

# BABA BATHRA

TRANSLATED INTO ENGLISH  
WITH NOTES, GLOSSARY  
AND INDICES

CHAPTERS I - IV

BY

**MAURICE SIMON, M.A.**

CHAPTERS V - X

BY

**ISRAEL W. SLOTKI, M.A., Litt.D.**

UNDER THE EDITORSHIP OF  
**RABBI DR I. EPSTEIN**

B.A., Ph.D., D. Lit.

## CONTENTS

<a href="#">INTRODUCTION</a>	PAGE xi
<a href="#">CHAPTER I</a>	2
<a href="#">CHAPTER II</a>	17
<a href="#">CHAPTER III</a>	28
<a href="#">CHAPTER IV</a>	61
<a href="#">CHAPTER V</a>	73
<a href="#">CHAPTER VI</a>	92

<a href="#">CHAPTER VII</a>	102
<a href="#">CHAPTER VIII</a>	108
<a href="#">CHAPTER IX</a>	139
<a href="#">CHAPTER X</a>	160
<a href="#">GLOSSARY</a>	
INDEX OF SCRIPTURAL REFERENCES	
<a href="#">GENERAL INDEX</a>	
INDEX OF AUTHORS CITED	
TRANSLITERATION OF HEBREW LETTERS	
<a href="#">ABBREVIATIONS</a>	

## [Directory of Sedarim and Tractates](#)

### **Folio List:**

<a href="#">Intro</a>	<a href="#">2</a>	<a href="#">3</a>	<a href="#">4</a>	<a href="#">5</a>	<a href="#">6</a>	<a href="#">7</a>	<a href="#">8</a>	<a href="#">9</a>	<a href="#">10</a>
<a href="#">11</a>	<a href="#">12</a>	<a href="#">13</a>	<a href="#">14</a>	<a href="#">15</a>	<a href="#">16</a>	<a href="#">17</a>	<a href="#">18</a>	<a href="#">19</a>	<a href="#">20</a>
<a href="#">21</a>	<a href="#">22</a>	<a href="#">23</a>	<a href="#">24</a>	<a href="#">25</a>	<a href="#">26</a>	<a href="#">27</a>	<a href="#">28</a>	<a href="#">29</a>	<a href="#">30</a>
<a href="#">31</a>	<a href="#">32</a>	<a href="#">33</a>	<a href="#">34</a>	<a href="#">35</a>	<a href="#">36</a>	<a href="#">37</a>	<a href="#">38</a>	<a href="#">39</a>	<a href="#">40</a>
<a href="#">41</a>	<a href="#">42</a>	<a href="#">43</a>	<a href="#">44</a>	<a href="#">45</a>	<a href="#">46</a>	<a href="#">47</a>	<a href="#">48</a>	<a href="#">49</a>	<a href="#">50</a>
<a href="#">51</a>	<a href="#">52</a>	<a href="#">53</a>	<a href="#">54</a>	<a href="#">55</a>	<a href="#">56</a>	<a href="#">57</a>	<a href="#">58</a>	<a href="#">59</a>	<a href="#">60</a>
<a href="#">61</a>	<a href="#">62</a>	<a href="#">63</a>	<a href="#">64</a>	<a href="#">65</a>	<a href="#">66</a>	<a href="#">67</a>	<a href="#">68</a>	<a href="#">69</a>	<a href="#">70</a>
<a href="#">71</a>	<a href="#">72</a>	<a href="#">73</a>	<a href="#">74</a>	<a href="#">75</a>	<a href="#">76</a>	<a href="#">77</a>	<a href="#">78</a>	<a href="#">79</a>	<a href="#">80</a>
<a href="#">81</a>	<a href="#">82</a>	<a href="#">83</a>	<a href="#">84</a>	<a href="#">85</a>	<a href="#">86</a>	<a href="#">87</a>	<a href="#">88</a>	<a href="#">89</a>	<a href="#">90</a>
<a href="#">91</a>	<a href="#">92</a>	<a href="#">93</a>	<a href="#">94</a>	<a href="#">95</a>	<a href="#">96</a>	<a href="#">97</a>	<a href="#">98</a>	<a href="#">99</a>	<a href="#">100</a>
<a href="#">101</a>	<a href="#">102</a>	<a href="#">103</a>	<a href="#">104</a>	<a href="#">105</a>	<a href="#">106</a>	<a href="#">107</a>	<a href="#">108</a>	<a href="#">109</a>	<a href="#">110</a>
<a href="#">111</a>	<a href="#">112</a>	<a href="#">113</a>	<a href="#">114</a>	<a href="#">115</a>	<a href="#">116</a>	<a href="#">117</a>	<a href="#">118</a>	<a href="#">119</a>	<a href="#">120</a>
<a href="#">121</a>	<a href="#">122</a>	<a href="#">123</a>	<a href="#">124</a>	<a href="#">125</a>	<a href="#">126</a>	<a href="#">127</a>	<a href="#">128</a>	<a href="#">129</a>	<a href="#">130</a>
<a href="#">131</a>	<a href="#">132</a>	<a href="#">133</a>	<a href="#">134</a>	<a href="#">135</a>	<a href="#">136</a>	<a href="#">137</a>	<a href="#">138</a>	<a href="#">139</a>	<a href="#">140</a>
<a href="#">141</a>	<a href="#">142</a>	<a href="#">143</a>	<a href="#">144</a>	<a href="#">145</a>	<a href="#">146</a>	<a href="#">147</a>	<a href="#">148</a>	<a href="#">149</a>	<a href="#">150</a>
<a href="#">151</a>	<a href="#">152</a>	<a href="#">153</a>	<a href="#">154</a>	<a href="#">155</a>	<a href="#">156</a>	<a href="#">157</a>	<a href="#">158</a>	<a href="#">159</a>	<a href="#">160</a>
<a href="#">171</a>	<a href="#">172</a>	<a href="#">173</a>	<a href="#">174</a>	<a href="#">175</a>	<a href="#">176</a>				

