



Type: Book Chapter

Ancient Jewish Seafaring and River-faring Laws

Author(s): Raphael Patai

Source: *By Study and Also By Faith, Volume 1*

Editor(s): John M. Lundquist and Stephen D. Ricks

Published: Provo, UT/Salt Lake City; Foundation for Ancient Research and
Mormon Studies/Deseret Book, 1990

Page(s): 389-416



The Foundation for Ancient Research and Mormon Studies (FARMS) existed as a California non-profit corporation from 1979 until about 2006, when it was allowed to go into involuntary liquidation, at which time copyrights held by FARMS and its authors and/or editors reverted back to their original author and/or editors. This chapter is archived by permission of editor Stephen D. Ricks.

Ancient Jewish Seafaring and River-faring Laws

*Raphael Patai*¹
Forest Hills, New York

Ancient Jewish literature contains many references to seafaring, river-faring, and related subjects. From them it is possible to conclude that these activities played a definite role in the life of the Hebrews in biblical times and a more important one in that of the Jews of Palestine and Babylonia in the days of the Second Jewish Commonwealth and in talmudic times. The following paper presents data, culled primarily from talmudic and midrashic sources, pertaining to the commercial and religious laws that governed Jewish seafaring up to ca. A.D. 500.

COMMERCIAL LAWS

Talmudic law devotes considerable attention to the legal side of commercial transactions concerning ships. The purchase of a ship was concluded either by duly signing a contract, or, presumably in the case of smaller craft, by the traditional act of taking movable property into possession, namely by pulling: the buyer pulled the ship toward himself and thus his ownership of it became legally established.²

This paper is based on a chapter in my Hebrew book Ha-Sappanut ha-Ivrit: Pereq be-Toldot ha-Tarbut ha-Artziyis'elit b-Ime Qedem (Jewish Seafaring: A Chapter in Ancient Palestinian Culture), published in Jerusalem in 1938 by the Hebrew Society for the Study of Palestine and Its Antiquities.

Of the parts of the ship and the gear that went with the hull in case of a purchase, some are expressly mentioned. If a person sold a ship owned by him, it was understood that he sold with it the mast, the yard, the anchor, the oars, the rudder, the ladder, the water tank, and, according to the opinion of some sages, also the small boat (*dugit* or *bitzit*) that was part of its equipment.³ However, the following items of equipment remained the property of the seller: the ballast-stones (*yðshiwin*), the poles (*uvin*), the mattresses (*yðtzucin*), the dunnage bags (*martzufin*), the light boat called *isqofa*. Also the cargo and the slaves who manned the ship remained the property of the seller.⁴ If the intention of the shipowner was to sell the ship together with all these items and the personnel, he had to state explicitly at the time of the sale: "I am selling you the ship and all that is in it."⁵

The right of ownership of ships was often the subject of litigation. The Babylonian Talmud records that once it happened that two men argued over an *arva*, a boat. Each of them claimed that the craft belonged to him alone. One of the two went to the court and requested it to foreclose on the boat in order to prevent the other from selling it until he was able to produce witnesses to establish his claim. The decision of the court in this case was not to interfere, that is, not to foreclose on the boat. In another similar case the court declared itself willing to foreclose on the boat, whereupon the litigant who requested the foreclosure set out to find his witnesses, but was unable to locate any. He then returned to the court and requested the judges to cancel the foreclosure in order to enable the two contesting parties to try their luck in seizing the boat by force. However, the decision of the court concerning this second request was not to annul the foreclosure. The only case in which the court allowed the two parties to use force against each other in trying to seize the boat was

when each of them argued that he had inherited the boat in question from his father.⁶

Information on the price of ships is scanty. One statement, quoted in the Babylonian Talmud in the name of Rabbi Romanos, that the price of a ship was no less than 4,000 golden dinars,⁷ is not very helpful since we are left in the dark about the size of the ship in question. Further, from a statement in the Mishnah it appears that some owners or operators of ships accepted fruits or vegetables from the passengers in place of the fare.⁸

In Babylonia, where the rivers and canals served as the main thoroughfares for the transportation of all kinds of cargo, owners of cargo boats would charter their vessels to merchants for the shipping of their goods. However, some shipowners served as their own skippers.⁹ If somebody chartered a ship, he had to pay the charter money either in advance or upon completion of the voyage, when he handed the ship back to its owner.¹⁰ If a person seized another man's ship and made use of it for his own purposes, the owner of the ship could claim payment for either the hire or a compensation for wear and tear.¹¹ Talmudic rabbis were so familiar with the chartering of ships that they used it as the basis for a simile: "There are men who own ships but the merchandise in them is not theirs, or, if the merchandise is theirs, the ships are not theirs. Not so the Holy One, blessed be He, who owns both the earth and everything that is in it."¹²

Legislation was necessary to regulate the relationship between the lessor and the lessee of a ship. The general rules as to their rights and obligations were laid down by the Tannaim (the talmudic sages who lived in Palestine prior to A.D. 200), and they were later amplified and refined by the Amoraim (the talmudic sages of the third to fifth centuries) of Babylonia. Several of these rulings deal with the problems of damages arising from the loss of ship or cargo. According to tannaitic legislation, for instance, if a

person hired a ship and it was wrecked and sank in the course of the voyage, the following rules applied: if he had paid the charter money, he was not entitled to demand its refund; but if he had not yet paid it, he was not required to do so. The Amoraim approached this ruling from several legal angles and came to the conclusion that it was valid only in case the lessor and the lessee had contracted concerning a *definite* ship for the transportation of a *definite* cargo, for in that case, if the ship sank together with the cargo, neither the lessor nor the lessee was able to fulfill his agreed-upon obligation. On the other hand, if they had contracted concerning a ship without specifying one particular vessel, as well as concerning an unspecified cargo, the ruling was that the lessee had to pay the lessor half of the fee due to the lessor for the voyage actually made by the ship.¹³

