3. Mishnah. Kiddushin 4:8.
4. Mishnah. Yebamoth 6:5. Scriptural reference is to Leviticus 21:7.
5. Mishnah. Kiddushin 4:6.
6. Mishnah. Kiddushin 4:3. For those barred from entering into the Congregation, see: Deuteronomy 23:2-4.
7. Mishnah. Yebamoth 15:5.
8. Mishnah. Yebamoth 16:5.
9. Mishnah. Gittin 2:1.
10. Tosephta. Gittin 2:2.
11. Mishnah. Yebamoth 2:9.
12. Mishnah. Yebamoth 4:10.
13. Tosephta. Yebamoth 6:6.
14. Mishnah. Gittin 2:4.
15. Mishnah. Gittin 3:2. Scriptural quotation is from Deuteronomy 24:1. A variant reading is "Rabbi Eliezer".
16. Mishnah. Gittin 4:7.
17. Mishnah. Kethuboth 7:1. For the prohibition of the marriage of a priest to a divorced woman, see: Leviticus 21:7.
18. Mishnah. Kethuboth 2:2.
19. See: Genesis 1:28.
20. Mishnah. Gittin 4:8. See: Mishnah. Kethuboth 11:6.

21. Mishnah. Yebamoth 11:1.
22. Mishnah. Yebamoth 8:6.
23. Mishnah. Yebamoth 12:6.
24. Tosephta. Kethuboth 1:4.
25. Mishnah. Kiddushin 4:4.
26. Mishnah. Yebamoth 15:1.

CHAPTER V

1. Talmud Babli. Sanhedrin 86a.
2. See: Leviticus, Chapter 16.
3. Mishnah. Yoma 1:1. Scriptural quotation is Leviticus 16:6. See: Tosephta. Yoma 1:1.
4. Tosephta. Yoma 1:1.
5. Mishnah. Yoma 5:4.
6. Mishnah. Yoma 6:1.
7. Mishnah. Pesahim 5:7. Scriptural quotation is Psalms 116:1. For a similar account, see: Tosephta. Pesahim 3:11.
8. Mishnah. Pesahim 5:8.
9. Mishnah. Sukkah 4:5. Scriptural quotation is Psalms 118:25.
10. Mishnah. Sukkah 4:9.
11. Mishnah. Rosh Ha-shannah 3:5.
12. Mishnah. Pesahim 1:4.
13. Mishnah. Pesahim 1:5.
14. Mishnah. Pesahim 1:6.
15. Mishnah. Sukkah 3:6.

16. Mishnah. Sukkah 3:7.
17. Mishnah. Sukkah 3:8.

CHAPTER VI

1. See: Exodus 20:8-11; Deuteronomy 5:12-15.
2. See: Chapter 5 supra.
3. Mishnah. Shabbath 20:2. A variant reading omits "Rabbi Sadok".
4. Mishnah. Sukkah 3:15.
5. Mishnah. Mo'ed Katan 1:9.
6. Mishnah. Mo'ed Katan 2:5.
7. Mishnah. Mo'ed Katan 3:4. A variant reading for "scroll of the court" is "scroll of Ezra".
8. Mishnah. Mo'ed Katan 1:7.
9. Tosephta. Mo'ed Katan 2:3.
10. Mishnah. Besah 3:8. A variant reading for "his fellow" is "Shopkeeper".
11. Mishnah. Besah 1:10.
12. Mishnah. Besah 2:8.
13. Mishnah. Shabbath 20:5. A variant reading for the end is: "He may loosen his implement and remove them."
14. Mishnah. Shabbath 19:3. Scriptural quotation is Genesis 34:25.
15. Mishnah. Shabbath 21:1.
16. See: Mishnah. Shabbath 7:2.
17. Mishnah. Shabbath 1:11.
18. Mishnah. Shabbath 2:4.
19. See: Tosephta. Shabbath 2:5 and Talmud Babli. Shabbath 29b.

20. Tosephta. Shabbath 4:13.
21. Tosephta. Shabbath 4:4.
22. Mishnah. Shabbath 9:5.
23. Mishnah. Shabbath 10:4.
24. Mishnah. Erubin 10:5.
25. Mishnah. Shabbath 18:2. Some texts read ehad (masculine); others ahath (feminine). The latter appears to be more accurate.
26. Tosephta. Shabbath 15:3.