## INTRODUCTION

[page xi] Baba Bathra—‘the Last Gate’—the third part of a Tractate which originally contained along with it the two previous ‘Gates’, Baba Kamma and Baba Mezi’a, deals with claims of right to do or possess something, or to prevent another from doing or possessing something.

The claims of right dealt with in Baba Bathra are arranged under various heads, such as claims of right by partners, by neighbours, by occupiers, by purchasers or vendors, and by heirs. Broadly speaking, each of the ten chapters into which the Tractate is divided deals with a separate class of claim (though the claims of purchasers occupy three sections), as will be seen in the analysis which follows, but the actual arrangement of the sections is somewhat arbitrary, and is not quite the same in all our MSS.

Like the other two Gates, Baba Bathra shows us the Palestinian and Babylonian Rabbis in the role not of religious guides but of secular judges and administrators, regulating the purely worldly affairs of the Jewish people, and deciding their business disputes. Reference to the Written Law is far less frequent in Baba Bathra than in Baba Kamma or even Baba Mezi’a, and decisions are based to a much larger extent on custom, tradition, and common sense.

[CHAPTER I](#) deals chiefly with the conditions under which property held in joint ownership is to be divided between the joint owners, if one or both of them so desire. It also lays down some of the obligations of joint owners of various kinds of property to one another, and incidentally defines the rights of the community to levy imposts on its individual members.

[CHAPTER II](#) deals with the restrictions laid upon owners of various kinds of property in the use of their

property so as to prevent them from causing loss, injury or inconvenience to their immediate neighbours or to the general public. The distances which actual or potential nuisances have to be kept away from the border line are specified, and incidentally the limits of free competition [page xii] between persons following the same occupation are discussed.

[CHAPTER III](#) is concerned chiefly with the subject of *hazakah* or usucaption—the conditions under which right of ownership is acquired by the mere fact of occupation, without title-deed or other proof. The regulations for *hazakah* are discussed with great dialectical acumen and some wealth of illustration, in regard to various forms of landed property, to other fixed property, and to animate and inanimate objects. Incidentally various points connected with the validity of evidence, with the methods of acquiring property, and with the disposal of married women's property are also discussed.

[CHAPTER IV](#) deals with the proper methods of interpreting contracts of sale relating to land and other fixed property, to determine what objects can be regarded as being included without being expressly specified. The same question is also discussed in connection with deeds of gift and consecration.

[CHAPTER V](#). Legal forms of acquisition of property, valuables, debts and commodities are dealt with, and the parts and appurtenances that are included in the sale of objects such as a ship and a waggon, property such as a water cistern, a dove-cote, a bee-hive or a tree, and animals such as a yoke of oxen or an ass are legally determined. Conditions under which a sale may be cancelled, as determined by price, quality and quantity, and regulations on weights and measures are laid down.

[CHAPTER VI](#) defines the extent of a seller's liability for the value, quality and quantity of his produce or

wares; delimits the dimensions of a house, hall, stall, path and street, and lays down the conditions governing the purchase of a family grave, right of passage to a house, garden or a cistern situated within another man's territory, and public rights of way.

[CHAPTER VII](#) determines the nature and extent of rocks and clefts that may be included by a seller in the measurements of a field, and the conditions which entitle a buyer to insist on exact measurements. Laws are laid down in cases of disagreement between assessors, and the law of the overcharge of a sixth of the value is formulated. [page xiii]

[CHAPTER VIII](#). The laws of hereditary succession and the degrees of consanguinity as between descendants, ancestors and other blood relations as well as mutual rights of husband and wife are dealt with. Other subjects included are the following: The division of Canaan in the days of Joshua and its bearing upon later generations; the relative privileges in an inheritance between sons and daughters and between older and younger children; the rights of the firstborn son to a double portion, and the conditions which limit or deprive him of his rights; restrictions on a man's authority to disinherit his own children and on his power to dispose of his bequests; under what circumstances a declaration as to who is one's firstborn son is, or is not accepted; and verbal and written wills.