Again, according to the Tannaim, if somebody hired a ship to transport cargo to a certain destination, but then unloaded the ship when it had covered half the distance, he had to pay the lessor only the fee due for half the way.¹⁴ The amoraic elaborations of this ruling are too lengthy and complex to be quoted here in full, but let us point out briefly that while trying to define the exact cases to which this ruling applied, they discussed such technicalities as the wear and tear on the ship, any change in its route, and the relationship between any increase of the cargo and the amount of the ropes worn out. From the context it becomes clear that the owner of the ship sailed with his ship, probably in the capacity of skipper, or as supercargo. The sailors, in general, had the status of hired laborers.¹⁵ When ships entered or left ports, they had to pay customs dues.¹⁶ From a Midrash, it appears that occasionally these customs dues were so severe that they caused ruin to the merchants. It runs as follows:

Our sages said: It happened that merchants were

sailing on a ship, and there was also a scholar with them. The merchants said to the scholar: "What is your merchandise?" He replied: "It is hidden away." The merchants thereupon began to search the ship, and when they found nothing, they mocked him. When they arrived in port, the customs collectors arose and took away all that the merchants had with them, so that they had nothing to eat and nothing to wear. That scholar, however, went to the synagogue, sat down, and began to teach the congregation, which honored him and provided for his needs. The merchants who had been with him on the ship now came to him, entreated him, and said: "Pray, plead in our favor, since you know us!" What caused the scholar to be saved? The Tora (Law), which he had in his heart.¹⁷

Considering the great risks connected with sea trade, it is not surprising that merchants engaged in it were often in need of loans. In such cases, the merchants would apply for a loan first of all to the shipowners as the persons most likely to be interested in the success of their enterprises. Since, however, biblical law prohibited the taking of interest on a loan (Leviticus 25:35-37), without the incentive of an increased return the shipowners could not be expected to run the risk of losing their money in addition to their ships. This obstacle was overcome, not only in case of sea trade, but also in other similar cases, by offering the owner a higher rent, or freight rate, than originally stipulated, in consideration of a loan to be used to improve the property. A tenant, for instance, may offer higher rent for a field on condition that the owner of the field give him a loan which the tenant was bound to use for improvements. The loan was, in this case, regarded as a loan without interest, for the higher rent paid by the tenant to the owner was considered due him owing to the improvement in the field, and consequently in its yield, made possible by the loan.¹⁸ The same sort of agreement might

be entered into also by the owner of a ship and the merchant who hired it from him. Talmudic law, however, expressly stipulates that no higher rent might be charged by the owner of a ship if the merchant used the loan for buying merchandise or for any other investment into his business. If, however, he made use of the loan to embellish the ship, he was allowed to offer, and the owner to accept, higher rent, because in this case the ship would bring greater gain to the merchant.¹⁹

One form of loan made use of by maritime merchants was called *qalito shel yam* (literally, "suction" or "gorge of the sea"), which largely corresponded to the Greek *tōkos nautikōs*, or the Roman *fenus nauticum*.²⁰ The Palestinian Talmud explains: "What is *qalito shel yam*? If somebody advances a certain amount of dinars to his neighbor in the same manner as those who give goods to those who sail to the isles,²¹ at a share of two or three *sextarii*, this is no usury, but *tarsha*."²² To understand this ruling, one must add explanations to the terse language of the Talmud. "A share of two or three *sextarii*" means payment of this amount per each *modius* of profit earned by the merchant. A *sextarius* was one sixteenth of a *modius*, so that the two or three *sextarii* taken by the lender per each *modius* earned by the merchants represented an interest of one-eighth or three-sixteenths on the money lent. This type of interest was termed by the talmudic sages *tarsha*, that is, silent interest, which they considered permissible. The principle underlying the *tarsha* was the higher price charged in case of deferred payment. Rabbi Yehuda ha-Nasi, who owned several merchant-ships plying the Mediterranean, was therefore interested in legalizing the *qalito shel yam*-type of hidden interest, but was overruled by the sages.²³

In Babylonia, where cargo transport on the rivers and canals was a highly developed business, shippers used to undertake the responsibility for the transport of a given cargo to a certain port, and for discharging it there. Such

responsibility covered even cases of *force majeure*. Rav Papa and Rav Huna, two Babylonian Amoras of the midfourth century A.D., once bought a load of sesamum seed on the banks of the Old King's Canal and hired sailors to track it to its place of destination. The sailors undertook to be responsible in case of any accident that might occur. It so happened that the canal became blocked, whereupon the two merchant-rabbis demanded from the sailors that, having undertaken the responsibility in case of any accident, they hire donkey drivers to carry the cargo to its destination. The sailors, however, objected, and when the case was brought before Rava, the head of the Jewish academy of Mehoza, he absolved them, finding that it was a most unusual occurrence for that big canal to become blocked.²⁴

Talmudic law regulates the responsibility of the owner of a boat, of the sailors who charter it from him, and of the passengers, in case the boat suffers damage. If a man charters a ship, he has to pay its hire when he takes over the ship and has to pay damages if the vessel suffers shipwreck.²⁵ This ruling can be compared to paragraph 236 in the Code of Hammurabi, preceding talmudic legislation by at least two millennia: "If a seignior let his boat for hire to a boatman, and the boatman was so careless that he has sunk or wrecked the boat, the boatman shall make good the boat to the owner of the boat."²⁶ According to talmudic law, if the boatman who has hired a boat overloads it by at least one-thirtieth of its usual load, he becomes responsible for any damage suffered by the ship.²⁷

In cargo shipping there were usually three parties involved: the owner of the boat, the boatman or boatmen who hired the boat from him, and the owner of the merchandise who hired the boatmen. We may thus take it for granted that the boatmen were responsible to the owner of the cargo not only for the transport of the cargo to its agreed-upon destination (cf. above), but also for the safety of the cargo itself. The Code of Hammurabi ruled (para-

graph 237): "When a seignior hired a boatman and a boat and loaded it with grain, wool, oil, dates, or any kind of freight, if that boatman was so careless that he has sunk the boat and lost what was in it as well, the boatman shall make good the boat which he sank and whatever he lost that was in it."²⁸

The carelessness or care of the boatmen was considered a decisive factor in talmudic legislation in connection with the significant institution of mutual insurance that played an important role in the commercial shipping practices of Babylonian Jews some fifteen hundred years before Lloyd's Underwriting Association. The idea of mutual insurance seems to have originated among the Jewish sailors of Palestine, who in sailing the Mediterranean must have suffered many more accidents than their Babylonian colleagues on the quiet canals or rivers of their country. Tannaitic legislation gave its approval: "The sailors are permitted to say, 'Whosoever loses his ship, we shall supply him with another in its stead.' If, however, he lost his ship through negligence (*busya* or *bisya*), they are not bound to supply him with another ship. Only if his ship was lost not due to his own negligence are they bound to supply him with another ship. If he sailed to a place where people do not usually sail, they are not bound to supply him with another ship."²⁹