CHAPTER VII

1. Talmud Babli. Kiddushin 52b. Compare: Mishnah. Erubin 3:1. Symmachos apparently was in the habit of citing Rabbi Meir as an authority. See: Mishnah. Baba Mesia 6:5 and Mishnah. Hullin 5:3.
2. For significance of this title and that of Ab Beth Din, see: Hugo Mantel. "The Titles Ab Bet Din, Hakam, and Mufia". (Studies in the History of the Sanhedrin.)
3. Talmud Babli. Horajoth 13b.
4. Talmud Babli. Menahoth 104a.
5. Sidney B. Hoenig. "The Number". (The Great Sanhedrin.) Rabbi Judah's statement that the number of members is seventy is quoted in Mishnah. Sanhedrin 1:6. The quotation from Sifre is Shofetim, 144.
6. Mishnah. Erubin 3:4.
7. Talmud Babli. Kiddushin 49a-49b.
8. Talmud Babli. Sanhedrin 21a.
9. Tosephta. Megillah 4:41. A similar account is found in Talmud Babli. Kiddushin 49a. Here the amoraic stratum emphasizes the need for employing only the standard Aramaic translation of the Bible (Targum).

10. Talmud Babli. Baba Mesia 33b. This phrase is from Isaiah 66:5.
11. Midrash Tehillim. To Psalms 116:18.
12. See: Mishnah. Nedarim 2:4.
13. See: Mishnah. Nedarim 7:3.
14. Mishnah. Yebamoth 15:5.
15. Tosephta. Yebamoth 6:6. See: Mishnah. Yebamoth 4:10.
16. Mishnah. Ta'anith 1:2. Scriptural quotation is Joel 2:23.
17. Mishnah. Nedarim 8:5.
18. See: Tosephta. Shabbath 4:13. See: Chapter 6 supra.
19. Tosephta. Shabbath 4:14.

CHAPTER VIII

1. Talmud Babli. Kiddushin 49a-49b.
2. Talmud Babli. Sanhedrin 21a.
3. Mishnah. Sotah 7:4. Biblical text is Deuteronomy 25:9. Second part of gezera shawah is Deuteronomy 27:14.
4. Tosephta. Megillah 4:41. A similar account is found in Talmud Babli. Kiddushin 49a.
5. Talmud Babli. Sanhedrin 86a.
6. See: Chapter 5 supra.
7. See: Mishnah. Pesahim 5:7; Tosephta. Pesahim 3:11.
8. Mishnah. Sukkah 4:5.
9. Mishnah. Sukkah 4:9.
10. Mishnah. Kethuboth 2:8.
11. Mishnah. Yebamoth 6:5.

12. Mishnah. Kiddushin 4:6.
13. Mishnah. Kiddushin 4:3.
14. Mishnah. Kiddushin 4:8.
15. Midrash.Tehillim. To Psalms 116:18.
16. Mishnah. Nedarim 2:4. See: Tosephta. Nedarim 1:6.
17. Mishnah. Nedarim 7:3.
18. Mishnah. Yebamoth 15:5.
19. Mishnah. Yebamoth 16:5.
20. Mishnah. Gittin 2:1. Also see: Tosephta. Gittin 2:2.
21. Mishnah. Yebamoth 2:9.
22. Mishnah. Yebamoth 4:10. Tosephta. Yebamoth 6:6.
23. Mishnah. Yebamoth 15:1.
24. Mishnah. Gittin 4:7.
25. Mishnah. Kethuboth 7:1; 7:2.
26. Mishnah. Gittin 4:8.
27. Talmud Babli. Kethuboth 17a. This is modified in the text, which states that he behaved in this manner only when his presence was actually required.
28. Talmud Babli. Nedarim 66b.
29. Mishnah. Yoma 1:1. Scriptural verse is Leviticus 16:6.
30. Mishnah. Sotah 7:6. Scriptural verse is Leviticus 9:22.
31. Mishnah. Shabbath 9:6. Scriptural verse is Deuteronomy 13:18.
32. Mishnah. Sotah 9:15.

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