[CHAPTER IX](#) is concerned with the management of an inherited estate and the relative claims of the male and female heirs, and the personal expenses incurred by the manager of such an estate or of one which is in joint ownership; the laws governing betrothal and marriage gifts, *shoshbinuth* or the gifts of the [Greek]; the privileges of a dying man and the legality of his utterances; the disposal of one's landed and movable property, and the three modes of legal acquisition of real estate: money payment, deed and undisturbed possession. It also deals with conflicting claims of

relatives in cases of uncertainty as to whether lather or son, husband or wife, mother or son died first.

[CHAPTER X](#) describes the folded and plain deed, and defines the laws relating to the forms, dates and witnesses in connection with legal documents, such as letters of divorce. *kethuboth*, deeds of sale, and attestations of a court. Antedated and postdated deeds, ambiguous entries of amounts, effaced writing, exchange of bonds to a higher or lower denomination, writing a deed in the absence of one of the parties, verbal and written loans, are among the other subjects discussed and determined. The circumstances in which one of the heirs may deny to another the right to put an inherited estate to a use not intended by the testator, the precautions to be taken when more than one man of the same name live in one town, and the extent and limitations of a guarantor's liability, form the concluding discussions and decisions of the treatise. [\[page xiv\]](#)

### AGGADIC MATERIAL

Apart from some Midrashic interpretations of Scriptural texts, the *aggadic* branch of the Tractate contains a number of rules of conduct and moral principles on the relationship between man and man, members of the same family and the members of a state (which cannot come under the head of jurisprudence), as well as stories, anecdotes, fables and other matter usually associated with the *aggadah*. It tells how Herod's temple came to be built, gives regulations for the collection and distribution of charity, and extols the merits of *zedakah* (charity). It treats of the formation of the Biblical canon and the authorship and date of its component parts, describes the contents of the Holy Ark, and discusses the character of Job and the Patriarchs ([Ch. I](#)). It records the establishment of an elementary school system in Israel, and makes various recommendations for

teachers. It relates the tragic end of R. Adda b. Abba and discusses the location of the *Shechinah* ([Ch. II](#)). Sayings are recorded and anecdotes are told of the shrewd and pious R. Bana'ah; and the steps taken by the Rabbis to moderate the overwhelming grief of the Jews at the fall of Jerusalem are described ([Ch. III](#)). The famous Bar Bar Hana stories and hyperboles are recorded, and Leviathan, *behemoth*, new Jerusalem and a number of characters in the Book of Ruth are discussed ([Ch. V](#)). The readmission of the tribe of Benjamin into the community, the slain of Bether, the method adopted for the division of Canaan, remarkable cases of longevity, Jacob's marriages and his bestowal of the birthright, the entry into Egypt and sonic stories bearing on the Temple funds are among the topics included ([Ch. VIII](#)). The other five Chapters, with the exception of [Chapter IX](#) which contains some information on the weather and its influence on the crops, are practically devoid of all *aggadic* matter.

### AIDS

In making his way through the intricacies of style and the concise, almost *précis*-like language of the Talmudic literature, the English [\[page xv\]](#) student of such a Tractate as *Baba Bathra* had hitherto no English translation to guide him. For, beyond a paraphrase of some of its simpler portions, he had to fall back upon his own knowledge of Hebrew and other languages in navigating the uncharted sea. The present translators, like all students of the Tractate, have had to depend mainly on the work of the great medieval commentators, Rashbam (R. Samuel b. Meir. obit. 1174), the commentary of whose illustrious grandfather Rash (R. Solomon Yizhaki, obit. 1105) comes to an abrupt end with the first few lines of fol. 29a, and R. Gershom (the 'Light of the Exile', obit. 1040); and, occasionally, also on the notes of R. Hananel b. Hushiel (obit. 1050), BaH. (Joel b. Samuel Sirkes) and the Rashal (Solomon Luria, obit. 1593). Of modern

works grateful mention must be made of the erudite German translation of Lazarus Goldschmidt, of Levy's monumental *Wuerterbucher*, and also of Marcus Jastrow's *English Dictionary of the Targumim*.

I.W. SLOTKI  
M. SIMON

#### **ACKNOWLEDGMENTS**

Dr. I. W. Slotki desires to express his cordial thanks to Professor Maurice A. Canney, the genial head of the Oriental Department of the Manchester University, for kindly reading the page proofs. He also wishes to mention the assistance he received from his son, Judah J. Slotki, MA., who compiled the General Index, called attention to the Assyrian parallels given on p. 568. II, and made a number of happy suggestions; and from his daughters Deborah and Shulamith Rose who have assisted in the checking of the proofs, prepared for the press the drawings on pages 422-425 and also compiled the Scriptural and Rabbinical Indices. He would also like to acknowledge with thanks the readiness with which the Staffs of the Manchester University and the John Rylands Libraries invariably supplied him with the books he needed in the course of his work.

#### **PREFATORY NOTE BY THE EDITOR**

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

historical and geographical interest.

ISIDORE EPSTEIN