The Babylonian Jewish sages adapted this ruling to the Babylonian conditions and interpreted accordingly the phrase, "if he sailed to a place where people do not usually sail," as follows: It was the usage on the Babylonian waterways to sail in the spring, when the water level was high, at a distance of one cable length from the shore, whereas in the autumn, when the rivers ran low, they sailed at a distance of two cables from the shore. If a boatman did not follow these rules, he was regarded as having been negligent, and if as a consequence his boat was wrecked, it did not have to be replaced by another boat.³⁰

In the canals of Babylonia, collision between two boats was an ever-present danger. Two millennia before the talmudic age, the Code of Hammurabi considered such contingencies and ruled (paragraph 240): "If a rowboat rammed a sailboat and has sunk (it), the owner of the boat whose boat was sunk shall in the presence of the god set forth the particulars regarding whatever was lost in his boat and the one in charge of the rowboat which sank the sailboat shall make good to him his boat and his lost property."³¹ The talmudic sages went into still greater detail in their legal provisions concerning such damages, and even passed preventive measures in the form of traffic regulations: Two ships sailing in opposite directions on a river meet; if both of them continue to sail, they will collide, and both will sink. If one of them draws near the shore and lets the other pass, no harm will befall either of them. The question thus arises, which of the two ships has to give way to the other? The talmudic ruling is that if one of the ships is empty and the other loaded, the empty one must draw aside and let the full one pass. Or, if one of them is nearer the shore and the other farther away, the one nearer the shore must let the other pass. If both of them are at equal distance from the shore, they have to come to an agreement, and the one that wishes to pass has to pay the other for the right of passage.³² The same ruling is contained in a Palestinian tannaitic source: "Two ships that sail towards each other, one empty and one loaded, the empty one must give way to the loaded one; if both are empty or both are loaded, they must come to an understanding."³³

To appreciate the importance of these regulations, one must remember that in Babylonia boats were in many cases towed along narrow irrigation canals (*nigrè*, sing. *nigra*), so that for a boat to pull aside and let another boat pass involved considerable additional work as well as much loss of time. Although these canals or channels were the private

property of the landowner through whose fields they passed, he was obliged to leave their banks free of cultivation to a width of four cubits at least so that the vegetation should not obstruct the waterway itself. The larger canals and their banks were considered public property, and they, too, had to be kept free of all growth to a width of four cubits. Rabbi Ammi bar Nathan, the outstanding Palestinian Amora of the third century, who lived for some years in Babylonia, decreed: "Cut down [the vegetation] on both banks of the river to the width of the shoulders of the *naggadē* [the draggers of boats]." ³⁴ Once it happened that one of the sages gave orders to cut down the trees bordering a river to a width of sixteen cubits, whereupon the enraged owners of the trees thus destroyed fell upon him and beat him. ³⁵ From the talmudic stories it becomes evident that the availability of free passageways along riverbanks was considered such a basic public right that when they were found obstructed by trees or other vegetation, the sages, in their capacity as community leaders, felt justified in ordering their removal even without the consent of the landowners. ³⁶

Since the Babylonian canals tended to become obstructed with sediment, it was necessary from time to time to dredge them. Talmudic legislation provided that this should be carried out by the owner of the land which adjoined the silted-up stretch of the canal. He was to be helped by the owners of the lands that lay lower down along the banks of the canal, for they too would suffer from any diminution of the water needed for irrigation. However, the owners of the adjoining lands higher up along the canal were not expected to help, since they only benefitted from the accumulation of water caused by the obstruction of the canal lower down. ³⁷ On occasion, major repairs had to be undertaken: canals had to be cleaned up by digging a course through a sandbank, or in some other manner. This repair was considered so essential for the

general public that its performance was permitted even on a half-holiday.³⁸

In Palestine, where navigation was mainly maritime, the sailors suffered much from storms. One of the most common methods of saving a ship caught in a storm was to jettison its cargo or part of it. Rabbinic legislation dealt with the legal aspects of such rescue maneuvers. It decreed that if several merchants sail on a ship, each with a certain amount of merchandise with him, and the need arises to jettison part of the cargo, then each of the merchants has to take his share in the sacrifice in relation to the weight and value of his merchandise. If, on the other hand, several merchants charter a ship for the transportation of their wares, each of them has to pay his share according to the weight of his merchandise, without regard to its value.³⁹ These talmudic rulings, however, are accompanied by the caution, "One does not, however, deviate from the usage of the sailors."⁴⁰ That is, the local usage must be regarded as taking precedence over the rabbis' rules.

RELIGIOUS LAWS

A major part of talmudic legislation concerning ships and shipping deals with religious issues.

Prayers

The fulfillment of Jewish religious duties could not be interrupted even when setting out on a sea voyage. On the contrary, as soon as a person came in sight of the sea (i.e., the Mediterranean), he had to recite the benediction: "Blessed be He who created the Great Sea."⁴¹ When sailing on any vessel a man must direct his heart toward the temple of Jerusalem and say the obligatory prayers.⁴² This rule, evidently, dates from before A.D. 70, when the temple of Jerusalem was destroyed.

At times passengers had to embark very early in the morning, even before dawn, in which case they had to

recite the morning prayer prior to embarkation, even though it was still dark, and later, on board the ship, after it dawned, they had to recite the *Shema*^c prayer, the part of the morning prayer that can be recited only after dawn.⁴³ Again, when the traveller had happily reached his port of destination he had, according to R. Yehuda, to say a special grace for having been saved from the perils of the sea.⁴⁴

An inscription from the second century A.D. shows that the Jews of that period occasionally expressed their gratitude for having been saved from a storm on the sea in a more permanent form than mere oral blessings. The inscription, found in the temple of Pan at Apollonopolis Magna (Edfu) in Upper Egypt, reads in Greek: "Thanks to God, the Jew Theodotos son of Dorion was saved from the sea."⁴⁵ That the Jew Theodotos placed an inscription in the temple of Pan indicates the extent of Hellenization among the Egyptian Jews of the period.

In Jewish law the presence of a corpse causes defilement. Jews who died abroad often expressed the wish to be buried in Palestine, and their bodies were transported in ships to a Palestinian port. The large Bet She^carim necropolis near Haifa contains hundreds of inscriptions testifying to the burial of Jews from all parts of the Diaspora in tannaitic and talmudic times.⁴⁶ The depiction of sailing ships on the walls of the catacombs may be an oblique reference to the way in which the dead were transported from the places in which they died to the shores of Palestine. If a corpse was transported on a ship, they put it in one corner of the ship, and when the time for prayers arrived they retired to another corner to recite the prayers at a distance from the source of impurity.⁴⁷

In addition to reciting the obligatory daily prayers, Jewish sailors and passengers used to pray frequently and spontaneously. It seems to have been customary to say a prayer before setting out on a sea voyage. R. Nathan Kohen, the third-to-fourth-century Palestinian Amora, once

wished to sail after the Feast of Tabernacles, that is, in the relatively stormy fall season, and before embarking asked his brother R. Hiyya bar Abba to pray for him. R. Hiyya, however, replied: "What use is my praying for you? Has it not been said, 'When you bind your *lulav*, bind your feet' (according to a variant version: 'bind your ship'). If you enter the synagogue and hear that they are praying for rain, do not rely on my prayer (for your safety)."⁴⁸ From the apocryphal Wisdom of Solomon (date uncertain) it appears that also among the pagans of antiquity it was customary to pray before setting out on a voyage on the sea.⁴⁹

If a ship was caught in a storm, both Jews and Gentiles aboard prayed, each to his own god. The earliest evidence of this is found in the book of Jonah. The prophet sailed from Jaffa to Tarshish, and, when a mighty tempest blew up so that the ship was in danger of foundering, "the mariners were afraid and cried every man unto his god" (Jonah 1:5). A tannaitic source records that once a small Jewish child was travelling on a ship of Gentiles, and a gale arose which threatened to wreck the ship. Thereupon all the sailors cried out, each to his own god, but the child said to them: "How long will you continue in your foolishness? Cry to Him who created the sea."⁵⁰ In Numbers 10:9, the talmudic sages saw an allusion to the effect that god will help those of his people who are in danger on the high sea.⁵¹ It was well known to the sages of the Mishnah that the day on which a Gentile reached his destination after a sea voyage was celebrated by him as a feast-day with prayers and thanksgiving offerings.⁵²

The Sabbath

Sea voyages in ancient days usually lasted several days or even weeks, and thus Jewish sailors and passengers were compelled to spend the day of rest, the Sabbath, on board. In this connection a number of regulations were promulgated by the sages in order to define precisely what

was allowed and what forbidden to a Jew sailing on the Sabbath. Since riding or sitting on any vehicle on the Sabbath was forbidden, precautions had to be taken to avoid even the suspicion that one boarded a ship with the intention of spending the Sabbath on it. Hence it was ruled that one had to board the ship at least three days before the Sabbath, that is, not later in the week than on Wednesday. Only if the purpose of the voyage was to perform a religious or pious act was it allowed to embark later in the week, even on a Friday.⁵³ Moreover, according to one talmudic opinion, it was necessary to come to an agreement with the skipper to the effect that he would break the voyage for the duration of the Sabbath, even though one knew that this agreement was not likely to be kept.⁵⁴

In order to give an outward indication of observing the Sabbath rest on board the ship, the more strict among the sages remained put during that whole day within a space of four by four cubits, which they occupied before the beginning of the Sabbath. It once happened that four sages sailed from Brundisium (Brindisi) in southern Italy to Palestine. On the Sabbath, two of them, Rabban Gamliel and R. Eleazar ben Azarya, walked about freely on the ship, while the two others, R. Joshua and R. Akiba, who wanted to observe the Sabbath rest as strictly as possible, did not move outside of their four cubits.⁵⁵ The sages in question lived in the second half of the second century A.D. The *halakhah* (religious tradition) was fixed according to the more liberal spirit of Rabban Gamliel and R. Eleazar ben Azarya.⁵⁶

Another problem that had to be solved by religious legislation was whether it was permissible to disembark, that is, to leave the ship and go ashore, on the Sabbath. Again, the *halakhah* was fixed following an actual event. A ship on which Rabban Gamliel sailed reached port shortly after sunset on Friday. His companions asked Rabban Gamliel; "Are we permitted to go ashore?" His answer

was: "You are permitted to disembark, for I observed that we had already reached the Sabbath limits before it became dark,"⁵⁷ that is to say, the ship was within two thousand cubits from the port before the Sabbath began. Accordingly, this is how the *halakhah* was fixed: "When a ship enters port,⁵⁸ the passengers may disembark only if it was within the Sabbath limits before it became dark."⁵⁹ If the landing gangway was put out especially for a Jew on the Sabbath, he was not allowed to go ashore by it; if, however, it was run out for the convenience of non-Jews, he was permitted to cross by it to the shore.⁶⁰

With regard to the Sabbath laws, the cabins of a ship were equated to the private homes on dry land: the carrying of objects within them was permitted. The deck of the ship, on the other hand, was equated to a courtyard common to several houses: hence carrying objects on it was prohibited.⁶¹ In addition, it is expressly stated that it was forbidden to carry about on the Sabbath any wooden parts of the ship.⁶² On the other hand, it was permissible to move the anchor,⁶³ probably because it was deemed essential for the safety of the ship and its passengers.

If a ship stood in the water higher than ten handbreadths (ca. thirty inches), it was prohibited to remove anything from it or to bring anything aboard on the Sabbath.⁶⁴ However, one was permitted to throw anything from the sea to the shore or vice versa, or from the sea to a ship, or from one ship to another.⁶⁵ These rules were *ad hoc* applications of the general Sabbath laws that prohibited on that day the carrying of anything from one house to the next, or from a private property to a public domain, e.g., from a house to the street or to a courtyard, and vice versa. To avoid the considerable inconvenience caused by these rules, a legal fiction was resorted to: a symbolic act was performed by which a continuity or communality was created among the dwellings that surrounded a common courtyard. It consisted of preparing a dish of food to which

all families who lived in the homes in question contributed a share. The dish then was deposited in one of the dwellings. By this act, termed *‘eruv*, all the houses around the courtyard became a common dwelling, and the thus the carrying of objects among them was permitted. A similar *‘eruv* was used to make it permissible for people to carry objects on the Sabbath from one ship to another, if the ships were lashed to one another with cables. If, however, the ships were not lashed together, but anchored alongside and touched each other, the resort to such an *‘eruv* remained ineffective, and the carrying of objects from one ship to the other remained prohibited.⁶⁶

Since it was considered forbidden to fetch anything from the sea to the ship on the Sabbath, the question arose whether it was allowed to draw water from the sea on that holy day of rest. To make that permissible, it was ruled that a plank should be run out from the deck over the water, and then the water that lay under the plank was considered as forming part of the ship and could be drawn aboard.⁶⁷ Also, it was permitted to pour waste water over the side of the ship whence it flowed down into the sea.⁶⁸

It was forbidden on the Sabbath to make a permanent “sailor’s knot”; a temporary knot, however, which was frequently slipped and knotted again, might be made on the Sabbath.⁶⁹ This made it impermissible on a Sabbath to bind the rigging loops to the head of the mast, since that was done by a permanent lashing. On the other hand, it was allowable to pass ropes through these loops, for that had to be done each time anew.⁷⁰ As to the mats used as awnings to protect the cargo, the opinions of Rav and Shemuel, the two religious leaders of third-century Babylonian Jewry, were divided: According to Shemuel it was permitted to move them on the Sabbath, while according to Rav it was forbidden.⁷¹

There was, however, no difference of opinion as to the liberty to violate the Sabbath in order to save the ship from

being wrecked in a storm,⁷² in accordance with the general principle that "the duty of saving life supersedes the Sabbath laws."⁷³ How strictly these laws were obeyed at least by some Jewish sailors even generations later we learn from a letter written by Sinesius, Bishop of Corynna, dated in the year 404. We know from the Codex of Theodosius that about that time there was a Jewish shipmasters' guild ("*corpus naviculariorum*") in Alexandria, Egypt,⁷⁴ and it was on board the ship of one of these Jewish shipmasters, Amarantus Navicularius by name, that Bishop Sinesius sailed from Alexandria to Corynna. Subsequently, he recorded his experiences on board the Jewish ship in a lengthy letter from which the following passages have interest for us:

All the sailors of the ship, their number being twelve, and together with the captain thirteen, were Jews, the children of that accursed nation which thinks that it is doing a good deed by causing death to the Greeks. . . . They were all deformed in one or another part of their bodies. As long as we were not in danger they amused themselves by calling one another not by their proper names but by their bodily defects: Lame, Ruptured, Left-handed, Squint, and so forth. . . .⁷⁵ We too amused ourselves with them a great deal. We were about fifty passengers on board; among us a third part were women, mostly beautiful and charming. But, nevertheless, you should not envy me. Even Priapus himself would have behaved piously in a ship steered by Amarantus, who did not allow us even one short hour of pleasure in which to be free of mortal fear. . . . On the day which the Jews call the sixth day, a great storm arose. The Jews believe that on that day the evening already belongs to the following day on which it is forbidden to them to do any work. When Amarantus perceived that the sun had gone down, he dropped the steering rudder from his hands. The passengers believed that he had done thus because of despair. When it became known

to them what the real reason was, namely the keeping of the Sabbath, and all their requests that he should return to the rudder were in vain—because as we entreated him to save the ship from the danger he only continued to read his book [probably the Bible]—they tried to threaten him. One brave soldier—there sailed with us a few Arab horsemen—drew his sword and threatened to cut off the man's head unless he instantly took the rudder again into his hands. But the captain, like a true Maccabean, could not be moved to transgress the commandments of his religion. Later, however, at midnight, he returned to the rudder voluntarily, saying, "Now our law permits it to me, because there is a danger of life."

In later passages of his letter Sinesius relates the further events of the voyage until they reached Asarius. Amarantus was happy and confident, for he hoped that after completing this voyage successfully, he would be able to save himself from the hands of his creditors by repaying them his debts from the fares received from his passengers. The ship of Amarantus seemed to have been in a somewhat neglected state of repair. Despite the strong wind it sailed with all the sails set, for the loops and rings did not work, and, although the sailors with the help of the passengers tried all they could to haul on the ropes, they were unable to furl the sails. Neither could the sails be changed, for the ship carried no spare sails. Finally, they came to anchor with the only anchor the ship still possessed, since the other anchor had been sold, and the ship never had a third one. Later, when the ship sailed again, a second storm broke out, the ship drew near the shore, whence one of the "peasants" (a pilot?) came aboard and took the rudder in his hands, while the "Syrian," that is, Amarantus, willingly let him have this honor. Finally, all of them went ashore at Asarius.⁷⁶

Holidays

Passover. If a person set out on a sea voyage within thirty days before the Feast of the Unleavened Bread, he had to remove from his house anything containing leavened substance—an observance ordinarily carried out on the eve of the Pesach (Passover)—for he could not count on being able to return from his voyage before the feast.⁷⁷ R. Yehuda (a Palestinian Tanna of the early second century A.D.) tried to forbid sailing on the six days of half-holiday intervening between the first and the last (eighth) days of the holiday of Passover, but this was not accepted by the *halakhah*. Only the inhabitants of Mesha, a locality north-east of Tyre, undertook voluntarily to observe this stricture. Some time later their descendants found that it was too difficult for them to follow the usage of their fathers, and they approached R. Yehuda ha-Nasi, the head of the Palestinian Jewish community in the second half of the second century A.D., who, incidentally, was a pupil of the aforementioned R. Yehuda, and asked him: “Our fathers refrained from sailing on the Great Sea [the Mediterranean, on the Passover half-holiday]; now as for us, what are we to do?” R. Yehuda ha-Nasi’s response was: “Seeing that your fathers took upon themselves this prohibition, do not deviate from the usage of your fathers.”⁷⁸

The religious duty to sell before the Passover all the *hametz*, that is, everything containing leavened substance, had to be observed also by Jews sailing on a boat. A tannaitic source discusses the situation in which a Jew and a Gentile travel in a ship on the day before Passover. The ruling is that the Jew must sell the Gentile all his *hametz*, or else give it to him as a present, and then can buy it back or take it back after the Passover.⁷⁹ A Jewish passenger also had to behave on board exactly as it was incumbent on him in his own home: he had to search his quarters on the ship and collect any *hametz* he might find. In his home

the next step was to burn the *hametz*; aboard the ship he had instead to grind it into dust and cast it overboard.⁸⁰

The Jewish calendar was regulated by the phases of the moon. The day on which the new moon was first sighted was taken to be the first day of the new month. The fixing of this day was the prerogative of the central religious authority of Palestine, which then sent signals or messengers to all parts of the country to inform the people of the date and to enable them to celebrate the ensuing feasts on the proper days. Such messages could, of course, not reach Jews sailing on the high sea, who therefore remained in uncertainty as to the correct date on which the Passover began (on the eve of the fifteenth day of the month of Nissan). To solve the problem, R. Nahman⁸¹ advised the Jewish seafarers: "Since you don't know which day has been fixed as that of the new moon, burn the *hametz* as soon as you see that the moon shines until dawn."⁸² In the sequel to this passage the Talmud states that although on land the moon is visible until dawn only on the fifteenth day of the month, at sea, where the sailors have an unobstructed view of the whole horizon, they can see the moon until dawn already on the fourteenth day of the month, and thus they are able to observe the burning of the *hametz* on that day as demanded by the law.

Feast of Tabernacles (or *Sukkot*, "Booths"). The ritual of this feast, celebrated in the autumn, consisted of reciting, on each of the seven days of the feast, the prescribed benediction over the festal wreath, the *lulav*. Moreover, for the duration of the feast, one had to dwell and take one's meals in a booth, covered with green branches and boughs, and built especially for the feast. Jews sailing on ships during the Sukkot festival used to provide themselves in advance with the *lulav*⁸³ and also used to build themselves booths on the foredeck. On one occasion R. Akiba built himself a *sukkah* (booth) on the foredeck of a

ship, but the next day a strong wind blew away his structure.⁸⁴

Purim. Even though this feast fell at the end of the winter season (fourteenth of Adar, February-March), when the sea was considered "closed" to maritime traffic, it nevertheless happened that urgent business overseas forced Jews to sail and to brave the inclement weather of this season. In that case it was their religious duty to celebrate the feast of Purim on board ship by reading the book of Esther in the same manner they did on land in the synagogue of their home town.⁸⁵

Ritual Purity

The question of ritual purity and impurity played an important role in Jewish religious life in talmudic days. There were objects that might become ritually impure, while others were not subject to ritual defilement even if brought into contact with a ritually impure object. Ships, in general, were regarded as immune to ritual impurity.⁸⁶ Certain types of boats, however, were susceptible of ritual impurity. Among the latter were the small Jordan boats, called *‘arevat ha-Yarden*, as well as small vessels made of clay.⁸⁷ When a ship was launched the first time, in order to make its hull watertight, the same water that caused it to be wet could also make it susceptible to ritual impurity.⁸⁸

The principal source of ritual impurity was the human corpse. In order to become ritually impure one need not even touch the corpse directly; it was sufficient to enter a room in which there was a corpse, and immediately the ritual impurity of the corpse communicated itself across the empty space of the room. If there was a corpse in a ship, however, as long as the ship sailed on the sea, it did not render the passengers ritually impure. But as soon as the ship was made fast to the shore or its anchor was dropped, it did communicate its ritual impurity to all the

passengers aboard.⁸⁹ The same held good, not only for ships in general, but also for a cabin on board a ship.⁹⁰

Moreover, while houses in general were liable to become ritually impure through what was called in biblical legislation a "plague of leprosy in a house" (Leviticus 14:34-57),⁹¹ cabins built on board ships or rafts remained ritually pure even though they were attacked by such plagues of leprosy.⁹² The water tank of an "Alexandrian ship" which contained at least forty *seahs*⁹³ of water and had a flat bottom, transmitted ritual impurity to a person or object if the latter remained underneath it together with a corpse.⁹⁴ This legal provision indicates that such a big water tank stood on legs. The water tank itself, however, was not liable to becoming ritually impure.⁹⁵ On the other hand, the water tank of a small ship was liable to become ritually impure either from a corpse or from a plague of leprosy,⁹⁶ since such a tank contained less than forty *seahs* of water. Also the sails of a ship were liable to ritual impurity.⁹⁷ The packing bags aboard a ship, if they became loosened and opened, were liable to become ritually impure if an impure person trod on them.⁹⁸ Similarly, implements or vessels made out of the *'eqel*⁹⁹ were liable to become ritually impure.¹⁰⁰ On the other hand, the water that entered the ship through the oar ports, or collected in the bilge well, could not render any object wetted by it ritually impure.¹⁰¹ The baked-clay "swimmer's barrel," probably used by swimmers as a float, was itself liable to become ritually impure.¹⁰²

On board ship many people met who knew nothing of each other, and therefore the danger was always present that a man could become polluted by the touch or proximity of a ritually impure person. Talmudic legislation lays down the rules covering such ritual contagion on board a ship. If a ritually pure person finds himself on board a big ship together with a *zav*, a man suffering from a discharge (gonorrhoea?), and hence ritually impure, he does not become impure.¹⁰³ Other rules deal with the possible defilement

caused by menstruating women on board to ritually pure persons or vessels;¹⁰⁴ with pollution by the touch of Gentiles of wine owned by Jews and transported on ships;¹⁰⁵ with the effect of a wave that sweeps overboard and wets objects found there and thereby renders them liable to ritual impurity;¹⁰⁶ and with other such questions.

In order to be able to partake of meat on board a ship during a long sea voyage, Jewish passengers used to take with them live animals to be ritually slaughtered and consumed. Since ritual slaughter required the covering of the blood of the animal with earth, they were obliged to take earth with them for this purpose. If however, they had no earth at hand, they were permitted to slaughter the animal in such a manner as to allow the blood to flow directly into the sea, or else to cover the blood with earth as soon as they reached land. According to one talmudic opinion, however, the covering of the blood with earth was so indispensable that the slaughterer was enjoined to burn his prayer shawl and cover the blood with its ashes if he had no earth with him.¹⁰⁷

Missing Persons and Tithing

Talmudic legislation relating to seafaring also deals with the legal position of a woman whose husband was missing at sea and with the application of the law of tithes to property on board ships. As long as there was no definite proof that the husband was actually dead, his wife was regarded as a married woman with all the obligations and rights that this status entailed.¹⁰⁸ To spare his wife the complications attendant on his situation, a man would give instructions, before embarking on a sea voyage, that his wife be given a *get*, a letter of divorce, in the event that he failed to return home.¹⁰⁹ As soon as a ship coming from foreign lands reached the shores of Palestine, the Talmud provided that the law of tithes became applicable at that

point to fruit grown or carried on board and belonging to Jews.¹¹⁰

Conclusion

The frequency with which maritime laws are found in the talmudic and other ancient Jewish sources, and the detail into which the rabbis go in making the rulings, are indications of the importance seafaring had for the Jews of Palestine and river shipping had for those of Babylonia in talmudic times.

Notes

Abbreviations in these notes include M = Mishnah; R = Rabbi; T = Tosefta; and TB = Babylonian Talmud; TY = Yerushalmi, the Palestinian Talmud.

1. In 1946 or 1947, at the suggestion of James Hornell (1865-1949), the well-known British expert on maritime history and seafaring in Eastern lands, I rendered my Hebrew book into English and sent him the manuscript for comments and criticism. In the course of the ensuing correspondence (most of it lost) we agreed that we would produce and publish, under joint authorship, a revised and expanded book on the subject. Regrettably, in 1949, before we were able to complete the planned manuscript, Mr. Hornell died at the age of 84.

In the chapter here published, Mr. Hornell's contribution happened to be very limited: it was confined to a few notes he added. They are printed below in brackets and are marked "J. H."

2. T *Qiddushin* 1:7; cf. TY *Ketubot* 34b mid.; TB *Baba Bathra* 76a.

3. M *Baba Bathra* 5:1; T *Baba Bathra* 4:1; TB *Baba Bathra* 73a; TY *Baba Bathra* 15a top.

4. M *Baba Bathra* 5:1; T *Baba Bathra* 4:1; TY *Baba Bathra* 15a top; TB *Baba Bathra* 73a.

5. M *Baba Bathra* 5:1.

6. TB *Baba Bathra* 34b and Rashi's comment, *ibid.* [This was in accordance with the talmudic legal principle, "He who is stronger wins the right of possession in cases in which the judge is unable to decide because the two parties have an equal claim," for instance, TB *Gittin* 60b. J. H.]

7. TB *Nedarim* 38a.

8. M *Shev'it* 8:5.

9. Cf. TB *Baba Qama* 97a.

10. TB *Arakhin* 18a; TB *Baba Metzi'a* 69b-70a, 79a.
11. TB *Baba Qama* 97a.
12. Midrash Tehillim, Psalm 24:2.
13. TB *Baba Metzi'a* 79a-b.
14. TB *Baba Metzi'a* 79b. Cf. T *Baba Metzi'a* 7:2.
15. T *Baba Metzi'a* 9:14.
16. TB *Avoda Zara* 10b; *Numbers Rabba* 2. Cf. also Matthew 9:9-10.
17. Midrash Tanhuma, Teruma, ed. Buber, 88.
18. M *Baba Metzi'a* 5:5; TB *Baba Metzi'a* 69b.
19. TB *Baba Metzi'a* 69b, and Rashi's comment, *ibid.* Cf. T *Baba Metzi'a* 5:13; TY *Baba Metzi'a* 10c top.
20. Georg F. Schoemann, *Griechische Altertümer*, 4th ed., 2 vols. (Berlin: Weidmann: 1897-1902), 1:474; William Smith, *Dictionary of Greek and Roman Antiquities*, 3rd ed. (London: Murray, 1872), s.v. *Fenus*, esp. p. 833.
21. The printed text of the Yerushalmi Talmud has *risim*, which has been emended by Joseph Perles in "Beiträge zur rabbinischen Sprach- und Altertumskunde," *Monatschrift für Geschichte und Wissenschaft der Judentums* 37/6 (1893): 6-14, 64-68, 111-16, 174-79, 356-78, to *nesim*, i.e., Greek *nesos*, islands, and by Immanuel Loew to *Qafrisim*, i.e., Cyprus, cf. Saul Lieberman, *Talmudah shel Qisrin* (Jerusalem, 1931), 14-15.
22. TY *Baba Metzi'a* 10c bot.
23. Cf. TB *Baba Metzi'a* 65a, 68a; TY *Baba Metzi'a* 10c bot; TY *Avoda Zara* 42a mid. On interest rates on ship loans in ancient Greece and Rome, cf. sources listed in n. 20 above.
24. TB *Gittin* 73a; cf. TB *Baba Metzi'a* 106a.
25. TB *Baba Metzi'a* 69b-70a.
26. Cf. Theophile Meek, "The Code of Hammurabi," in James B. Pritchard, ed., *Ancient Near Eastern Texts* (Princeton, NJ: Princeton University Press, 1955), 176.
27. TB *Baba Metzi'a* 80b.
28. Meek, "The Code of Hammurabi," 176.
29. T *Baba Metzi'a* 11:26. These rulings should be compared with Codex Theodosius XIII:5:32, which provides that in the case of shipwreck "if any measure of grain is said to have been lost in a storm at sea . . . the expense of such loss shall be allotted to the entire guild of shipmasters." Cf. Clyde Pharr, *The Theodosian Code: A Translation with Commentary* (Princeton, NJ: Princeton University Press, 1952), 396a. Codex Theodosius XIII:9:2-3 also provides that the sailors should be tortured in order to bring out "the full measure of the truth" concerning a shipwreck.

30. TB *Baba Qama* 116b.
31. Meek, "The Code of Hammurabi," 176.
32. TB *Sanhedrin* 32b.
33. T *Baba Qama* 2:10. Cf. TY *Baba Qama* 3d mid.
34. TB *Baba Metzi'a* 107b.
35. TB *Baba Metzi'a* 107b-108a.
36. TB *Baba Metzi'a* 108a.
37. TB *Baba Metzi'a* 108b.
38. TB *Mo'ed Qatan* 4b. [*Hol ha-Mo'ed* or half-festival days are those intervening between the first and last days of Passover and the Feast of Tabernacles. J. H.]
39. TY *Baba Metzi'a* 11a mid. Cf. also T *Baba Metzi'a* 7:14; TB *Baba Qama* 116b, where the text has to be emended according to the version of the Yerushalmi Talmud.
40. T *Baba Metzi'a* 7:14. Also the Codex Theodosius XIII:9:4 contains provisions about tossing cargo overboard in order to lighten the ship and thus save it from sinking in a storm.
41. M *Berakhot* 9:2.
42. M *Berakhot* 4:6.
43. T *Berakhot* 3:19.
44. TB *Berakhot* 54b.
45. Emil Schurer, *Geschichte des jüdischen Volkes*, 4th ed., 4 vols. (Leipzig: Hinrichs, 1901-11), 3:50.
46. Cf. "Bet She'arim," in *Encyclopaedia Judaica* (Jerusalem: Keter, 1972), and literature there in the bibliography.
47. TB *Berakhot* 18a.
48. *Genesis Rabba* 6:5, and parallel sources listed there in the notes of the Theodor-Albeck edition, 44-45.
49. *Sapientia Salomonis* 14:1-2.
50. T *Nidda* 5:17. Cf. also TY *Berakhot* 13b mid.
51. *Sifre Numeri* 76, ed. Friedman, 19b.
52. M. *Avoda Zara* 1:3. Cf. also Philo Judaeus, *Vita Mosis* II, 224.
53. T *Shabbat* 13:10; TB *Shabbat* 19a.
54. TB *Shabbat* 19a.
55. M *ḥEruvin* 4:1. Cf. TB *ḥEruvin* 43a.
56. TB *ḥEruvin* 42b.
57. M *ḥEruvin* 4:2.
58. Reading *lalimen* for *layam*.
59. T *Shabbat* 13:11.
60. M *Shabbat* 16:8; T *Shabbat* 13:11.
61. T *Shabbat* 10:16.
62. T *Shabbat* 16:8. Cf. also TY *Shabbat* 13c top.

63. TY *Shabbat* 16a mid.
64. T *Shabbat* 10:14; T *ḤEruvin* 10:2, TB *Shabbat* 100b-101a.
65. M *Shabbat* 11:5; T *Shabbat* 10:13.
66. M *Shabbat* 11:5; T *Shabbat* 10:15.
67. TB *Shabbat* 100b; TY *Shabbat* 13b top.
68. TB *Shabbat* 100b-101a.
69. M *Shabbat* 15:1; TB *Shabbat* 111b.
70. TB *Shabbat* 111b.
71. TB *Shabbat* 156b.
72. T *ḤEruvin* 4:8.
73. M *Yoma* 3:6; TB *Yoma* 85a, and so forth.
74. Codex Theodosius XIII:5:18 (*De naviculariis*), from the year 390. Cf. Pharr's ed., p. 394a. Cf. also Semen Markovich Dubnov, *Weltgeschichte des jüdischen Volkes*, 10 vols. (Berlin: Jüdischer Verlag, 1925-29), 3:254, 325; Salo W. Baron, *A Social and Religious History of the Jews* (New York: Columbia University Press, 1952), 2:249-50.
75. [Concerning the use of nicknames it is noteworthy that the sailors and fishermen of Malta, an old Phoenician colony, are greatly addicted to this custom of addressing one another by some nickname rather than by their proper names. J. H.]
76. Cf. Jean Juster, *Les Juifs dans l'Empire Romain*, 2 vols. (Paris, Geuthner, 1914), 2:324.
77. T *Pesahim* 1:4.
78. TY *Pesahim* 30d mid.
79. T *Pesahim* 1:24.
80. TB *Pesahim* 28a.
81. There were several Babylonian Amoras by the name of Nahman.
82. TB *Rosh ha-Shanah* 21a.
83. T *Berakhot* 3:19.
84. M *Sukkah* 2:3; TB *Sukkah* 23a; cf. TY *Sukkah* 52d bot; TY *ḤEruvin* 19b mid.
85. M *Megilla* 1:2; T *Berakhot* 3:91. Concerning the "closure of the sea" during the stormy season, cf. Codex Theodosius XIII: 9:3, which decrees that "the month of November shall be exempt from navigation, but the month of April, since it is nearest the summer, shall be employed for the acceptance of cargo. . . . Navigation shall be extended to the day of the ides of the aforementioned months." That is, navigation was suspended from November 15 to April 15.
86. M *Shabbat* 9:2; TB *Shabbat* 83b; TY *Shabbat* 11d bot. Cf. also T *Kelim Baba Qama* 2:3; M *Kelim* 2:3.
87. TY *Shabbat* 7a mid.; TB *Shabbat* 83b, 84a.

88. M *Makhshirin* 5:7.
 89. M *Oholot* 8:5.
 90. TY *Sukkah* 52d bot.
 91. [Leviticus 14:34-57 contains detailed ritual rules regarding the "plague of leprosy" in a house. If the walls of a house should show greenish or reddish stains (probably caused by some species of fungus) the house was regarded as unclean and ritual means had to be taken in order to clean it and thereby render it habitable again. J. H.]
 92. M *Nega'im* 12:1.
 93. [A "seah" is a measure of volume for dry substances (such as grain) and also for liquids. It is equivalent of ca. 12 liters. J. H.]
 94. M *Oholot* 8:1.
 95. M *Kelim* 15:1.
 96. M *Kelim* 15:1.
 97. M *Nega'im* 11:11; T *Kelim Baba Metzi'a* 11:9.
 98. M *Kelim* 20:1.
 99. [*Eqel* was the ballast of the ship and usually consisted of iron bars. Here the reference is to pots and the like made from the iron bars of the *'eqel*. J. H.]
 100. T *Kelim Baba Metzi'a* 1:1.
 101. M *Makhshirin* 5:7.
 102. M *Kelim* 2:3.
 103. M *Zavin* 3:3.
 104. M *Taharot* 5:8; T *Zavin* 4:4.
 105. M *'Avoda Zara* 5:4; T *'Avoda Zara* 7:13.
 106. M *Miqvaot* 5:4, 6.
 107. M *Hullin* 2:9; T *Hullin* 1:4; 2:29; 6:6; TB *Hullin* 13b, 88b.
 108. M *Gittin* 3:4; TB *Baba Bathra* 153b.
 109. M *Gittin* 6:5.
 110. M *Halla* 1:2; T *'Orla* 1:2, 3.